

EL PASO COUNTY



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February 28, 2022

PUDSP-21-9 Mayberry Phase I
 Combined PUD/Preliminary Plan

Reviewed by: Lori L. Seago, Senior Assistant County Attorney
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WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a proposal by Colorado Mayberry Springs, LLC ("Applicant") for subdivision of 240 single-family lots and 3 industrial lots on a 71.39-acre parcel (the "Property"). This project is part of and amends Phase 1 of the Ellicott Town Center PUD which was originally approved by the Board of County Commissioners on January 12, 2006. The Property is zoned PUD (Planned Unit Development).

This PUD/SP Amendment includes property previously platted as Mayberry, Colorado Springs Filing No. 1 and Mayberry, Colorado Springs Filing No. 2. This Water Review supersedes those provided for each of these plats.

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary ("WSIS"), the subdivision demand is 62.40 acre-feet/year for in-house use (0.26 acre-feet/lot), plus 11.84 acre-feet for irrigation, plus 7.7 acre-feet for 3 industrial lots for a total of 81.94 acre-feet/year for the subdivision.¹ Based on the total demand, Applicant must be able to provide a supply of 24,582 acre-feet of water (81.94 acre-feet/year x 300 years) to meet the County's 300-year water supply requirement.

¹ Applicant allows for 7.7 acre-feet/year for 3 industrial lots which is consistent with other documentation in the submittal; however, the WSIS does not specifically identify that there are 3 industrial lots in the development.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from the Ellicott Utilities Company (“EUC” or “company”). As detailed in the *Mayberry Colorado Springs Water Resources Report for PUD Amendment* updated February 14, 2022 (“*Report*”), EUC has 50.98 acre-feet/year of water available through Colorado Ground Water Commission Determination No. 598-BD and 77.90 acre-feet/year of water available through the Tipton Well, a well owned by Cherokee Water, LLC in which EUC owns an interest. The *Report* states that “EUC currently has adequate water rights and water system infrastructure to serve 240 single family homes, three industrial lots, and all parks and street landscaping in the development.”

4. A representative of EUC provided a letter of commitment for the Mayberry Colorado Springs PUD Amendment dated June 2, 2021 in which the company committed to providing water service to the 240 residential lots, 3 industrial lots, plus irrigation, with an annual water requirement of 81.94 acre-feet/year.

State Engineer’s Office Opinion

5. In a letter dated February 22, 2022, the State Engineer reviewed the proposal to subdivide the 71.39-acre parcel into 240 single-family lots, 3 industrial lots, plus open space. The State Engineer stated that the “Company owns and controls water rights associated with Determination of Water Right Nos. 598-BD and 599-BD, [and] an interest in the Tipton Well and Benton Well.” For this subdivision, only the water rights from 598-BD and the Tipton well will be utilized. The State Engineer confirmed the water supply of 50.98 acre-feet/year from Determination No. 598-BD is available, as well as 77.9 acre-feet/year from the Tipton Well (adjudicated through Determination No. 91GW01). The State Engineer further stated that “pursuant to section 30-28-136(1)(h)(I) and Section 30-28-136(1)(h)(II), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights.”

Recommended Findings

6. Quantity and Dependability. Applicant’s water demand for the Mayberry Phase I development is 81.94 acre-feet per year to be supplied by Ellicott Utilities Company, LLC.

Based on the water demand of 81.94 acre-feet/year for the Mayberry Phase I development and the company’s available water resources in the amount of 128.88 acre-feet/year, the County Attorney’s Office recommends a finding of sufficient water quantity and dependability for the Mayberry Phase I development.

7. Quality. The water quality requirements of Section 8.4.7.B.10 of the Land Development Code must be satisfied. Section 8.4.7.B.10.g. of the Code allows for the presumption of acceptable water quality for projects such as this where water is supplied by an existing Community Water Supply operating in conformance with Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

8. Basis. The County Attorney's Office reviewed the following documents in preparing this review: the Water Supply Information Summary provided May 25, 2021, the *Water Resources Report* dated February 14, 2022, the Ellicott Utilities Company letter dated June 2, 2021, and the State Engineer Office's Opinion dated February 22, 2022. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

REQUIREMENTS:

- A. Applicant must upload the following documents to eDARP prior to recording the final plat:
 - a. Updated Water Supply Information Summary i) identifying that there are 3 industrial lots in the development (see footnote 1) in addition to the 240 single-family lots and ii) correcting question #6.B to identify that the property has previously been platted as Mayberry, Colorado Springs Filings 1 and 2.
 - B. Applicant and all future owners of lots within this filing shall be advised of, and comply with, the conditions, rules, regulations, limitations, and specifications set by the company.
- cc. Ryan Howser, Planner II