

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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Solace of Colorado Springs a/k/a Solace Apartments
SP-20-1 Preliminary Plan – Phase I

MCE

Reviewed by: M. Cole Emmons, Senior Assistant County Attorney
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1. This is a proposal by Jackson Dearborn Partners (“Applicant”) for a subdivision project of 234 apartment homes on 21.5 acres of land. The Preliminary Plan application is for the entire Solace of Colorado Springs project, which encompasses 348 apartment units in two phases. Phase I consists of 234 units and is the only portion of the Preliminary Plan addressed in this review. Separate water review findings will be necessary for Phase II (114 units), which Applicant has requested be made at the Final Plat stage for Phase II. The property is zoned RM-12 (Residential Multi-Dwelling).

2. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District (“District”). The Water Supply Information Summary sets forth a proposed water demand of 61.6 acre-feet per year for the subdivision. The water demand for the 234 townhome units, a pool, and clubhouse is based on 0.20 acre-feet/lot for household use (46.8 acre-feet/year total), plus irrigation of 14.8 acre-feet/total for community irrigation for a total of 61.6 acre-feet/year. Based on the proposed water demand, the Applicant will need to provide a supply from the District of 18,480 acre-feet (61.6 acre-feet x 300 years) to meet the County’s 300-year water supply requirement.

3. The District’s General Manager provided a formal letter committing to serve the subdivision dated June 15, 2020. The General Manager noted that the “proposed location for this development is located within the District’s established boundaries and therefore is eligible for service connections from the District.” The District identified the water demand for the subdivision as follows:

200 S. CASCADE AVENUE
OFFICE: (719) 520-6485



COLORADO SPRINGS, CO 80903
FAX: (719) 520-6487

Type of Use	Demand (AF/yr)
Domestic	47.0
Irrigation	14.8
Total	61.8¹

The District notes that the domestic demand “corresponds to the 234 apartment units along with a pool and clubhouse included in Phase I. The irrigation allocation is sufficient for traditional grass landscaping for areas not covered in roads, walkways, or structures.” The commitment is conditional: “To confirm this commitment you must provide the District with a copy of the final plat approval from El Paso County Development Services within 12 months of the date of this letter. Otherwise, the District may use this allocation for other developments requesting a water commitment.”

4. The Applicant provided a *Water Resources Report for Solace Apartments* dated May 1, 2020, prepared by JR Engineering, LLC. The *Report* notes that a total water supply of 100.6 acre-feet is available by the District to serve the full build-out of the Solace at Colorado Springs project, which includes the availability of 64.0 acre-feet/year for Phase I.

5. In a letter dated March 17, 2020, the State Engineer reviewed the Water Supply Information Summary (“WSIS”) and the District’s letter of commitment dated August 5, 2019.² The State Engineer noted the Applicant’s estimated water demand for the Solace of Colorado Springs project at 0.20 acre-feet/year per unit, plus 2.4 acre-feet/year/acre for irrigation, and confirmed the District’s water commitment of 61.8 acre-feet/year for Phase I. The Engineer stated that “[i]nformation in our files indicates that Cherokee has sufficient resources to serve the property without injury to decreed water rights.” And further, “[a]ccording to this office’s records, it appears Cherokee has sufficient water resources to serve the proposed development. Based on the above and pursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply is adequate and can be provided without causing injury to decreed water rights.”

Note: State Engineer’s Office also provided an advisory to the Applicant related to any possible storm water collection and/or conveyance facilities that may be included in the project. The Engineer advised the Applicant that “. . . unless the storm water structure(s) can meet the requirements of a ‘storm water detention and infiltration facility’ . . . the structure may be subject to administration by this office. The applicant should review the *DWR’s Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado* . . .

¹ The District identifies a water demand of 61.8 acre-feet/year, to which it commits to supply. This appears to be a rounding difference related to the domestic use as the WSIS notes an overall water demand of 61.6 acre-feet/year. This review uses the 61.6 acre-feet/year figure provided by the Applicant.

² A subsequent commitment letter was provided by the District on June 15, 2020 clarifying the water demand, which remains at 61.8 acre-feet/year and thus is consistent with both the August 5, 2019 and February 12, 2020, commitment letters from the District.

to ensure that the notice, construction and operation of the proposed structure meets statutory and administrative requirements.”

6. Section 8.4.7(B)(10)(g), of the El Paso County Land Development 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 that may be provided by the El Paso County Health Department.

7. Analysis and Recommendation. Based on the Applicant’s estimated water demand of 61.6 acre-feet per year for Phase I, the Cherokee Metropolitan District’s commitment to supply 61.8 acre-feet/year to Phase I, and based upon the finding of sufficiency and no injury to existing water rights by the State Engineer’s Office, but given the conditional nature of the commitment to serve by the District, and subject to the conditions set forth below, the County Attorney’s Office can only recommend a finding of **conditional sufficiency** in terms of quantity and dependability. The County Attorney’s Office recommendation is subject to the Conditions of Compliance noted below, **and is specifically limited to the Preliminary Plan for Phase I**. Upon proof of fulfillment of Condition B below, this conditional sufficiency finding will automatically convert to a full sufficiency finding. The El Paso County Health Department may wish to confirm that the District is in compliance with the water quality regulations.

CONDITION OF COMPLIANCE:

- A. Applicant and all future owners of lots within this filing shall be advised of, and comply with, the conditions, rules, regulations, and specifications set by the District.
- B. Applicant must comply with the District’s requirement that Applicant must provide the District with a copy of the Final Plat approval by El Paso County within 12 months from the date of their commitment letter (June 15, 2020; therefore notice is required by June 15, 2021) in order to use the allotment. **If Applicant does not so provide the District with proof of the final plat approval (with a copy of same to the County Attorney’s Office and the Planning and Community Development Department) within this timeframe, then the foregoing water review and recommendation of sufficiency will also expire.**
- C. It is Applicant’s responsibility, and not the County’s, to comply with the advisory by the State Engineer’s Office regarding any storm water collection and/or conveyance facilities that may be included in the development to ensure that any such structures meet the requirements of a ‘storm water detention and infiltration facility,’ and that notice, construction, and operation of the proposed structure meets statutory and administrative requirements.

cc: Lindsay Darden, Planner II