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November 21, 2023

SF-23-17 Mayberry, Colorado Springs Filing No. 4

Reviewed by: Lori Seago, Senior Assistant County Attorney  
April Willie, Paralegal

**WATER SUPPLY REVIEW AND RECOMMENDATIONS**

Project Description

1. This is a Final Plat proposal by Mayberry Communities, LLC (“Applicant”), to subdivide an approximately 9.78 acre lot into 8 industrial lots. The property is zoned CS (Commercial Service).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary (“WSIS”), the Applicant estimates its annual water needs to serve this subdivision at 3.03 acre-feet/year for 8 lots. The Applicant estimates indoor use at 0.294 acre-feet per lot, with an additional estimated demand of 0.68 acre-feet for irrigation of 0.28 acres (0.085 acre-feet/lot/year), which results in a total annual water demand of 0.379 acre-feet per lot, or a total demand of 3.03 acre-feet for Mayberry, Colorado Springs Filing No. 4. Based on these figures, the Applicant must provide a supply of 909 acre-feet of water (3.03 acre-feet/year x 300 years) to meet the County’s 300-year water supply requirement for the subdivision.

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 *Water Resources Report* (“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. This provides a total of 128.88 acre-feet per year of water available. The EUC has already committed 86.69 acre-feet

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to Mayberry 1, 2, & 3 leaving 42.19 acre-feet/year remaining for Mayberry, Colorado Springs Filing No. 4.

4. The Ellicott Utilities Company, LLC provided a letter of commitment dated April 12, 2023 for Mayberry, Colorado Springs Filing No. 4, in which the District committed to providing water service for the 8 industrial lots and associated landscaping in an annual amount of 4.96 acre-feet per year.<sup>1</sup>

#### State Engineer's Office Opinion

5. In a letter dated June 28, 2023, the State Engineer's Office reviewed the application to subdivide the 9.78 +/- acres into eight commercial lots. The State Engineer stated that "the Company owns and controls water rights associated with Determination of Water Right Nos. 598-BD and 599-13D, [and] an interest in the Tipton Well and the 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 ". . . it is or opinion, pursuant to CRS 30-28-136(1)(h)(II) that the anticipated water supply can be provided without causing material injury to decreed water."

#### Recommended Findings

6. Quantity and Dependability. Applicant's water demand for Mayberry, Colorado Springs Filing No. 4 is 3.03 acre-feet per year for a total demand of 909 acre-feet for the subdivision for 300 years, to be supplied by Ellicott Utilities Company. **Based on the District's available water supply of approximately 42.19 annual acre-feet, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for Mayberry, Colorado Springs Filing No. 4.**

7. Quality. The water quality requirements of Section 8.4.7.B.10 of the 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*, the *Water Resources Report* dated October 20, 2023, the *Ellicott Utilities Company, LLC* letter dated April 12, 2023, and the *State Engineer Office's Opinion* dated June 28, 2023. 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***

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<sup>1</sup> The water demand remains 3.03 acre-feet per year. The number committed by Ellicott Utilities Company is in excess.

***requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

**REQUIREMENTS:**

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 Company.

cc: Ryan Howser, Project Manager, Planner