

# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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Midtown at Hannah Ridge, Filings 1 and 2  
File Nos. PUDSP-19-4, SF-19-6, SF-19-7

Reviewed by: M. Cole Emmons, Senior Assistant County Attorney  
Edi Anderson, Paralegal

1. This is a proposal by Feathergrass Investments, LLC ("Applicant") for PUD/preliminary plan and final plat approval for Filings 1 and 2 of the Midtown at Hannah Ridge subdivision. This proposal is a replat of Tracts AA and BB of Hannah Ridge at Feathergrass Preliminary Plan Amendment dated May 13, 2013. The property is zoned RM-30 CAD-0 (Residential Multi-Dwelling – Commercial Airport District). The acreage, number of lots, and water demand for each filing is noted below:

Filing No.	Total acres in Filing	Number of Lots	Water Demand
1	9.123 +/-	61	24.40/acre-feet
2	3.260 +/-	28	9.44/acre-feet
<b>TOTAL</b>	<b>12.383 +/-</b>	<b>89 lots</b>	<b>33.84/acre-feet</b>

2. The Applicant has provided that the source of water for the subdivision will derive from the Cherokee Metropolitan District ("District"). Pursuant to the Water Supply Information Summary and the *Water Resources Report for Midtown Collection at Hannah Ridge Filing Nos. 1 and 2*, the Applicant estimates its annual water needs as follows: Filing 1 at 15.25 acre-feet for household use and 9.15 acre-feet for irrigation totaling 24.40 acre-feet (0.25 acre-feet/lot for 61 dwelling units, plus 9.15 acre-feet for irrigation of 3.71 acres of common areas); and Filing 2 at 7.0 acre-feet for household use and 2.44 acre-feet for irrigation totaling 9.44 acre-feet (0.25 acre-feet/lot for 28 dwelling units plus 2.44 acre-feet for irrigation of 1.0 acre of common areas). Based on these figures, the Applicant must provide a supply of 10,152 acre-feet (33.84/acre-feet x 300 years).

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3. The State Engineer addressed the water demand and supply for the 2 filings in a letter dated August 29, 2019. The State Engineer reviewed the application to subdivide 9.12 +/- acres into 61 lots (Filing 1) and 3.26 +/- acres into 28 lots (Filing 2). The Engineer reviewed this matter based on information provided in the Water Supply Information Summary and described the water demand as noted in the above Paragraph 2. The Engineer noted that the total amount of estimated water demand for the subdivision (Filings 1 and 2 combined) is 33.84 acre-feet/year. The Engineer further noted that pursuant to the District's commitment letter, "the water would come from Cherokee's general uncommitted supply" and based on their records "it appears that Cherokee has adequate water resources to serve up to 33.84 acre-feet/year for the proposed development." The State Engineer's Office also provided the following advisory to the Applicant related to any construction and/or modification of storm water structures:

"... unless the storm water structures(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* ... to ensure that the notice, construction and operation of the proposed structure meets statutory and administrative requirements."

Finally, based on their review, the Engineer stated that pursuant to "Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply can be provided without causing injury to decreed water rights, and the supply is expected to adequate."

4. The Water & Wastewater Collections Manager for the District provided a letter of commitment for the Midtown at Hannah Ridge subdivision on April 19, 2019 (Commitment Letter #2019-03). The letter sets forth the water demand for the 2 filings to include 24.40 acre-feet for Filing 1 (15.25 acre-feet for household use and 9.15 acre-feet for irrigation) and 9.44 acre-feet for Filing 2 (7.0 acre-feet for household use and 2.44 acre-feet for irrigation). The District's letter indicates it has a surplus of 330.273 acre-feet of water for development, and after the 33.84 acre-feet requirement for these two filings, stated that the District would have a current "water balance of 296.433 acre-feet of water per year for future developments." The District, therefore, has excess water capacity available to serve the Midtown at Hannah Ridge subdivision, and the "District stands ready and willing to provide water ... for the specific property and uses detailed herein," which totals 33.84 acre-feet/year for Filings 1 and 2.

5. 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.

6. Analysis. Cherokee Metropolitan District has a total of 330.273 acre-feet of annual water supply available for the Midtown at Hannah Ridge subdivision. With a proposed annual demand of 24.40 acre-feet for Filing 1 and 9.44 acre-feet for Filing 2 totaling 33.84 for the subdivision, and based on current commitments and available water supply of the District, it appears the proposed water supply will be sufficient.

7. Therefore, based upon the finding of sufficiency and no injury by the State Engineer, the District's commitment, and based on the requirements below, the County Attorney's Office recommends a finding that the proposed water supply is **sufficient** in terms of quantity and dependability. 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 these filings shall be advised of, and comply with, the conditions, rules, regulations, and specifications set by the District, including the District's requirement that the project "must achieve appropriate zoning and a final plat land use entitlement from El Paso County Development Services within 12 months of the date of this letter" [letter dated April 19, 2019].
- B. It is Applicant's responsibility to comply with the advisory by the State Engineer's Office regarding any onsite drainage/water quality ponds pursuant to the requirements of 'storm water detention and infiltration facility' and that notice, construction and operation of the proposed structure meets statutory and administrative requirements.

cc: Kari Parsons, Project Manager, Planner III