

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY
CIVIL DIVISION

First Assistant County Attorney
Diana K. May

Amy R. Folsom, County Attorney

Assistant County Attorneys
M. Cole Emmons
Lori L. Seago
Diana K. May
Kenneth R. Hodges
Lisa A. Kirkman
Steven A. Klaffky
Peter A. Lichtman

April 11, 2018

Springs at Waterview

Preliminary Plan SP-16-005
Final Plat SF-16-017

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

FINDINGS AND CONCLUSIONS:

1. This is a proposal by Frank W. Howard #2 Limited Partnership, LLLP and SWV, LLC ("Applicant"), for preliminary plan and final plat approval to subdivide approximately 15.67 acres into 85 single-family residential lots. The property is zoned PUD (Planned Unit Development).

2. The Applicant has provided for the source of water to derive from a central water system – Security Water and Sanitation District (hereinafter "District"). The Applicant estimates its annual water demand to serve 85 single-family lots at 42.5 acre-feet annually or 0.5 acre-feet per lot. Applicant will need to provide a supply of 12,750 acre-feet of water (42.5 ac-ft/yr. x 300 years) to meet El Paso County's 300 year water supply requirement. Since the District's water supply is considered annually renewable, it is considered already to have a minimum life of 300 years and, therefore, does not have to reserve this total quantity of water.

3. Pursuant to Section 8.4.7.C.1. of the El Paso County Land Development Code, "[w]ater provided from renewable ground water sources is considered to be annually renewable and, therefore, is considered to have a minimum life of three hundred (300) years." Based on past representations by the District's representatives, given the general well locations which place most of the wells approximately within one to two miles of either Fountain Creek or Jimmy Camp Creek, and given the augmentation supply of

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



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

transmountain Frying Pan/Arkansas Project water which is a tributary renewable source, it appears the proposed water supply is an annual renewable source and falls within the provisions of Section 8.4.7.C.1., and thus the proposed supply is considered to have a minimum life of 300 years.

4. In a letter dated October 31, 2017, the General Manager for the District states that “[u]pon submission of an application for final plat to the El Paso County Development Services Department, the Security Water District agrees to commit sufficient water resources . . . to serve the property,” subject to the rules and conditions of the District and the payment of appropriate fees. The Manager states that the water demand for Springs at Waterview is estimated to be a maximum of 42.5 acre-feet of diversions annually and 17.0 acre-feet annually of depletions, and the District’s commitments are limited to those amounts. The General Manager stated that the District currently has “overall capacities that exceed current commitments.”

5. In a letter dated February 21, 2018, the State Engineer’s Office reviewed the submittal to subdivide the approximately 15.68 +/- acre parcel into 85 residential lots. The State Engineer’s Office reviewed the submittal based on the Water Supply Information Summary noting the water demand of 42.5 acre-feet/year for ordinary household purposes for the 85 single-family lots (or 0.5 acre-foot per year per unit). The State Engineer’s Office noted that based on the “latest water supply report on file with this office, it appears the District has sufficient water resources to supply this subdivision.” And further, “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 is expected to be adequate.”

The State Engineer also provided the following advisory to the Applicant:

“Should the development include construction and/or modification of any storm water structures, the Applicant should be aware that, unless the storm water structure(s) can meet the requirements of a ‘storm water detention and infiltration facility’ as defined in section 37-92-602(8), Colorado Revised Statutes, the structure may be subject to administration by this office.”

6. PFCs. On May 19, 2016, the Environmental Protection Agency (“EPA”) announced that it lowered the health advisory levels (“HAL”) for Perfluorinated Compounds (“PFC”), to 70 parts per trillion. One of the three local water providers whose PFC levels now exceed the EPA’s HAL is Security Water District, where PFC’s were found in its groundwater supplies. There has been much coverage in the local press and much public concern expressed over PFC’s recently. The District’s website states that the District has taken steps to deliver PFC-free water to all of its customers including using all surface water and adding infrastructure allowing the District to purchase more surface water from Colorado Springs. The County Attorney’s Office has no information

that the PFC issue affects the District's ability to provide a sufficient water supply for this development.

7. 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.

8. Analysis. The District's water resources consist of annually renewable sources that are considered to have a minimum life of 300 years. Based on the representations of the District included in the commitment letter dated October 31, 2017 and the Springs at Waterview Engineering Study dated May 2017, it appears the proposed water supply will be sufficient to meet the demands of the subdivision.

9. Based upon the finding of no injury and sufficiency made by the State Engineer and the commitment to serve by the District, and subject to the conditions set forth 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 complies with the water quality regulations.

CONDITIONS:

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 Districts.

cc: Nina Ruiz, Project Manager, Planner II