

# EL PASO COUNTY



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March 5, 2018

PUDSP-17-003 Beach at Woodmoor  
SF-17-015 PUD/Preliminary Plan & Final Plat

Reviewed by: M. Cole Emmons, Senior Assistant County Attorney  
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NOTE: APPLICANT INITIALLY PROVIDED A DEMAND OF 20.58 AF/YR, FOR WHICH THE STATE ENGINEER REVIEWED. THE WOODMOOR WATER AND SANITATION DISTRICT COMMITTED TO SERVE 12.69 AF/YR. UPON INQUIRY BY THE COUNTY ATTORNEY'S OFFICE, THE DISTRICT MANAGER CONFIRMED ITS COMMITMENT OF 12.69 AF/YR, BUT THAT IT COULD ALSO SUPPLY A DEMAND AT 20.58, ALTHOUGH IT BELIEVED APPLICANT USED INCORRECT NUMBERS TO GET TO ITS DEMAND FIGURE OF 20.58 AF. LATE ON MARCH 5, 2018, APPLICANT PROVIDED AN UPDATED WATER SUPPLY INFORMATION SUMMARY THAT IS WITHIN THE AMOUNT COMMITTED BY THE DISTRICT. BECAUSE THE ACCOUNTING OF THE WATER DEMAND IS IMPORTANT TO THE STATE ENGINEER AND THE DISTRICT, THIS REVIEW RECOMMENDS A FINDING OF **CONDITIONAL SUFFICIENCY** FOR PLANNING COMMISSION, WITH THE REQUIREMENT THAT APPLICANT OBTAIN AN UPDATED REVIEW BY THE STATE ENGINEER TO CORRECT THE ACCOUNTING DISCREPANCY PRIOR TO HEARING ON THE FINAL PLAT BY THE BOARD OF COUNTY COMMISSIONERS.

### FINDINGS AND CONCLUSIONS:

1. This is a proposal by Lake Woodmoor Holdings, LLC ("Applicant"), for a PUD/Preliminary Plan to subdivide approximately 12.317 +/- acres of land into 35 single family residential lots, plus 8 tracts. The property is currently zoned R-4, C-2, and RR-5. A concurrent PUD ("Planned Unit Development") request is also pending review.
2. The Applicant has provided that the source of water for the subdivision will derive from the Woodmoor Water and Sanitation District ("District"). The Applicant

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estimates its annual water needs at 12.55 acre-feet annually (11,200 gallons per day for the subdivision) based on 0.358 acre-feet per each single-family lot. Based on these figures for the Beach at Woodmoor, the Applicant must be able to provide a supply of 3,765 acre-feet of water (12.55 acre-feet per year x 300 years) to meet the County's 300 year water supply requirement.

3. In a letter dated June 22, 2017, the State Engineer's Office reviewed the application based on applicant's original submittal which estimated a water demand of 20.58 acre-feet annually for 35 lots (0.588 acre-feet per lot). The Engineer reviewed the proposal based on information from the District, the Water Supply Information Summary, and the Water Resources Report dated May 8, 2017. The Applicant, on March 5, 2018, provided an updated Water Supply Information Summary and Water Resources Report estimating the subdivision water demand at 12.55 acre-feet annually instead of the original 20.58 acre-foot requested. In the State Engineer's letter dated June 22<sup>nd</sup>, the Engineer stated that based on the Woodmoor Water and Sanitation District Long Range Plan (December 2012), the District utilizes two water supply sources. "The first supply of water comes from the Denver Basin Aquifers, which Woodmoor can pump up to ... 2,107.47 acre-feet per year (based on a 300 year aquifer life). The second supply of water comes from diversions on Monument Creek and Dead Woman Creek that occur via an exchange of treated wastewater effluent for surface water, which supplied an average of 365 acre-feet per year over the period 2007 - 2011 (an annually renewable supply with no administrative lifespan). Combined, the Denver Basin water rights (based on a 300 year aquifer life) and surface water exchanges (annually renewable with no administrative life span) exceed the average annual water demand of 2,148 acre-feet estimated for current build-out." The State Engineer stated that pursuant to C.R.S. § 30-28-136(1)(h)(II), it was the Engineer's opinion that "the proposed water supply is adequate and can be provided without causing injury to decreed water rights."

**Note:** The State Engineer's Office has not yet reviewed the updated submittal noting a water demand of 12.55 acre-feet. While the State Engineer has provided a sufficiency finding for the greater water demand of 20.58 acre-feet, as stated above, the State Engineer will need to provide an updated letter of sufficiency for Applicant's updated demand of 12.55 acre-feet/year in order to have an accurate and uniform accounting of Applicant's correct demand. This will be necessary before full sufficiency can be recommended for the Final Plat before the Board of County Commissioners as noted above and below in Paragraph 7..

4. The District Manager of the Woodmoor Water and Sanitation District provided a letter regarding this proposal dated May 18, 2017, committing to provide water and sewer services to the development.

In the District's letter, the District Manager detailed the land purchase agreement between KAB-Pankey, LLC and the District, dated May 8, 2001 (the "Agreement"), and KAB-Pankey's rights thereunder were later assigned to the Applicant.

Pursuant to the District's standard policy, supplemental water must be obtained through agreement with the District if a subdivision's water demands exceed the District's standard water service allocation of 0.50 acre-feet of water per acre of land. As detailed in the District's letter, as part of the consideration paid by the District, the District committed to serving certain properties around Lake Woodmoor with supplemental water. The Agreement listed the properties to be served by the supplemental water, which includes the properties encompassed in the Beach at Woodmoor subdivision. As noted in the letter, the District is committed to serve 6.19 acre-feet of water based on the standard water service allocation (12.38 acres x ½ acre-foot/acre of land) and up to an additional 71.89 acre-feet of supplemental water. The District Manager noted that if the development occurs as planned, "the Beach property is anticipated to utilize approximately 6.5 AF of the supplemental water service commitment previously agreed to by the District pursuant to the Agreement." In short, while committing up to 78.08 acre-feet/year of water to the Beach at Woodmoor subdivision (6.19 acre-feet + 71.89 acre-feet), the District anticipates a commitment of no more than 12.69 acre-feet/year (6.19 acre-feet + 6.5 acre-feet) which meets the Applicant's updated water demand for the subdivision of 12.55 acre-feet/year.

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: Based on a demand of 12.55 acre-feet annually as noted by the Water Supply Information Summary and a supply of 12.69 acre-feet derived from the District's standard allocation of 0.50 acre-feet of water per acre of land (6.19 acre-feet) and the water allocation provided through the land purchase Agreement between KAB-Pankey, LLC and the District, later assigned to Lake Woodmoor Development, Inc. (6.5 acre-feet), the supply of 12.69 acre-feet should meet the water demand for the proposal.

7. Therefore, based on the above analysis and the requirements below, given the commitment to serve by the District, the commitments in the land purchase Agreement, and the finding of the State Engineer's Office that the proposed water supply as originally contemplated can be provided without injury to existing water rights and is expected to be adequate, but given the need to clarify the accounting of the Applicant's demand by the State Engineer's Office, the County Attorney's Office recommends a finding that the proposed water supply is **conditionally sufficient** in terms of quantity and dependability. Applicant shall provide an updated review by the State Engineer based on Applicant's updated demand figure of 12.55 acre-feet/year prior to hearing the Final Plat by the Board of County Commissioners. The Health Department will need to advise if they have a concern regarding the water quality.

REQUIREMENTS:

- A. Applicant, its successors and assigns, and all future owners of lots within this filing shall be advised of, and comply with, any conditions, rules, regulations, limitations, and specifications set by the District.
- B. Prior to hearing the Final Plat by the Board of County Commissioners, the Applicant must provide an updated letter from the State Engineer's Office providing sufficiency for Applicant's updated water demand of 12.55 acre-feet.

cc: Raimere Fitzpatrick, Project Manager, Planner II