

# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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North Bay at Lake Woodmoor  
PUD Preliminary Plan and Final Plat  
PUDSP-16-004 and SF-16-021

Reviewed by: M. Cole Emmons, Senior Assistant County Attorney  
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### **FINDINGS AND CONCLUSIONS:**

1. This is a proposal by Lake Woodmoor Holdings, LLC ("Applicant"), for a PUD Preliminary Plan, and Final Plat to subdivide approximately 7.23 acres into 28 townhome units and 5 tracts (2 tracts allocated for private streets). The property is currently zoned R-4 (Planned Development District – Obsolete) and a concurrent rezoning request to a PUD ("Planned Unit Development") is under 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 estimates its annual water needs at 9.58 acre-feet based on 0.342 acre-feet per townhome unit, as indicated on the Water Supply Information Summary included with the submittal. Based on these figures, the Applicant must be able to provide a supply of 2,874 acre-feet of water (9.58 acre-feet per year x 300 years) to meet the County's 300 year water supply requirement.

3. The District Manager of the Woodmoor Water & Sanitation District provided a letter regarding this proposal on November 21, 2017, committing to provide water and sewer services to the development.<sup>1</sup> Specifically, the District Manager stated that if the development of 28 multi-family units proceeds according to plan, "the North

<sup>1</sup> The Woodmoor Water and Sanitation District's Engineer provided an email to the County Attorney's Office on February 18, 2020, confirming that the November 21, 2017 commitment letter remained a valid commitment by the District.



Bay water demands, as proposed by the Developer, are anticipated to total 9.4580 AF annually which the District is committed to serving.”

The District Manager detailed the water supply available to the District, and noted the agreement between the District and KAB-Pankey, LLC (“Agreement”). The District noted that the Agreement identifies the properties to be served by the Agreement, including, North Bay at Lake Woodmoor. The District letter states that the “North Bay property total 7.2 acres which the District is committed to providing water and sewer services in accordance with its standard policy allocation totaling 3.6 AF annually and additionally has committed to serving Agreement properties (collectively) with up to 86.21 of Supplemental Water Service. With the completion of the Dunes at Woodmoor and the Beach at Woodmoor, there will remain 64.182 AF/Yr of supplemental water service that can be allocated (wholly or partially) toward the remaining Agreement Properties, including North Bay.” The supplemental water service agreement is further detailed in the *Water Resources Report & Wastewater Treatment Report-North Bay at Lake Woodmoor* dated November 8, 2016, prepared by Kiowa Engineering Corporation.

4. In a letter dated December 18, 2019, the State Engineer’s Office reviewed the application based on the Water Supply Information Summary and information from the District, which estimated a demand of 9.58 acre-feet annually for 28 multi-family units (0.342 acre-feet per townhome). The Engineer noted that the proposal didn’t clearly define the amount of lawn and garden irrigation for each lot, but notes that the water supply estimate does account for some level of irrigation. The Engineer stated that based on the records available, the “District has adequate water resources to serve 9.58 acre-feet/year for the proposed development.” Further, the State 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 is adequate and can be provided without causing injury to decreed water rights.”

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

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. The Woodmoor Water & Sanitation District has a total of 86.21 acre-feet of water supply available for the properties identified in the District's Agreement, including North Bay at Lake Woodmoor. Pursuant to the District's letter, the District has 64.182 acre-feet/year of water available to serve the North Bay development and other properties included in the Agreement. With a proposed annual demand of 9.58 acre-feet required for the North Bay at Lake Woodmoor development, and based on current commitments and available water supply of the District, it appears the proposed water supply will be sufficient.

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 can be provided without injury to existing water rights and is expected to be adequate, 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.

#### 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. 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: Nina Ruiz, Project Manager, Planner III