

## County Attorney

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June 29, 2023

PUDSP-21-1      The Villas at Claremont Ranch  
PUD/Preliminary Plan

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

### AMENDED WATER SUPPLY REVIEW AND RECOMMENDATIONS

#### Project Description

1. This is a PUD and preliminary plan proposal by Phi Real Estate Services, LLC (“Applicant”) for subdivision of 83 attached townhome lots (the “property”). The property is currently zoned PUD CAD-O (Planned Unit Development – Commercial Airport Overlay District).

#### Estimated Water Demand

2. Pursuant to the *Water Supply Information Summary* (“WSIS”), the subdivision demand is 24.75 acre-feet/per year, which reflects 0.25 acre-feet/lot for in-house use, plus 4.0 acre-feet for irrigation. Based on the total demand, Applicant must be able to provide a supply of 7,425 acre-feet of water (24.75 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement.

#### Proposed Water Supply

3. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District (“District” or “CMD”). As detailed in the *Water Resources Report for the Villas at Claremont Ranch* dated November 2020 (“Report”), the District’s water supply is sourced entirely from groundwater, both renewable and Denver Basin non-renewable sources. The *Report* indicates that “[w]ith 4,411.5 annual acre-feet of exportable supply and 4,331.0 annual acre-feet of commitments, CMD has a water balance of 80.5 annual acre-feet before the

subject development. After commitment of 24.8 annual acre-feet to this development, the District will have 55.7 annual acre-feet remaining for additional commitments.”

4. The District’s General Manager provided a letter of commitment for the Villas at Claremont Ranch development dated February 25, 2022, in which the District committed to providing water service to the 83 residential lots in the amount of 20.75 acre-feet/year, plus irrigation in the amount of 4.01 acre-feet/year, for an annual water requirement of 24.8 acre-feet/year.

Finally, the District’s commitment is only a conditional commitment; therefore, the District’s letter noted “[t]o confirm this commitment you must provide the District with a copy of the final plat approval from El Paso County Development Services within 12 months of the date of this letter. Otherwise, the District may use this allocation for other developments requesting a water commitment.”

#### State Engineer’s Office Opinion

5. In a letter dated February 3, 2021, the State Engineer reviewed the proposal to subdivide the 10.17 +/- acre parcel into 83 single-family lots, plus irrigated green space. The State Engineer stated that the proposed development is to be served by Cherokee Metropolitan District. A letter of commitment dated November 19, 2020<sup>1</sup> from Cherokee was provided with the materials and indicated that 24.8 acre-feet are committed to the proposed subdivision. Finally, “[p]ursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply for Claremont Commercial Subdivision No. 2<sup>2</sup> is adequate and can be provided without causing injury to decreed water rights.”

#### Recommended Findings

6. Quantity and Dependability. Applicant’s water demand for the Villas at Claremont Ranch development is 24.75 acre-feet per year to be supplied by the Cherokee Metropolitan District.

**Therefore, based upon the finding of sufficiency and no injury to existing water rights by the State Engineer, a water demand of 24.75 acre-feet/year and a commitment from the District in the amount of 24.8 acre-feet/year for a period of 300 years, but given the conditional nature of the commitment to serve by the District, and subject to the conditions set below, the County Attorney’s Office recommends a finding of conditional sufficiency as to water quantity and dependability for the Villas at Claremont Ranch development.**

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<sup>1</sup> Note: A subsequent letter was provided from the District dated February 25, 2022; however, it does not change the water supply commitment by the District or the opinion of adequate water supply for this subdivision.

<sup>2</sup> This appears to be a typographical error by the State Engineer’s Office as the correct name of the subdivision is set forth in the header of the SEO’s letter.

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* provided February 17, 2022, the *Water Resources Report* dated November 2020, the *Cherokee Metropolitan District* letter dated February 25, 2022, and the *State Engineer Office's Opinion* dated February 3, 2021. 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 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, limitations, and specifications set by the District.
- B. Applicant must obtain final plat approval and provide evidence thereof to the District within 12 months of the District's commitment letter dated February 25, 2022\* (approval must be provided by February 25, 2023\*), to retain the District's water commitment. **If Applicant fails to do so, Applicant must this recommended finding of conditional sufficiency will be deemed moot and no longer valid unless 1) an updated commitment letter from the District is provided with the final plat application and 2) the information provided in connection with and relied upon to complete this Review otherwise remains unchanged.**
- C. Prior to recording the final plat, Applicant shall provide proof that it has submitted to the State Engineer's Office its Water Resources Report and any other information required in p.2 of the State Engineer's Office Opinion.

cc. Ryan Howser, Project Manager