

Meggan Herington, AICP, Executive Director
El Paso County Planning & Community Development

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Colorado Springs, CO 80910

Board of County Commissioners

Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

SUMMARY MEMORANDUM

TO: El Paso County Board of County Commissioners
FROM: Planning & Community Development
DATE: 7/18/2023
RE: PUDSP-21-001, A Request to Add a Condition of Approval for the Villas at Claremont Ranch Preliminary Plan.

Project Description

A request by Phi Real Estates Services, LLC, for approval of an additional condition of approval for the Villas at Claremont Ranch Preliminary Plan (PUDSP-21-001). The 10.17-acre property is located at the northeast corner of Meadowbrook Parkway and Marksheffel Road. (Parcel Nos. 54043-03-062 and 54043-03-066) (Commissioner District No. 2).

The Villas at Claremont Ranch Preliminary Plan and PUD Development Plan was approved by the Board of County Commissioners (BoCC) on June 21, 2022 (Resolution No. 22-212). Cherokee Metropolitan District prepared a commitment to provide water and wastewater services for the property within the preliminary plan area. The commitment expired on February 25, 2023.

The County Attorney's Water Supply Review and Recommendations contained Condition B, which stated the following:

"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 **If Applicant fails to do so, this recommended finding of conditional sufficiency will be deemed moot and no longer valid.**"

The applicant has not yet received final plat approval, and, therefore, is requesting to add a Condition of Approval in order to maintain the County Attorney's finding of water sufficiency for the area within the preliminary plan.

Recommended Additional Condition of Approval

7. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time. The applicant may provide an updated commitment letter for water from Cherokee Metropolitan District in connection with subsequent final plat applications. In that instance, the Board's finding of sufficient water supply with regard to quantity, quality, and dependability will remain in effect, and the applicant may seek administrative final plat approval.

Attachments

1. Resolution 22-212
2. Original Cherokee Metropolitan District Commitment Letter
3. County Attorney's Office Finding of Water Sufficiency
4. Revised Cherokee Metropolitan District Commitment Letter
5. County Attorney's Office Revised Finding of Water Sufficiency
6. Draft BOCC Resolution



RESOLUTION NO. 22-212

EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS, STATE OF COLORADO

APPROVAL OF THE VILLAS AT CLAREMONT RANCH MAP AMENDMENT (REZONING) AND PUD DEVELOPMENT PLAN (PUDSP-21-001)

WHEREAS Phi Real Estates Services, LLC, did file an application with the El Paso County Planning and Community Development Department for an amendment to the El Paso County Zoning Map to rezone property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the conceptual PUD (Planned Unit Development) zoning district to the site-specific PUD (Planned Unit Development) zoning district in conformance with the supporting PUD Development plan; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on June 16, 2022, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application and supporting PUD Development Plan; and

WHEREAS, a public hearing was held by this Board on June 21, 2022; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Board of County Commissioners.
2. Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and Board of County Commissioners of El Paso County.
3. That the hearings before the Planning Commission and Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.

4. The proposed PUD (Planned Unit Development) District zoning is in general conformity with the Master Plan for El Paso County, Colorado.
5. The proposed PUD District zoning advances the stated purposes set forth in Chapter 4, Section 4.2.6, of the Land Development Code.
6. The proposed development is in compliance with the requirements of the Land Development Code and all applicable statutory provisions and will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of El Paso County.
7. The subject property is suitable for the intended uses and the use is compatible with both the existing and allowed land uses on the neighboring properties, will be in harmony and responsive with the character of the surrounding area and natural environment; and will not have a negative impact upon the existing and future development of the surrounding area.
8. The proposed development provides adequate consideration for any potentially detrimental use-to-use relationships (e.g. commercial use adjacent to single-family use) and provides an appropriate transition or buffering between uses of differing intensities both on-site and off-site.
9. The allowed uses, bulk requirements and required landscaping and buffering are appropriate to and compatible with the type of development, the surrounding neighborhood or area and the community.
10. The areas with unique or significant historical, cultural, recreational, aesthetic or natural features are preserved and incorporated into the design of the project.
11. Open spaces and trails are integrated into the development plan to serve as amenities to residents and provide reasonable walking and biking opportunities.
12. The proposed development will not overburden the capacities of existing or planned roads, utilities and other public facilities (e.g., fire protection, police protection, emergency services, and water and sanitation), and the required public services and facilities will be provided to support the development when needed.
13. The proposed development would be a benefit through the provision of interconnected open space, conservation of environmental features, aesthetic features and harmonious design, and energy-efficient site design.

14. The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would unreasonably interfere with the present or future extraction of such deposit unless acknowledged by the mineral rights owner.
15. Any proposed exception or deviation from the requirements of the zoning resolution or the subdivision regulations is warranted by virtue of the design and amenities incorporated in the development plan and development guide.
16. The owner has authorized the application.
17. The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.
18. The subdivision is in conformance with the subdivision design standards and any approved Sketch Plan.
19. Sufficiency: A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of the Land Development Code.
20. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of the Land Development Code.
21. All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions [C.R.W. §30-28-133(6)(c)].
22. Adequate drainage improvements complying with State law [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and the Engineering Criteria Manual are provided by the design.
23. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
24. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
25. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed,

and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations.

26. For the above-stated and other reasons, the proposed zoning is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

27. For the above-stated and other reasons, the proposed zoning is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the application to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the conceptual PUD (Planned Unit Development) zoning district to the site-specific PUD (Planned Unit Development) zoning district in conformance with the supporting PUD Development Plan.

BE IT FURTHER RESOLVED that the Board of County Commissioners hereby approves the PUD Development Plan as a preliminary plan.

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. Development of the property shall be in accordance with this PUD development plan. Minor changes in the PUD development plan, including a reduction in residential density, may be approved administratively by the Director of the Planning and Community Development Department consistent with the Land Development Code. Any substantial change will require submittal of a formal PUD development plan amendment application.
2. Approved land uses are those defined in the PUD development plan and development guide.
3. All owners of record must sign the PUD development plan.
4. The PUD development plan shall be recorded in the office of the El Paso County Clerk & Recorder prior to scheduling any final plats for hearing by the Planning Commission. The development guide shall be recorded in conjunction with the PUD development plan.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Parks and Wildlife, Colorado Department of Transportation,

U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.

6. Applicable park, school, drainage, bridge, and traffic fee shall be paid to El Paso County Planning and Community Development at the time of final plat(s) recordation.

NOTATIONS

1. Subsequent Final Plat Filings may be approved administratively by the Planning and Community Development Director.
2. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
3. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.
4. Preliminary plans not forwarded to the Board of County Commissioners within 12 months of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.
5. Approval of the preliminary plan will expire after two (2) years unless a final plat has been approved and recorded or a time extension has been granted.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 21st day of June, 2022, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO


ATTEST:

By: 
Chair

Resolution No. 22-212

Page 6

By:


County Clerk & Recorder

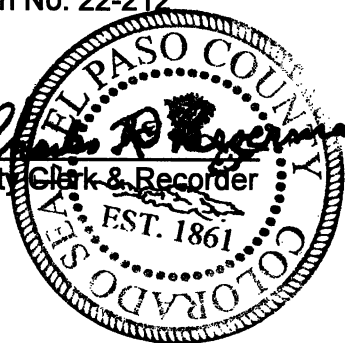


EXHIBIT A

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6th PM, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 8, N00°10'49"W – 1982.45 FEET THE DIRECTION IS BASED ON THE LAND SURVEY PLAT BY UNITED PLANNING AND ENGINEERING, DATED NOVEMBER 23, 2004. DEPOSIT NUMBER 204900192 AND THE LINE IS MONUMENTED BY A 2-1/2" DIAMETER ALUMINUM CAP LS #11624 ON THE SOUTH AND A REBAR AND CAP LS 25629 ON THE NORTH.

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 8; THENCE N00°10'49"W ON THE WEST LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 30.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF SHOUP ROAD AND THE POINT OF BEGINNING OF THE TRACT DESCRIBED HEREIN; THENCE CONTINUE N00°10'49"W ON THE WEST LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 1952.45 FEET; THENCE N89°03'26"E A DISTANCE OF 1298.11 FEET THENCE S00°20'14"E A DISTANCE OF 1244.75 FEET TO THE NORTHEAST CORNER OF LOT 1, THE S. HANNASCH SUBDIVISION NO. 1A, AS SHOWN ON THE SUBDIVISION PLAT THEREOF RECORDED UNDER RECEPTION NO. 207712645 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER; THENCE S89°22'23"W ON THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 622.03 FEET TO THE MOST EASTERLY CORNER OF TRACT A OF SAID S. HANNASCH SUBDIVISION NO. 1A; THE FOLLOWING FOUR (4) COURSES ARE ALONG THE NORTHERLY AND WESTERLY BOUNDARY OF SAID TRACT;

- 1) THENCE N39°59'42"W A DISTANCE OF 60.00 FEET;
- 2) THENCE S 50°00'18"W A DISTANCE OF 132.81 FEET TO A POINT OF CURVE;
- 3) THENCE ON THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 330.00 FEET, THROUGH A CENTRAL ANGLE OF 50°00'00" AN ARC DISTANCE OF 287.98 FEET TO A POINT OF TANGENT;
- 4) THENCE S00°00'18"W A DISTANCE OF 362.97 FEET TO THE SOUTHWEST CORNER OF SAID TRACT;

THENCE CONTINUE S00°00' 18"W A DISTANCE OF 60.00 FEET TO A POINT ON THE AFORESAID NORTHERLY RIGHT OF WAY LINE OF SHOUP ROAD;

THENCE S89°01'22"W ON SAID NORTHERLY RIGHT OF WAY LINE A DISTANCE OF 418.94 FEET TO THE POINT OF BEGINNING.

THE DESCRIBED TRACT CONTAINS 44.193 ACRES, MORE OR LESS.



CHEROKEE METROPOLITAN DISTRICT

6250 Palmer Park Blvd., Colorado Springs, CO 80915-2842

Telephone: (719) 597-5080 Fax: (719) 597-5145

February 25th, 2022

Phi Real Estate Services, LLC

200 W City Center Dr. #200

Pueblo, CO 81003

Sent via email: jshagin@nescolorado.com

Re: Water and Sewer Service to **Villas at Claremont Ranch**
Commitment Letter No. **2022-04 (Revised from 2022-03)**

Dear Phi Real Estate Services,

As requested, this document will serve as a formal Letter of Commitment from the Cherokee Metropolitan District to provide municipal water and sewer services for the Villas at Claremont Ranch development located at the northeast corner of Meadowbrook Parkway and Marksheffel Road. The proposed location for this development is located within the District's established boundaries and therefore is eligible for service connections from the District.

Cherokee Metropolitan District staff, along with the developer, have determined that the following will be the total water demand required by this development:

Type of Use	Demand (AF/yr)
Domestic	20.75
Irrigation	4.01
Total	24.8

Based on a conservatively low 0% consumptive use of domestic water, the development is expected to produce 22,000 gallons of wastewater per day, representing 0.9% of CMD's wastewater capacity. This usage is in line with anticipated wastewater demand for this area of the District.

This water commitment is hereby made exclusively for this specific development project at this site within the District. To 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. If the subject project is re-platted, you must submit a new commitment request prior to submitting the re-plat to El Paso County, which may result in a recalculation of the water demand for the project.

If I may be of further assistance please contact me at your convenience.

Sincerely,



Amy Lathen
General Manager

Cc: Peter Johnson; Water Counsel w/ encl: sent via email
Steve Hasbrouck; Board President w/ encl: sent via email
Jeff Munger; Water Resource Engineer: sent via email
Kevin Brown; Jr. Engineer: sent via email



OFFICE OF THE COUNTY ATTORNEY
CIVIL DIVISION

Diana K. May, County Attorney

Assistant County Attorneys

Lori L. Seago
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Mary Ritchie
Bryan E. Schmid
Nathan J. Whitney
Christopher M. Strider
Terry A. Sample
Dorey L. Spotts
Steven Martyn

March 18, 2022

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

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

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, 2020¹ 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. 2² 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.

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

¹ 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.

² 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.

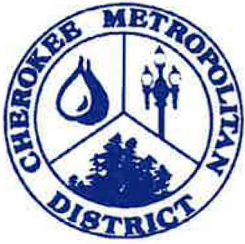
operating in conformance with Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

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, this recommended finding of conditional sufficiency will be deemed moot and no longer valid.**
- 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



CHEROKEE METROPOLITAN DISTRICT

6250 Palmer Park Blvd., Colorado Springs, CO 80915-2842

Telephone: (719) 597-5080 Fax: (719) 597-5145

February 24th, 2023

Phi Real Estate Services, LLC

200 W City Center Drive #200

Pueblo, CO 81003

Sent via email: david@catamounteng.com

Re: Water and Sewer Service to **Villas at Claremont Ranch**
Commitment Letter No. **2023-02 (Revision of 2022-04)**

Dear Phi Real Estate Services,

As requested, this document will serve as a formal Letter of Commitment from the Cherokee Metropolitan District to provide municipal water and sewer services for the Villas at Claremont Ranch located at the northeast corner of Meadowbrook Parkway and Marksheffel Road. The proposed location for this development is located within the District's established boundaries and therefore is eligible for service connections from the District.

Cherokee Metropolitan District staff, along with the developer, have determined that the following will be the total water demand required by this development:

Type of Use	Demand (AF/yr)
Domestic	20.75
Irrigation	4.01
Total	24.8

Based on a conservatively low 0% consumptive use of domestic water, the development is expected to produce 22,000 gallons of wastewater per day, representing 0.9% of CMD's wastewater capacity. This usage is in line with anticipated wastewater demand for this area of the District. This 0% consumptive use is calculated for the purposes of ensuring CMD wastewater collection and treatment infrastructure is capable of treating the maximum possible volume of wastewater generated from this development. This is not intended in any way to limit consumptive uses of potable water on the subject property.

This water commitment is hereby made exclusively for this specific development project at this site within the District. To 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. If the subject project is re-platted, you must submit a new commitment request prior to submitting the re-plat to El Paso County, which may result in a recalculation of the water demand for the project.

If I may be of further assistance please contact me at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read "Amy Lathen", with a long horizontal flourish extending to the right.

Amy Lathen
General Manager

Cc: Peter Johnson; Water Counsel w/ encl: sent via email
Steve Hasbrouck; Board President w/ encl: sent via email
Jeff Munger; Water Resource Engineer: sent via email
Kevin Brown; Jr. Engineer: sent via email

County Attorney

Kenneth R. Hodges, County Attorney
719-520-6485
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200 S. Cascade, Suite 150
Colorado Springs, CO 80903
www.ElPasoCo.com

Board of County Commissioners
Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

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, 2020¹ 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. 2² 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.

¹ 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.

² 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

RESOLUTION NO. 23-

BOARD OF COUNTY COMMISSIONERS

COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION TO APPROVE AN ADDITIONAL CONDITION FOR A PRELIMINARY PLAN TO INCLUDE A REVISED FINDING OF SUFFICIENCY WITH REHGARDS TO WATER QUALITY, QUANTITY, AND DEPENDABILITY FOR THE VILLAS AT CLAREMONT RANCH PRELIMINARY PLAN (PCD FILE NO. PUDSP-21-001).

WHEREAS, the Board of County Commissioners of El Paso County, Colorado previously adopted Resolution No. 22-212, approving the Preliminary Plan for the Villas at Claremont Ranch (hereinafter referred to as the "Plan"); and

WHEREAS, Cherokee Metropolitan District (hereinafter referred to as the "District") is a municipal water and wastewater service provider; and

WHEREAS, the District provided a water commitment for the Plan with an expiration date of February 25, 2023; and

WHEREAS, the County Attorney provided a conditional finding of sufficiency with regards to water quality, quantity, and dependability for the Plan requiring approval of a final plat before February 25, 2023, and if final plat approval is not granted for all property within the Plan boundary before February 25, 2023, that the County Attorney's conditional finding of sufficiency shall be deemed moot and no longer valid; and

WHEREAS, final plat approval has not been granted for all property within the Plan boundary prior to February 25, 2023, and the County Attorney's conditional finding of sufficiency with regards to water quality, quantity, and dependability is therefore deemed moot and no longer valid; and

WHEREAS, a revised water commitment from the District was provided which expires on February 24, 2024; and

WHEREAS, the County Attorney provided a revised conditional finding of sufficiency with regards to water quality, quantity, and dependability for the Plan updating and replacing the previous finding; and

WHEREAS, the revised conditional finding of sufficiency with regards to water quality, quantity, and dependability for the Plan requires approval of a final plat before February 24, 2024, and if final plat

approval is not granted for all property within the Plan boundary before February 24, 2024, that the County Attorney's conditional finding of sufficiency shall be deemed moot and no longer valid; and

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the revised finding of sufficiency with regards to water quality, quantity, and dependability for Crossroads Mixed Use; and

BE IT FURTHER RESOLVED that Resolution 22-212 shall be amended to incorporate the following Condition of Approval:

7. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time. The applicant may provide an updated commitment letter for water from Cherokee Metropolitan District in connection with subsequent final plat applications. In that instance, the Board's finding of sufficient water supply with regard to quantity, quality, and dependability will remain in effect, and the applicant may seek administrative final plat approval.

BE IT FURTHER RESOLVED that all conditions of approval associated with Resolution No. 22-212 shall remain valid and in full effect, as amended.

DONE THIS 18th day of July 2023 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____

Chair

By: _____

County Clerk and Recorder