



EL PASO COUNTY

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To: Applicant

From: M. Cole Emmons, Senior Assistant County Attorney

Re: Tanja Curtis Subdivision

Date: May 22, 2020

The County Attorney's Office ("OCA") hereby formally advise the Applicant that Applicant has not met the Requirements of the OCA's March 27, 2020 water review. Therefore, until those Requirements are met, the final plat cannot be recorded. The OCA will not restate those Requirements here—Applicant should review the Requirements and make sure it complies. For purposes of these Comments, the OCA will highlight and provide additional direction on the following specific Requirements; however, it is Applicant's responsibility to comply with ALL of the Requirements in said Water Review, including those not specifically highlighted herein.

Covenants

The revised proposed draft Covenants Applicant submitted on or about May 4, 2020, are not acceptable and do not address all of the Requirements as to Covenants. Applicant continues to lift directional language from the Requirements without changing it into active language for the Covenants. For example, in what is labeled Section 1.3 Declaration, Applicant states "The Covenants more specifically shall require the Dawson aquifer wells to serve in each lot an occupied single-family dwelling. . . ." That is directional language from the Requirements.

The Covenants fail to address the portion of Requirement C, which requires the Applicant to advise future lot owners of their obligation to drill and pay for the Laramie-Fox Hills well to replace post-pumping depletions.

OCA strongly advises that Applicant should take the Covenants for Hadden Heights No. 2 subdivision as their guide and adapt it accordingly to meet the Requirements in the water review regarding Covenants for Curtis.

Form Water Deed(s)

Requirement F requires Applicant to provide form warranty deeds for the conveyances of Dawson and Laramie-Fox Hills aquifer water supplies to each of the lots to PCD and OCA for review and approval prior to recording the plat. Applicant has not provided said deeds. The Planner can provide samples, but again, Applicant could start with the deed for Hadden Heights No. 2 as a guide.

Cure Title

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



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

Requirement A requires Applicant to take all necessary steps to complete or cure the chain of title for both the underlying land and the water and water rights prior to recording the plat. Applicant has not provided the necessary proof. The Requirement goes on to identify the problem with the title. It is Applicant's responsibility to cure the title. It is the opinion of OCA that Applicant needs to deed both the underlying land and the water rights, plus the rights and responsibilities under the plan for augmentation, from Barry W. Curtis and Tanja T. Curtis in joint tenancy to Barry Wayne Curtis and Tanja Theresa Curtis, as Co-Trustees of the Curtis Family Living Trust, U/A dated February 9, 2018; however, they should consult with their attorney if they have questions.

Well Permit

Requirement J requires either a new well permit or proof that the existing well has been plugged or abandoned prior to recording the final plat. Applicant has not provided such proof. Requirement J states as follows:

J. Prior to recording the minor subdivision plat, Applicant shall provide proof acceptable to both the Planning and Community Development Department and the County Attorney's Office that it has complied with the State Engineer's requirement that if Applicant intends to continue to use the existing well pursuant to the plan for augmentation, that it has obtained a new well permit issued pursuant to C.R.S. § 37-90-137(4) or that it has plugged and abandoned that well.

MCE