

EL PASO COUNTY



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January 11, 2019

Gardens at North Carefree
PUDSP-18-4

Reviewed by: Cole Emmons, Senior Assistant County Attorney
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1. This is a proposal by Mule Deer Investments, LLC ("Applicant") for a subdivision of 71 single-family lots on 11.563 +/- acres of land. The property is currently zoned RR-5 (Rural Residential) and CS (Commercial Service) but is subject to a pending rezoning request to a PUD (Planned Unit Development).

2. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District ("District"). The Water Supply Information Summary sets forth a proposed water demand of 22.01 acre-feet per year for the subdivision (0.31 acre-feet/lot) inclusive of household use and irrigation. Based on the proposed water demand, the Applicant will need to provide a supply from the District of 6,603 acre-feet (22.01 acre-feet x 300 years) to meet the County's 300-year water supply requirement.

3. The District's Water and Wastewater Collections Manager provided a letter committing to serve the subdivision on August 3, 2018. The Manager noted that the "parcel of land is located within the District's service boundary and, therefore, the District stands ready and willing to provide water and sewer service" The Manager further noted that the "State Engineer confirmed, through a Technical Memorandum prepared by Forsgren Associates, that the District had a surplus of 453 acre feet per year of water available for new developments as of May 18, 2016. Since that time, the District has issued 83.829 acre feet per year of water commitments leaving a balance of 369.171 acre feet per year of water for future developments. The Gardens at North Carefree development requires 22.010 acre feet per year of water leaving the District with a water balance of 357.161 acre feet per year for future developments."

4. In a letter dated September 9, 2018, the State Engineer reviewed the Water Supply Information Summary and the District's letter of commitment dated August 3,

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2018. The State Engineer noted the Applicant's estimated water demand of 0.31 acre-feet per household or 22.01 acre-feet/year for the 71 single-family lots. The Engineer stated that based on "the latest water supply report on file with this office, it appears the District has sufficient water resources to supply the proposed subdivision an amount of 22.01 acre-feet per year." Further, based on their records, "it appears the District has sufficient water resources to supply this subdivision. Therefore, based on the above and pursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that so long as the demand of the proposed development does not exceed 22.01 acre-feet per year, the proposed water supply can be provided without causing injury to decreed water rights."

Note: 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 and Recommendation. Based on the Applicant's estimated water demand of 22.01 acre-feet per year and the Cherokee Metropolitan District's commitment to supply the same, and based on the State Engineer's confirmation of the District's latest water supply report on file, there appears to be a sufficient water supply available to meet the demands of the subdivision. Therefore, based upon the finding of sufficiency and no injury to existing water rights by the State Engineer's Office, based on Applicant's stated demand of 22.01 acre-feet per year and the commitment to serve by the District, 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 confirm that the District is in compliance with the water quality regulations.

CONDITION OF COMPLIANCE:

- A. Applicant and all future owners of lots within this filing shall be advised of, and comply with, the conditions, rules, regulations, and specifications set by the District.

- B. Applicant must comply with the District's requirement that Applicant must achieve appropriate zoning and a final plat land use entitlement from El Paso County within 12 months from the date of their commitment letter (August 3, 2018) in order to use the allotment.
- C. 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 II