

# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

First Assistant County Attorney  
Diana K. May

**Amy R. Folsom, County Attorney**

Assistant County Attorneys  
M. Cole Emmons  
Lori L. Seago  
Kenneth R. Hodges  
Lisa A. Kirkman  
Steven A. Klaffky  
Peter A. Lichtman

March 28, 2019

Kari Parsons, Project Manager, Planner II  
Planning and Community Development Department  
2880 International Circle, Suite 110  
Colorado Springs, CO 80910

RE: Forest Lakes PUD/Preliminary Plan Amendment – PUDSP-18-1

Dear Kari:

As we discussed, the County Attorney's Office recommends deferring the finding regarding water sufficiency as to quantity and dependability regarding the above-noted matter until Final Plat. I need additional time to obtain clarification and resolve issues raised by the Town Attorney for the Town of Monument ("Monument") regarding the claims that Monument owns an easement interest and 1/3 interest in certain water rights in the property that is subject to the Preliminary Plan/PUD ("the Project Area"). In addition, there is a reference in Water Court Decree 08CW63 (Water Division No. 2)(approved in 2014) regarding a 2/3 interest owned by El Paso County in certain water rights in 7.266 acres of property that may be in the Project Area. I need additional information about those water rights and whether the proposed development impacts those water rights. For these reasons, I recommend deferral of the finding regarding water sufficiency as to quantity and dependability until Final Plat.

Section 8.4.7.B.4.e, LDC, provides that both the Planning Commission and Board of County Commissioners may approve a Preliminary Plan even if a recommendation for a finding of insufficiency is made. Rather than making an insufficiency finding, I believe it is more appropriate in this case to simply defer the determination of sufficiency as to quantity and dependability until Final Plat. Therefore, it is my opinion that the Planning Commission and the Board of County Commissioners may approve the Preliminary Plan with a deferral of the water finding. A water finding is not required for the PUD rezoning action. The application pre-dates the certification of the El Paso County Water Master Plan.

Sincerely,

M. Cole Emmons  
Senior Assistant County Attorney

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



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