

EL PASO COUNTY



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SP-19-7 Claremont Business Park 2
Preliminary Plan Amendment

Reviewed by: Lori L. Seago, Senior Assistant County Attorney
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FINDINGS AND CONCLUSIONS:

1. This is a preliminary plan amendment proposal by Hammers Construction, Inc. ("Applicant") for subdivision of 10 lots on 13.7 +/- acres. The proposal is an amendment to the previously approved preliminary plan which originally contemplated 16 lots. Applicant indicates the property will be utilized for office, light industrial/warehouse and retail uses. The property is zoned CS (Commercial Service).

2. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District ("District"). Pursuant to the Water Supply Information Summary ("WSIS"), the annual water demand for the development is 12.19 acre-feet per year, which equates to 2.52 acre-feet for commercial use, 7.14 acre-feet for industrial use, plus a total of 2.53 acre-feet for irrigation. The Applicant will be utilizing xeriscaping for landscaping. Based on Applicant's figures, the Applicant must be able to provide a supply from the District of 3,657 acre-feet of water (12.19 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement.

3. The General Manager of the District provided a letter committing to provide water service for the 10 lots of the Claremont Business Tract C subdivision, which is located within the District's boundaries. The District's commitment is delineated as follows:

Type of Use	Demand (AF/yr)
Domestic	9.7
Irrigation	2.5
Total	12.2

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The District notes that they are providing this commitment pursuant to the "October 11, 2006 Water and Sewer Service Agreement ("Agreement") between Cherokee Metropolitan District and Claremont Development, Inc. Based on the Agreement, Cherokee is providing this commitment from the water right described as the Kane water right in the Agreement. *Our accounting reflects that Claremont Business Park has a remaining balance of 18.1 AF/yr of this water right available for additional future commitments.*" The General Manager further states that the District's commitment is based on the understanding that all outdoor landscaping for the development will be xeriscaping.

Finally, the District's commitment is only a conditional commitment: "[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."

4. In a letter dated October 14, 2020, the State Engineer reviewed the application to subdivide 13.72 +/- acres into 10 lots. The State Engineer noted that the Claremont Business Park has been subject to several proposed and revised subdivision filings. The State Engineer confirmed that the Cherokee Metropolitan District has committed a water supply of 12.2 acre-feet/year. The WSIS details the water demand for the development at 12.19 acre-feet/year. The State Engineer notes that the District has dedicated "58 acre-feet/year of water from the Kane Water Right to service the entire Claremont Business Park" Further, the State Engineer states that "[a]ccording to this office's records and the Water Information Summary Sheet, it appears that Cherokee has adequate water resources to serve the estimated demand of 12.19 acre-feet/year for the proposed development."

Finally, the State Engineer declared that "[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 is adequate and can be provided without causing injury to decreed water rights."

5. Section 8.4.7(B)(10)(g) of the El Paso County Land Development Code allows for a presumption of water quality when water is supplied from an existing Community Water Supply, which operates in conformance with the Colorado Primary Drinking Water Regulations and the CDPHE requirements, as clarified by El Paso County Public Health, and is determined to meet the required water quality standards.

6. Analysis: As indicated above, this review is based on a water demand of 12.19 acre-feet/year, which the District has committed to serve. The State Engineer determined that Cherokee Metropolitan District appears to have adequate water resources to serve the estimated demand of 12.19 acre-feet/year for the proposed development.

7. Therefore, based upon the finding of sufficiency and no injury to existing water rights by the State Engineer, a water demand of 12.19 acre-feet/year and a commitment from the District in the amount of 12.2 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 forth below, the County Attorney's Office recommends a finding of **conditional sufficiency** as to water quantity and dependability for Claremont Business Park No. 2.

CONDITIONS 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 obtain final plat approval and provide evidence thereof to the District *within 12 months of the District's commitment letter dated August 6, 2020* (approval must be provided by August 6, 2021), 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. Once Applicant provides proof to the District that satisfies the District's condition of final plat approval, this conditional finding of sufficiency will automatically convert to a full sufficiency finding.**

C. Prior to recording the first final plat, Applicant must obtain an updated commitment letter from the District correctly identifying the subject project as *Claremont Business Park 2 Preliminary Plan*. *The updated letter shall be uploaded into eDARP in the preliminary plan file, SP197.*

cc: Lindsay Darden, Project Manager, Planner II