

# 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  
Diana K. May  
Kenneth R. Hodges  
Lisa A. Kirkman  
Steven A. Klaffky  
Peter A. Lichtman

November 19, 2018

VR-18-11 Claremont Ranch Filing 9C – Vacate and Replat

Reviewed by: Cole Emmons, Senior Assistant County Attorney  
Edi Anderson, Paralegal

1. This is a vacation and replat proposal by Evergreen-Constitution & Marksheffel, LLC ("Applicant") to replat Lot 2 of the project formerly known as Claremont Ranch Filing No. 9B from 1 lot into 2 lots, creating a total commercial subdivision encompassing 5 lots. The water demand for the previously created Lots 1, 3, and 4, in Filing 9B is unchanged. The property is zoned CR (Commercial Regional).

2. The Applicant has provided for the source of water for the proposal to derive from the Cherokee Metropolitan District ("District"). As noted in the addendum to the Water Resources Report by Galloway & Company, Inc., dated September 13, 2018, the land area and land use for Claremont Ranch Filing 9C is unchanged. The total annual water demand for the newly created Filing 9C is 5.94 acre-feet/year (based on 5 lots total). Based on these figures, the Applicant would need to provide a water supply of 1,782 acre-feet of water (5.94 acre-feet per year x 300 years) from the District to meet the County's 300 year water supply requirement.

3. The Water & Wastewater Collections Manager for the District provided a letter dated November 1, 2018, confirming the District's commitment to serve the development, which includes the formation of 1 new lot for a total of 5 lots for the commercial subdivision. The District confirmed that as of May 18, 2016, it had a "water surplus of 453 acre-feet per year available for new residential subdivisions and commercial developments. Since May 18, 2016, the District has issued 127.257 acre-feet per year of water commitments leaving a balance of 325.743 acre-feet per year of water for future developments." Claremont Commercial Filing 9C requires "5.940 acre-feet per year of water which leaves the District with a water balance of 319.803 acre-feet..." The District letter delineated the water allocation per lot as follows for Claremont Commercial Filing 9C.

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



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

Lot 1	0.75 acre-feet/year	<i>No change from Filing 9B</i>
Lot 2A	1.48 acre-feet/year	<i>Newly created lot</i>
Lot 2B	1.48 acre-feet/year	<i>Newly created lot</i>
Lot 3	0.75 acre-feet/year	<i>No change from Filing 9B</i>
Lot 4	1.48 acre-feet/year	<i>No change from Filing 9B</i>
	<b>Total demand: 5.940 acre-feet/year</b>	

4. In a letter dated November 8, 2018, the State Engineer's Office reviewed the proposal to vacate and replat Lot 2 of Claremont Ranch Filing No. 9B into 2 equal sized lots, which creates a commercial subdivision of 5 lots total which is now known as Claremont Ranch Filing 9C. The proposal included the previously approved water demand as follows: Lot 1 (0.75 acre-feet/year), Lot 3 (0.75 acre-feet/year), and Lot 4 (1.48 acre-feet/year) for a total demand of 2.98 acre-feet/year, along with the newly created Lot 2A (1.48 acre-feet/year) and newly created Lot 2B (1.48 acre-feet/year). The Engineer noted that the estimated water demand was determined by the District based on tap sizes provided by the developer. And further, according to the records of the State Engineer's Office, "Cherokee appears to have sufficient water resources in its general water portfolio to supply Claremont Ranch Filing #9C with a 300-year water supply."

5. Based on the foregoing and pursuant to C.R.S. § 30-28-136(1)(h)(II), the State Engineer is of the opinion that "the proposed water supply can be provided without causing injury to decreed water rights, and the supply is expected to be adequate."

6. 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.

7. Analysis: With a proposed annual demand of 5.94 acre-feet for Claremont Ranch Filing No. 9C and a commitment to serve the same amount by Cherokee Metropolitan District, there appears to be a sufficient supply available to meet the demands of the commercial subdivision.

8. Therefore, based upon no injury to existing water rights by the State Engineer, the commitment to serve by the District, and subject to the conditions set forth below, the County Attorney's Office recommends a finding of **sufficiency** as to water quantity and dependability for Claremont Ranch Commercial Subdivision Filing 9C.

**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 and the County.
- B. Pursuant to the requirements of the District, the Applicant must achieve zoning and a final plat land use entitlement from the El Paso County Planning and Community Development Department within 12 months from the date of the District's commitment letter (letter dated November 1, 2018).

cc: Gabe Sevigny, Planner II, Reviewer