

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

Diana K. May, County Attorney

Assistant County Attorneys

Lori L. Seago
Steven A. Klaffky
Mary Ritchie
Bryan E. Schmid
Nathan J. Whitney
Michael J. Desmond
Christopher M. Strider
Terry A. Sample
Dorey L. Spotts

September 1, 2021

SF-20-25 Space Village Apartments
Final Plat

Reviewed by: Lori L. Seago, Senior Assistant County Attorney
Edi Anderson, Paralegal, ACP

FINDINGS AND CONCLUSIONS:

1. This is a final plat proposal by Elite Property Group, LLC ("Applicant") to create one legal lot which comprises 22 multi-family residential housing units on .63 +/- acres at the address known as 6895 Space Village Avenue (the "Property"). The proposal will create a legal lot which will be an initial step toward a variance request to authorize the use of an existing motel structure for multifamily residential apartments in a CC (Commercial Community) zoning district.

2. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District ("District" or "Cherokee"). Pursuant to the Water Supply Information Summary ("WSIS"), the annual water demand for the development is 2.3 acre-feet per year, equating to 0.105 AF/year per unit.¹ Based on Applicant's figures, the Applicant must be able to provide a supply from the District of 690 acre-feet of water (2.3 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 development located at 6895 Space Village Avenue which is located within the District's boundaries. The District's commitment is delineated as follows:

¹ The El Paso County Land Development Code establishes a minimum presumptive household use value of 0.20 AF/year per multifamily unit. The Applicant provided a Water Provider's Supplementary Report for proposed Redevelopment of 6895 Space Village Avenue dated August 16th, 2021 ("Supplement"), which Supplement provided actual annual water demand data for the Property from 2015-2019. Based on the data provided, the County Attorney's Office is satisfied that estimated household water demand is supported by adequate evidence.



Type of Use	Demand (AF/yr)
Domestic	2.3
Irrigation	0
Total	2.3

The District Manager stated that this development has received District water service since 1985. Specifically, the “building is being renovated and the district understands this will not change water demand over previous use. As such, a new commitment of water and wastewater [is] not being made. Cherokee Metropolitan District staff, along with the developer, have determined that 2.3 AF/yr, the highest water use in the preceding five years, will be sufficient for this development. There is no irrigation planned on the property.”

Finally, the District’s commitment is only a conditional commitment, as noted in the District’s letter: “[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. If the plans are altered from what has been provided to the District, you must submit a new commitment request prior to submitting the plans to El Paso County, which may result in a recalculation of the water demand for the project.”

4. The Applicant also provided a *Water Resources Report for Lot 1, Space Village Subdivision Filing No. 1* dated September 2020, as prepared by Drexel, Barrell & Co. (the “Report”). The Report describes the project site as an “existing 2 story motel with associated parking and landscaping. The proposed improvement includes converting the building into an apartment building. ... Cherokee Metropolitan District understands the renovation will not change the water supply from that of previous use” The Report identifies the water demand as 2.3 acre-feet/year.

5. In a letter dated February 18, 2021, the State Engineer reviewed the application to repurpose an existing hotel into 22 apartment units on 1 lot of a 0.63 +/- acre parcel. The State Engineer identifies that the WSIS cites the water demand for the development at 2.3 acre-feet/year. The State Engineer stated the development will be served by Cherokee and “a letter of commitment from Cherokee dated February 3, 2020 was included with the submittal.² According to the letter, they have committed to supply 2.3 acre-feet/year to the proposed development.” Further, the State Engineer states that “[a]ccording to this office’s records, it appears that Cherokee has adequate water resources to serve 2.3 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 can be provided without causing injury to decreed water rights, and the supply is expected to be adequate.”

² A subsequent letter of commitment was provided by Cherokee Metropolitan District dated April 7, 2021, confirming their water commitment of 2.3 acre-feet/year to the development.

6. 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.

7. Analysis: As indicated above, this review is based on a water demand of 2.3 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 2.3 acre-feet/year for the proposed development.

8. Therefore, based upon the finding of sufficiency and no injury to existing water rights by the State Engineer, a water demand of 2.3 acre-feet/year and a commitment from the District in the amount of 2.3 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 the Space Village Apartments development.

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 April 7, 2021, based on the plans as currently submitted (approval must be provided by April 7, 2022), 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 final plat, Applicant shall update the Water Resources Report by removing the February 3, 2020 District commitment letter and inserting the District letter dated April 7, 2021.

cc: Ryan Howser, Planner II