

EL PASO COUNTY



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VR-20-4 Mountain States Pipe and Supply
Vacation and Replat

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

1. This is a vacation and replat proposal by BBP-740, LLC a/k/a Mountain States Pipe and Supply ("Applicant") to replat an existing 4.48 acre parcel (the "Property") into 2 lots. The parcel is currently unplatted and has been partially developed. The east portion of the site has a single building, stormwater pond, parking area, and a driveway, with the primary use being warehousing/storage. The west portion of the site is currently undeveloped and is proposed to be platted with the intent of selling the undeveloped portion of the parcel. The property is zoned M (Industrial). Applicant indicates the currently undeveloped portion of the property will be utilized for mini-storage.

2. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District ("District", "Cherokee", or "CMD"). Pursuant to the Water Supply Information Summary ("WSIS"), the annual water demand for the development is 0.39 acre-feet per year, which equates to 0.18 acre-feet for commercial use and 0.21 acre-feet for irrigation. The water demand reflects a proposed mini-storage facility on the undeveloped portion of the parcel with a water demand of 0.31 acre-feet/year. The existing lot uses an average of 0.08 acre-feet/year. Based on Applicant's figures, the Applicant must be able to provide a supply from the District of 117 acre-feet of water (0.39 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 of commitment dated May 26, 2021, in which the District commits to serve the development (referred to in the District letter as "Electronic Dr. Self-Storage") in the amount of 0.39 acre-feet/year. The District states that they have been serving the existing building on the property since 2002

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and will continue to serve. They also state that it has been determined that “0.31 acre-feet per year will be sufficient for the new building on the property.” Therefore, the “expected combined water usage of both lots will be 0.39 acre-feet per year of which 0.31 acre-feet will be newly committed from Cherokee’s water balance.”

4. The District’s commitment is only a conditional commitment as the letter states: “[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.”

5. Applicant provided a *Water Provider’s Report for proposed Electronic Drive Self Storage at Mountain States Pipe and Supply*, dated May 28, 2021 (“*Report*”). The *Report* notes that the “proposed development will split the existing parcel into two new parcels with one containing an existing building and the other containing the proposed building. The existing building has received CMD water service since 2002 [and] is not undergoing any substantial change as part of this project. The new construction portion of this development is expected to include an enclosed self-storage center.” Further, the *Report* states that to be conservative, “the District committed one SFE or 0.31 AFY to this development.”¹ The *Report* notes that “CMD’s water commitments stand at 4,033 AFY before the addition of the proposed development.” Further, with “4,443.0 AFY of exportable supply and 4,033 AFY of commitments, CMD has a water balance of 410.0 AFY before the subject development.”

6. The State Engineer’s Office reviewed the water supply for this development on June 3, 2021. They reviewed Applicant’s proposal to subdivide the “4.48 acre tract of land currently known as Tract 5 of Akers Acres into two industrial lots. Lot 1 will be 2.208 +/- acres and Lot 2 will be 2.252 +/- acres.” Pursuant to the WSIS, the State Engineer identified the following water demand for the development:

<i>Type</i>	<i>Area</i>	<i>Water Use Rate (AF/thousand square foot)</i>	<i>Water Demand (AF/year)</i>
<i>Commercial Use</i>	<i>83,000 square-feet</i>	<i>0.002</i>	<i>0.18</i>
<i>Irrigation</i>	<i>1.2 acres</i>	<i>0.004</i>	<i>0.21</i>

The State Engineer noted the “source of water for the proposed development will be Cherokee Metropolitan District. A letter of commitment from Cherokee, dated May 26, 2021, was provided with the referral materials indicating that Cherokee is committed to providing 0.39 acre-feet/year for existing and new uses on the proposed subdivision.”

The State Engineer’s Office stated that based on their records “Cherokee has sufficient water resources to supply this development as described above.” Further, the

¹ This is interpreted to be 0.31 AFY for the new construction portion of the 4.48 acre parcel.

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.”

7. 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.

8. Analysis: This review is based on the water demand of 0.39 acre-feet/year for the development which the District has committed to serve. The *Water Provider’s Report* detailed the water supply available to the Cherokee Metropolitan District, which exceeds the water demand for this development and the State Engineer concurred.

9. Therefore, based upon the finding of sufficiency and no injury to existing water rights by the State Engineer, the commitment to serve by the District, but given the conditional nature of the commitment to serve, 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 Mountain States Pipe and Supply Replat.

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 (in this case, approval of this Vacation and Replat) and provide evidence thereof to the District within 12 months of the District’s commitment letter dated May 26, 2021 (approval must be provided by May 26, 2022), to retain the District’s water commitment. 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.

cc: John Green, Planner II