

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

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Hallgren Vacation and Replat – Padmark Business Park Filing No. 1
VR-17-005

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

1. This is a proposal by Hallgren Properties, Inc. ("Applicant") for vacation and replat of Lot 44, Filing 2 of Claremont Business Park, into 3 commercial lots on approximately 3.85 acres. The proposed property use is office/warehouse or light industrial. The property is zoned CS (Commercial Service).

2. The Applicant has provided that the source of water for the subdivision will come from the Kane Water Right as served by the Cherokee Metropolitan District ("District") pursuant to the Water and Sewer Service Agreement that Claremont Development, Inc., entered into with the District in 2006, in which Claremont purchased 58 acre-feet of the Kane Water Right for use in then-planned Claremont Business Park, Filings No. 2 and 3. Pursuant to the Water Supply Information Summary and the Water/Wastewater Report for Padmark Business Park Filing No. 1 – A Replat of Lot 44 Claremont Business Park Filing No. 2 dated May 2017, which were provided with the proposal, the Applicant estimates the annual water requirement to serve the 3 commercial lots at 1.68 acre-feet per year for the development or 0.56/acre-feet per lot per year. Based on this estimate, the Applicant will need to provide a supply from the District of 504 acre-feet (1.68 acre-feet x 300 yrs.) to meet the County's 300 year water supply requirement. Because the State Engineer has determined that both water sources are annually renewable, the water supply is presumed to meet the County's 300 year aquifer life requirement.

3. The General Manager of the District provided a general "Will Serve" letter for the development dated May 23, 2017, followed by a formal commitment letter dated July 20, 2017. The July 20th letter included a spreadsheet noting that 4.54 acre-feet/year has been allocated for the development by the District. The General Manager stated, regarding the Kane Water Right, "of the available 58.0 acre feet / year, 49.12

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



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

acre feet / year has been allocated leaving 8.88 acre feet / year available for additional use.”

4. In a letter dated August 14, 2017, the State Engineer reviewed information for the Hallgren Vacation and Replat a/k/a Padmark Business Park Filing No. 1. The State Engineer referenced several letters provided by the District dated January 26, 2017, May 23, 2017, and July 20, 2017. Based on the July 20th letter, the State Engineer noted that “it appears that Cherokee has allocated 4.54 acre-feet/year to the proposed development.” Further, the State Engineer provided its finding that pursuant to “Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that so long as the water demands for the proposed development do not exceed 4.54 acre-feet/year, the proposed water supply can be provided without causing injury to decreed water rights and is expected to be adequate.”

The State Engineer further notes:

“The ‘Kane No. 1 Water Right’ is not a separate water right, but rather a contractual water right for a portion of water removed under contract from the Sweetwater Well Field operated by Cherokee. The Kane Water Right is not viewed by this office as a commitment from Cherokee, but a pre-existing ‘first-in-line’ delivery that Cherokee accepted upon assuming control of the Sweetwater Well Field. Since Sweetwater Nos. 1-3, 5, 8-9, 11, 13 and 15-16 are currently the only wells that may legally be used to supply water outside of the Designated Basin, the State Engineer’s Office based its opinion on the understanding that the 200 acre-feet would come from Sweetwater Nos. 1-3, 5, 8-9, 11, 13 and 15-16.”

In addition, the State Engineer’s Office also provided an advisory to the Applicant related to the project’s storm water collection and/or conveyance facilities. The Engineer advised the Applicant that “. . . unless the proposed improvements to the existing storm water structure can meet the requirements of a ‘storm water detention and infiltration facility’ . . . the structure may be subject to administration by this office. The applicant should review the *DWR’s Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado* . . . to ensure that the notice, construction and operation of the proposed structure meets statutory and administrative requirements.”

Finally, the State Engineer stated “[t]he Sweetwater Wells (from which the Kane Water Right is withdrawn from) are constructed into the Quaternary alluvium, which is considered to be an annually renewable source of water with no administrative lifespan.”

5. 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 that may be provided by the El Paso County Health Department.

6. Analysis and Recommendation. With 58.0 acre-feet per year of Kane Water Right water supply contracted to be served by Cherokee Metropolitan District, of which 49.12 acre-feet per year has been committed, there would be 8.88 acre-feet per year available for additional use, from which the annual demand of 1.68 acre-feet for this development is subtracted, leaving a remaining surplus of 7.2 acre-feet per year. Thus there appears to be a sufficient supply available to meet the demands of this development. Therefore, based upon the finding of sufficiency by the State Engineer's Office and no injury to existing water rights, based on Applicant's stated demand of 1.68 acre-feet per year, and based on the commitment by the District to serve the property in the amount of 4.54 acre-feet per year, subject to the requirements set forth below, the County Attorney's Office recommends a finding that the proposed water supply is **sufficient** in terms of quantity and dependability.

CONDITION 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, including the District's requirement that the project "must achieve appropriate zoning and a final plat land use entitlement from El Paso County Development Services within 12 months of the date of this letter" [letter dated May 23, 2017].
- B. It is Applicant's responsibility, and not the County's, to comply with the advisory by the State Engineer's Office regarding any storm water collection and/or conveyance facilities that may be included in the development to ensure that any such structures meet the requirements of a 'storm water detention and infiltration facility,' and that notice, construction, and operation of the proposed structure meets statutory and administrative requirements.

cc: Nina Ruiz, Project Manager, Planner II