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June 15, 2023

VR-23-6 Powers Centre Filing No. 3A
Vacation and Replat

Reviewed by: Lori L. Seago, Senior Assistant County Attorney
April Willie, Paralegal

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a vacation and replat proposal by Oliver Watts Consulting (“Applicant”) to replat one commercial lot into 3 commercial lots on 5.551 acres. The property is currently zoned CR CAD-O (Commercial Regional - Commercial Aviation District Overlay). This commercial property is already developed with multiple existing uses.

Estimated Water Demand

2. Pursuant to the *Water Supply Information Summary* (“WSIS”), the annual subdivision demand is 4.6 total acre-feet for commercial use. The WSIS does not identify the square footage of the commercial uses upon which this figure is based. Based on this, the Applicant must provide a supply of 1,380 acre-feet of water (4.6 acre-feet/year x 300 years) to meet the County’s 300-year water supply requirement for the subdivision.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District (“District” or “Cherokee”). The District currently provides

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central water service to the existing uses on the property. As identified in the *Water Resources Report for Powers Center Filing No. 3A*, dated March 2023 and revised on June 7, 2023, the annual water demand for the development is 4.6 acre-feet per year. Per the *Water Resources Report*, Cherokee’s total available water supply is approximately 4,443.00 acre-feet/year, while its existing water commitments, including this property, total 4,111.7 acre-feet per year.

4. The General Manager of the District provided a letter dated February 7, 2023, committing to continue to provide water service for the commercial lots within the Powers Plaza Filing 3A Subdivision, which is located within the District’s boundaries. The District’s combined commitments for the 3 lots are delineated as follows and are based on average annual water consumption over the last five years:

| Address | Commercial Interior Demand (AFY) | Demand (AF/yr) |
|----------------------------|---|-----------------------|
| 5849-5857 Palmer Park Blvd | 0.16 | 0.16 |
| 5859-5863 Palmer Park Blvd | 0.22 | 0.22 |
| 5869 Palmer Park Blvd | 0.13 | 0.13 |
| 5871-5883 Palmer Park Blvd | 4.12 | 4.12 |
| Total | 4.6 | 4.6 |

The District notes that these commitments are “hereby made exclusively for this specific development project at this site within the District.” 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.”

State Engineer’s Office Opinion

5. In a letter dated April 4, 2023, the State Engineer reviewed the application to subdivide the 5.551-acre tract into 3 lots. The State Engineer confirmed that the Cherokee Metropolitan District has committed a water supply of 4.6 acre-feet/year, which is the water demand identified in the WSIS. Further, the State Engineer states that “[a]ccording to the records of this office, Cherokee has sufficient water resources to supply the development as described above.” Further, 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.”

Recommended Findings

6. Quantity and Dependability. Applicant’s water demand for Powers Centre Filing No. 3A is 4.6 acre-feet per year to be supplied by Cherokee Metropolitan District.

Based on the water demand of 4.6 acre-feet/year for the development and the District's availability of water sources, but given the conditional nature of the District's commitment to serve, the County Attorney's Office recommends a finding of conditional sufficiency as to water quantity and dependability for Powers Centre Filing No 3A.

7. Quality. 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 operating in conformance with the Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

8. Basis: The County Attorney's Office reviewed the following documents in preparing this review: the *Water Supply Information Summary* provided March 20, 2023, the *Water Resources Report* dated March 23, 2023, revised June 7, 2023, the *Cherokee Metropolitan District* letter dated February 17, 2023, and the *State Engineer's Office Opinion* dated April 4, 2023. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect or should the below requirement not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

REQUIREMENTS:

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 February 17, 2023 (approval must be provided by February 17, 2024), 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.**

cc: Ashlyn Mathy, Planner