

# EL PASO COUNTY



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Appaloosa Hwy 24 Subdivision Filing No. 2  
Vacate and Replat – VR-18-13

Reviewed by: Cole Emmons, Senior Assistant County Attorney  
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1. This is a proposal by Platte Valley, LLC ("Applicant") to vacate and replat Lot 2 of Appaloosa Hwy 24 Subdivision No. 2 into 3 industrial-type use lots. The lots are of varying sizes: Lot 1 is 0.98 acres, Lot 2 is 0.984 acres, and Lot 3 is 2.701 acres for a total of approximately 4.67 acres. The property is zoned I-2 (Limited Industrial).

2. The Applicant has provided that the water demand for the subdivision will be provided by the Cherokee Metropolitan District ("District"). Pursuant to the Water Supply Information Summary and the Water Resources Report for the Appaloosa Hwy 24 Subdivision Filing No. 2, Lots 1, 2 & 3, which were provided with the proposal, the Applicant estimates the annual water requirement to serve the 3 commercial lots is 1.247 acre-feet total per year for the development. The total light industrial use will require 0.672 acre-feet per year. Irrigation requirements vary by lot: Lot 1 requires 0.121 acre-feet per year, Lot 2 requires 0.121 acre-feet per year, and Lot 3 requires 0.333 acre-feet per year for a total of 0.575 acre-feet per year. The light industrial use plus irrigation use total 1.247 acre-feet per year. Based on this estimate, the Applicant will need to provide a supply from the District of 374.10 acre-feet (1.247 acre-feet x 300 yrs.) to meet the County's 300 year water supply requirement.

3. The Water & Wastewater Collections Manager of the District provided a formal letter of commitment to serve the development dated June 13, 2018. The June 13<sup>th</sup> letter noted that the water demand for the subdivision is 0.672 acre-feet/year and the irrigation for the subdivision is 0.575 acre-feet/year, totaling 1.247 acre-feet/year of total water demand for the commercial subdivision. The District letter outlined the favorable opinion of the District's water supply by the State Engineer's Office dated October 2015. The Manager stated that the State Engineer confirmed that the District had a "surplus of 520 acre feet per year of water available for new developments. Since

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October 2015, the District has issued 183.652 acre feet per year of water commitments leaving 336.348 acre feet per year available to meet future demand. The Appaloosa Highway 24 Subdivision Filing #2 development requires 1.247 acre feet per year of water which leaves the District with 335.101 acre feet per year of water for future developments.”

4. In a letter dated August 2, 2018, the State Engineer reviewed information for the Appaloosa Hwy 24 Subdivision Filing No. 2. The State Engineer noted the District letter dated June 13, 2018, in which the District committed to serve the development in the amount of 1.247 acre-feet/year. The State Engineer described the 3 commercial lots as follows: the “first lot is 0.98 +/- acres, the second lot will be 0.984 +/- acres, and the third lot will be 2.7 +/- acres.” The State Engineer further states that according to their records, “Cherokee has adequate water resources to serve 1.247 acre-feet/year for the proposed development.” And further, “[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.”

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. Based on the information the District provided, the [CEI] District has 336.348 acre-feet/year of available water supply for future developments in the District. The Appaloosa Hwy 24 Subdivision Filing No. 2 requires 1.247 acre-feet of annual water demand for the 3 lot commercial subdivision, which leaves the District with 335.101 acre-feet per year for future developments. Based on the foregoing, 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 1.247 acre-feet per year, and based on the commitment by the District to serve the property in the amount of 1.247 acre-feet per year, and 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. The El Paso County Health Department may confirm that the District is in compliance with the water quality regulations.

## **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 June 13, 2018].

cc: Len Kendall, Planner I