

## County Attorney

**Kenneth R. Hodges, County Attorney**

719-520-6485  
Centennial Hall  
200 S. Cascade, Suite 150  
Colorado Springs, CO 80903  
www.ElPasoCo.com

**Board of County Commissioners**

Holly Williams, District 1  
Carrie Geitner, District 2  
Stan VanderWerf, District 3  
Longinos Gonzalez, Jr., District 4  
Cami Bremer, District 5

August 3, 2023

SF-22-32 Solace at Cimarron Hills Filing No. 2  
Final Plat

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

### **WATER SUPPLY REVIEW AND RECOMMENDATIONS**

#### Project Description

1. This is a Final Plat proposal by Jackson Dearborn Partners (“Applicant”) to plat a single, 7.68-acre lot for the purpose of supporting a 108-unit multifamily development. The property is zoned RM-12 CAD-O (Residential Multi-Dwelling with a Commercial Airport Overlay District).

#### Estimated Water Demand

2. Pursuant to the Water Supply Information Summary (“WSIS”), the Applicant estimates its annual water needs to serve this subdivision at 28.2 acre-feet per year. The Applicant estimates annual household use at 0.20 acre-feet per dwelling unit for 108 dwelling units, plus 6.6 acre-feet per year for the irrigation of 5.4 acres, resulting in a total annual water demand of 28.2 acre-feet for Solace at Cimarron Hills Filing No. 2. Based on these figures, the Applicant must provide a supply of 8,460 acre-feet of water (28.2 acre-feet/year x 300 years) to meet the County’s 300-year water supply requirement for the subdivision.

#### Proposed Water Supply

#### **ASSISTANT COUNTY ATTORNEYS**

NATHAN J. WHITNEY  
CHRISTOPHER M. STRIDER

STEVEN A. KLAFFKY  
DOREY L. SPOTTS

LORI L. SEAGO

BRYAN E. SCHMID  
STEVEN W. MARTYN

TERRY A. SAMPLE  
MERI GERINGER

3. The Applicant has provided for the source of water supply to be provided by the Cherokee Metropolitan District (“District”). As identified in the *Water Resources Report* dated July 2023, the annual water demand for the development is 28.2 acre-feet per year. Per the *Water Resources Report*, Cherokee’s total available water supply is approximately 4,364.8 acre-feet/year, while its existing water commitments, total 4,049.7 acre-feet per year leaving an excess of 315.1 acre-feet, not including this project.

4. Cherokee Metropolitan District provided a letter of commitment dated March 21, 2023, committing to provide water service for the Solace Apartments Phases 1 and 2 for a total demand of 90.4 acre-feet per year.

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 June 12, 2023, the State Engineer reviewed the application to subdivide the 7.68-acres for 108 multi-family units. The State Engineer confirmed that the Cherokee Metropolitan District has committed a water supply of 28.2 acre-feet/year, which is the water demand identified in the WSIS. Further, the State Engineer states that “[i]nformation in our files indicates that Cherokee has sufficient resources to serve the property without injury to decreed water rights.” 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 for Solace at Cimarron Hills Filing No. 2 is adequate and can be provided without causing injury to decreed water rights.”

#### Recommended Findings

6. Quantity and Dependability. Applicant’s water demand for Solace at Cimarron Hills Filing No. 2 is 28.2 acre-feet per year to be supplied by Cherokee Metropolitan District. **Based on the water demand of 28.2 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 Solace at Cimarron Hills Filing No. 2.**

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*, the *Water Resources Report* dated December 2022, the *Cherokee Metropolitan District* letter dated March 21, 2023, and the *State Engineer’s Office Opinion* dated June 12, 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 March 21, 2023 (approval must be provided by March 21, 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 unless 1) an updated commitment letter from the District is provided with the final plat application and 2) the information provided in connection with and relied upon to complete this Review otherwise remains unchanged.**

cc: Ryan Howser, Project Manager, Planner