

**LARAMIE COUNTY CLERK
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM PROCESSING FORM**

1. **DATE OF PROPOSED ACTION:** October 18, 2016

2. **AGENDA ITEM:** ☐ Appointments ☐ Bids/Purchases ☐ Claims
☐ Contracts/Agreements/Leases ☐ Grants ☒ Land Use: Board App/Subdivision/ZC
☐ Proclamations ☐ Public Hearings/Rules & Reg's ☐ Reports & Public Petitions
☐ Resolutions ☐ Other

3. **DEPARTMENT:** Planning & Development Office

APPLICANT: Judith M Ivester Liv Tr **AGENT:** Steil Surveying Services

4. **DESCRIPTION:**

Consideration of a Board Approval for a partial easement vacation for Tract 90, Mountain Meadows 3rd Filing, Laramie County, WY, located at 1191 Granite Springs, Cheyenne, WY.

RECEIVED AND APPROVED AS
TO FORM ONLY BY THE
LARAMIE COUNTY ATTORNEY

Amount \$ _____ From _____

5. **DOCUMENTATION:** 1 Originals 0 Copies

<u>Commissioner</u>		<u>Clerks Use Only:</u>	
		<u>Signatures</u>	
Holmes	_____	Co Atty	_____
Heath	_____	Asst Co Atty	_____
Ash	_____	Grants Manager	_____
Kailey	_____		
Thompson	_____		
Action	_____	Outside Agency	_____



LARAMIE COUNTY PLANNING & DEVELOPMENT DEPARTMENT

Planning • Building

MEMORANDUM

TO: Laramie County Board of Commissioners

FROM: Nancy M. Trimble, Associate Planner

DATE: October 18, 2016

TITLE: Review and action of a Board Approval for a partial easement vacation for Tract 90, Mountain Meadows 3rd Filing, Laramie County, WY; Located at 1191 Granite Springs, Cheyenne, WY.

EXECUTIVE SUMMARY

Steil Surveying Services LLC, on behalf of Judith M. Ivester Liv Tr, has submitted an application for Board Approval of a Partial Easement Vacation for Tract 90 within Mountain Meadows 3rd Filing. The application has been submitted for the purpose of vacating the 40 foot easement along the north property line of Tract 90, which is necessary due to existing constructed encroachments by the principal structure/residence.

BACKGROUND

The plat for Mountain Meadows Subdivision Third Filing, recorded on April 30, 1979, contains language in the "Notes" section stating "Easements are for utilities, drainage, pedestrian & equestrian movements, and vehicular traffic."

Tract 90 was included in a previous multi-lot action before the Board on May 3, 2016, at which time the Commissioners voted 3 - 2 to deny approval, and requested the County Attorney provide written findings. Findings Document #160517-14 was recorded on August 30, 2016 , and is attached.

Pertinent Regulations

Section 1-2-100 of the Laramie County Land Use Regulations governing the Board Approval process.

Section 2-1-101(m) of the Laramie County Land Use Regulations governing Vacations.

AGENCY REVIEW

Agencies Responding with No Comments: County Public Works Dept., Combined Communications Center.

Agencies Not Responding: County Assessor, County Real Estate Office, County Treasurer, Emergency Management, Fire District No. 8, Sheriff's Office.

DISCUSSION

The Laramie County Comprehensive Plan (2016) designates this area as Rural Ag Interface (RAI), in which rural residential uses are primarily anticipated, with limited service commercial and retail uses at major intersections. The subject property also lies within the Rural Center (RC) district, due to its close proximity to Granite Springs Reservoir. Limited commercial and public services may be allowed, with consideration of buffering impacts to adjacent residential uses, road access, and water and sewer services. These areas are far removed from the providers of public services and have relatively lower levels of road access. General goals within the plan discuss safety of road networks.

The Land Use Regulations (2011) require all lots to have legally enforceable access. In conformance with that requirement, no easements may be vacated that provide legal access, even if not in use.

The Mountain Meadows 3rd filing plat was approved with easements around every property line for every lot, established for access, utilities, etc. This plat would **not** be approved under current regulations. No public roads, streets, alleys, or other access features were dedicated to the "public".

In the recorded findings, the County Attorney noted that "based on the statements on the faces of the plat for the 2nd and 3rd filing of the Mountain Meadows subdivision, the Board determines that the intent of the Developer/Dedicator was to vest interests in the easements surrounding each of the lots in the 2nd and 3rd filing in *all* lot owners in the Mountain Meadows subdivision." It was further noted the "language on the face of the plat in both the 2nd and 3rd filing is clear and unambiguous. The Dedicator 'does hereby reserve forever for exclusive use of all future landowners within the subdivision and *future filings thereof*, their invitees and permittees, areas shown as comments here on for the purpose of private access, utility access, hiking trails, bridle paths, etc' The platted easements are, therefore, *not* dedicated to the use of the general public. Again, with respect to the language found on the face of both the 2nd filing plat and the 3rd filing, it appears apparent that the intent of the Dedicator was that the easements on the property lines surrounding the various lots were intended to be for the use and enjoyment of all landowners within the Mountain Meadows subdivision."

Based on the foregoing, the Board of Commissioners of Laramie County determined that the application for vacation and partial vacation in this matter, as brought and requested, if granted, would abridge and/or destroy the rights and privileges of other proprietors in the plat.

Section 2-1-101(m) of the LCLUR states:

All such vacation instruments shall be approved by the Board for areas outside of the incorporated limits of the city or town. Vacations shall be executed in accordance with W.S. 34-12-106 through 34-12-111.

Furthermore W.S. 34-12-106 states, in part, that “No plat **or portion thereof** for which a subdivision permit has been obtained pursuant to W.S. 18-5-304 shall be vacated as herein provided without the approval of the County Commissioners”. The 3rd Filing subdivision permit was obtained pursuant to W.S. 18-6-304.

Public notice was published and mailed to adjacent property owners. Staff received no comments regarding this application.

Section 1-2-100(a) of the Laramie County Land Use Regulations requires that the Laramie County Board of Commissioners shall find the following before granting Board Approval:

- i. The proposed use is permitted by Board Approval in the proposed location and is in conformance with all applicable development standards.
- ii. The proposed use is in general conformance with all other applicable policies adopted by Laramie County.
- iii. There is no defined negative impact to the community.

Staff finds the application does not meet the criteria for a Board Approval.

RECOMMENDATION AND FINDINGS:

Based on previous findings recorded in Document #160517-14, staff recommends the Laramie County Board of Commissioners find that:

- a. This application *does not* meet the criteria for Board Approval pursuant to section 1-2-100(a) of the Laramie County Land Use Regulations.
- b. The proposed vacation *would* abridge or destroy the rights and privileges of other properties in the plat.

And that the Laramie County Board of Commissioners deny Board Approval for the partial easement vacation, as shown on attached Exhibit A, for Tract 90, Mountain Meadows 3rd Filing, Laramie County, WY.

PROPOSED MOTION

I move to deny Board Approval for a partial easement vacation for Tract 90, Mountain Meadows 3rd Filing, Laramie County, WY, as shown on Exhibit A, and adopt the findings of facts a and b of the staff report.

ATTACHMENTS

Attachment 1: Aerial Map

Attachment 2: Comprehensive Plan Map

Attachment 3: Applicant Justification Letter

Attachment 4: Laramie County Attorney Findings Document #160517-14

Attachment 5: Resolution



Attachment 6: Exhibit A: Vacation Map

Laramie County, Wyoming

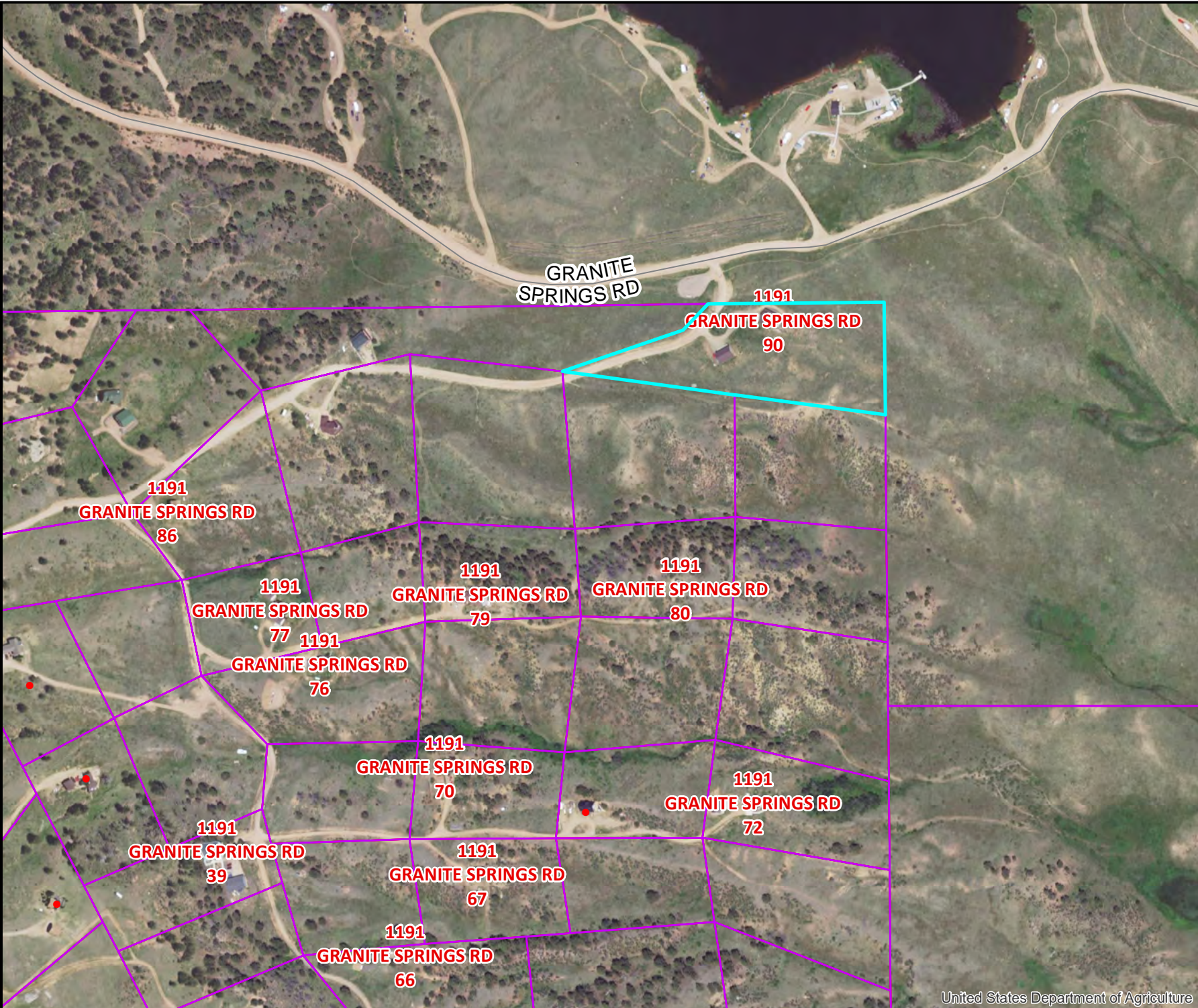
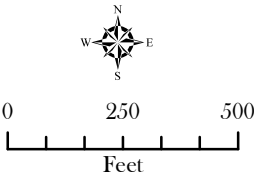


Tract 90
Mountain Meadows
3rd Filing
Partial Easement
Vacation
BOARD APPROVAL
PZ-16-00186

Legend

-  Property Lines
-  Subject Property

Printed on Sep 12, 2016




United States Department of Agriculture

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Laramie County, Wyoming



**Tract 90
Mountain Meadows
3rd Filing
Partial Easement
Vacation
BOARD APPROVAL
PZ-16-00186**


 Subject Property


Legend


 Property Lines

Future Land Use Overlay Districts

OTHER


 Gateway Corridor (GC)


 Recreation Hub (REC)


 Rural Center (RC)


Future Land Use Districts

OTHER

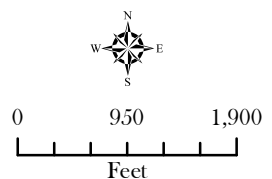
 Urban-Rural Interface (URI)

 Rural Metro (RM)

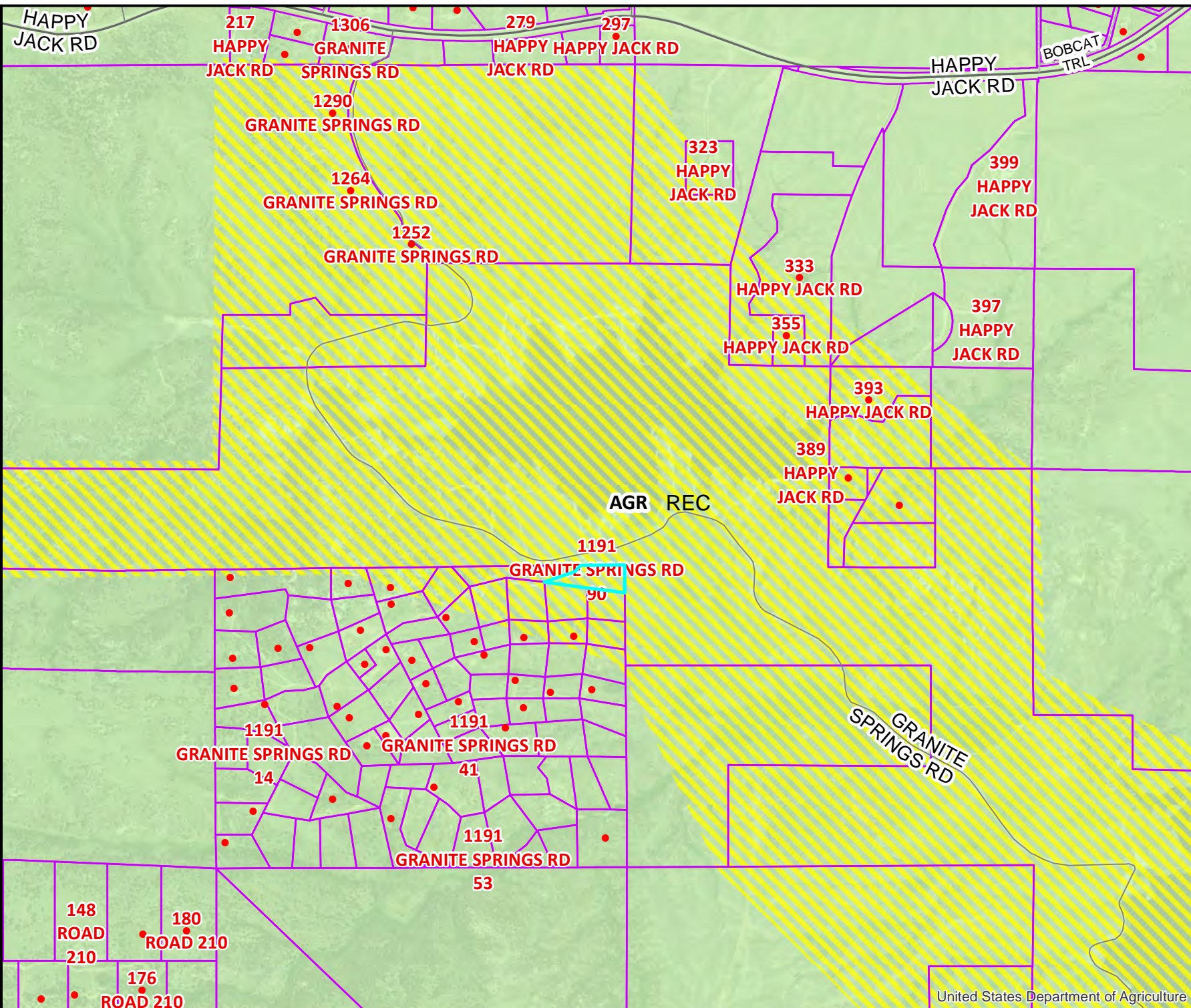
 Rural Ag Interface (RAI)

 Ag & Range Land (AGR)

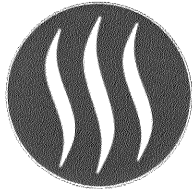
Printed on Sep 12, 2016



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**Steil
Surveying
Services**

Professional Land Surveyors & Development Specialists

**LARAMIE
COUNTY**

JUL 01 2016

**PLANNING & DEVELOPMENT
OFFICE**

May 10, 2016

Laramie County Planning & Development Office
3966 Archer Parkway
Cheyenne, WY 82009
(307) 633-4303

**InRe: Board Approval for *Mountain Meadows Partial Easement Vacation*, at Tract 90,
Mountain Meadows, 3rd Filing, Laramie County, Wyoming.**

To whom it may concern:

Steil Surveying Services, agent for the owner, has submitted a Board Approval application to extinguish/vacate a portion of a platted easement in Mountain Meadows 3rd Filing. This application is necessary due to existing constructed encroachments by the principal structure/residence. The location of the structure was affected by a State resurvey in adjacent Section(s) 16 & 21, T.14N., R.70W., 6th P.M; however it was in compliance when approved by the Mountain Meadows Architectural Committee prior to construction in 2004.

Although not included or granted in the dedication on the face of the plat, the easement was defined for "*utilities, drainage, pedestrian and equestrian movements, and vehicular traffic*". The easement as platted is clearly dispensable as it has not been utilized for the described purposes since its creation.

There are no perceivable negative impacts which would result from this approval; and pursuant to Section 1-2-100(a) of the Laramie County Land Use Regulations:

The Board must find the following criteria to be satisfied:

- i. The proposed use is permitted by Board approval in the proposed location and in conformance with all applicable development standards.*

The existing single-family residential use is allowed and proposed to remain unchanged.

- ii. The proposed use is in general conformance with all other applicable policies adopted by Laramie County.*

As the proposed use and traffic patterns are proposed to remain, there is no negative impact to the community or adjacent landowners caused by this action.

- iii. There is no defined negative impact to the community.*

Again, the existing single-family residential use is allowed and proposed to remain unchanged. Existing structures and property development do not violate any Laramie County policies.

Given the above-noted information regarding the applicability of approval criteria and the fact that the use of the property will remain unchanged, we respectfully submit this Board Approval request on behalf of the applicant. Please contact us with any questions or concerns.

Thank you,

Casey Palma
Steil Surveying Services, LLC
CPalma@SteilSurvey.com

1605-17-14

State of Wyoming)
)
County of Laramie)

SS. [Signature]

RECP #: 691207
RECORDED 8/30/2016 AT 2:28 PM BK# 2514 PG# 952
Debra K. Lee, CLERK OF LARAMIE COUNTY, WY PAGE 1 OF 13

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LARAMIE COUNTY, WYOMING**

IN THE MATTER OF:

REQUESTS FOR PARTIAL VACATION OF PORTIONS)
OF MOUNTAIN MEADOWS SUBDIVISION 2nd AND)
3rd FILING)

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER DENYING
REQUEST FOR PARTIAL VACATION OF PORTIONS OF MOUNTAIN
MEADOWS SECOND AND THIRD FILING**

THIS MATTER HAVING COME ON FOR A HEARING before the Board of County Commissioners of Laramie County, Wyoming (hereinafter referred to as “Board”), on April 19, and May 3, 2016 pursuant to Wyo. Stat. § 34-12-101 et seq. and the Laramie County Land Use Regulations (2011 as amended), and the Board having heard testimony, received evidence, heard the objections of all interested parties, and being fully advised in the premises, finds, concludes, and orders as follows:

I. Findings of Fact

1. On July 1, 1975 the Board approved the 2nd filing of the plat of Mountain Meadows subdivision. On March 13, 1979, the Board approved the 3rd filing of the Mountain Meadows subdivision.

2. In the 2nd filing, the plat contains a “certificate of ownership” in which the owner “does hereby reserve forever for exclusive use of all future landowners within the subdivision and future filings thereof, their invitees and permittees, areas shown as comments here on for the purpose of private access, utility access, hiking trails, bridle paths, etc.”

3. The plat for the 3rd filing, recorded on April 30, 1979, contains in its

“notes” section the following statement, “easements are for utilities, drainage, pedestrian and equestrian movements, and vehicular traffic.”

4. Neither the 2nd nor 3rd filing have any public roads, streets alleys of other access features dedicated to the “public.”

5. The Mountain Meadows 2nd and 3rd filings were approved with 80 foot easements surrounding and placed on each property line for every lot.

6. On or about February 20, 2016 a group of lot owners in the Mountain Meadows 2nd and 3rd filings filed an application with the Laramie County Planning Department requesting the full, in some instances, and partial in other instances, vacation of certain easements surrounding their respective properties. [See record of proceedings before the Board]

7. The applicants in this matter were John and Gay Firestone, requesting vacations in regard to easements surrounding lots 38, 39 and 40; Charles Heneke, in regard to lot 32; Mary Beth Stepans Trust, in regard to lots 25 and 26; Verlyn and Carolyn Osborne, in regard to lot 33 and the Judith Ivester Trust in regard to lots 82 and 90.

8. The applicants for vacation were jointly represented by a single agent, Casey Palma from Steil Surveying Services.

9. The matter of these joint applications was heard before the Laramie County Commissioners in a public hearing on April 19, 2016. A large number of individuals gave testimony before the Board both supporting and opposing the request for vacation and partial vacation. At the end of the hearing on April 19, the Board voted to continue the matter for further public comment and deliberation to May 3, 2016.

10. On May 3, 2016 the Board reopened the public hearing in regard to the

request for vacation. Testimony provided by individuals as well as Mr. Palma indicated that there had been, in the intervening time period, the annual meeting of the Mountain Meadows Homeowners Association. The testimony indicated that no overall agreement had been reached between the members of the Association in regard to the applications for vacation. However, Mr. Palma had made modifications to some of the easement vacations being requested based on testimony and concerns raised at both the prior meeting before the Board, as well as at the annual meeting of the homeowners Association. The Board was informed that these modified requests were now the outcome that the applicants sought before the Board. [See record of proceedings]

11. The Laramie County Planning Department staff prepared staff reports and recommendations for both the April 19th and May 3rd meetings. In the final staff report, presented to the May 3rd meetings staff stated in part in regard to the Mountain Meadows subdivision:

“These plats would not be approved under current regulations. After multiple discussions with county staff, it was determined a partial vacation may be an option for owners within the plat to remove portions of these easements. A re-platting action would be preferred; however, given the inability to reach consensus between owners, it is clear that this action would not come to fruition.

A major concern within the development is difficult terrain and narrow roads. Planning and Combined Communications visited the area and determined, although difficult, there is not much room for alterations as a whole because of the topography. The other major concern is addressing within the development. It is possible to create private road names and change the addresses of each lot to align with current addressing standards. As it is, all 89 properties are addressed as “1191 Granite Springs Road, Lot #.” This addressing has already created issues with emergency services. It is strongly recommended the Board determine and make a recommendation as to whether all lots within the subdivision should be re-addressed. The re-addressing does not necessarily have to occur as part of this action”

12. The Staff report introduced at a May 3rd meeting further stated:

At the public hearing for this item on April 5, 2016, there were many



questions about alternative options to remedy the situation and concerns about walking paths in the covenants. The applicant stated the intent was to seek conformance with the 20 foot covenant rights established on all the properties, as well as remove question of non-conformity and ability to rebuild structures which were placed within the 40 foot easements shown on the plat. The Board postponed action, encouraging the parties to discuss a remedy and come back with a solution. Staff was informed that consensus was not attained at the HOA meeting on April 20th.

13. Planning staff made the following recommendation in their report of May 3, 2016:

The applicant has since provided new vacation exhibits to better illustrate the issue. Staff has reviewed the updated documents. Staff recommends vacation of 20 foot wide portions of the easements shown, with the exception of the portion between Tracts 32 and 33, where a new 20 foot utility and ingress/egress easement will be recorded. Looking at the lots more closely, it appears that all structures meet a 20 foot setback, with the exception of a small shed on Tract 39. This shed would not require a building permit as it is under 200 square feet in size.

14. The staff recommendation indicated that satisfaction of the applicants' basis for the vacations could be achieved was significantly less reduction in the existing platted easements.

15. At both the April 19th and May 3rd, meetings, the covenants of the Mountain Meadows Homeowners Association were discussed and raised by multiple individuals. The covenants, which were introduced into the record of the matter, contained a provision, approved by the Association in 2013, stating:

Easements: Twenty feet (20') in width private easements shall be maintained on all sides of each Lot except for the south boundaries of lots 50, 52, 53 which shall remain as platted in the Third Filing dated December 19, 1978, and except as otherwise modified or vacated by approval of the Laramie County Board of County Commissioners.

Established roads shall be used for general access by Mountain Meadows property owners/residents or otherwise by landowner's/resident's permission. Access to other private easements is prohibited without the property owner's/resident's permission. Peripheral fencing, if desired and approved by the Committee, shall be located in accordance herewith.

No structure or other material shall be placed or permitted to remain



in any easement or area which may damage or interfere with the installation and maintenance of utilities, ingress or egress, or which may change the direction of the flow of water through natural channels in the easement or area.

The easement area of each lot and all improvements therein shall be maintained by the owner of the Lot except for those improvements for which a public authority or utility company is responsible.

16. Lot owners, as well as the agent for the applicants in this matter, provided conflicting understandings in regard to the 20 foot easements described in the aforementioned covenant provisions. In correspondence to the Planning Department, the agent for the applicant indicated a belief that the 20 foot easements would remain even in the event that the vacation or partial vacations were granted. This belief was shared by other lot owners. The agent stated in part in correspondence to the Department in regard to the basis for the application:

“This application is necessary, in part, to existing constructed encroachments (accessory structures I garages) and/or to ease the burden of encumbrance on the landowners in question as the original platted easements are a total of eighty feet (80') wide. Although not included in a dedication on the face of either plat, these easements were defined for "utilities, drainage, pedestrian and equestrian movements, and vehicular traffic" (at Third Filing) and "private access, utility access, hiking trails, bridal paths, etc." (at Second Filing). The easements as platted are clearly dispensable as they have not been utilized for any purpose (with the exception of the powerline easement retained as shown and described in pages 3 & 4 of the Attached "Exhibit A"). Mountain Meadows Home Owners Association Covenants and By Laws (2013) will remain in effect on the Tracts in question, maintaining a 20-foot setback from all property lines for all structures.”

17. Testimony of individual lot owners at both hearings indicated that over time, the “Architectural Control Committee” established by the covenants, had granted permission to various lot owners, based allegedly on topographic concerns, to construct homes and other buildings in locations which intruded



into the easements as platted in the 2nd and 3rd filing. Some of these individual lot owners were the applicants in this matter and testified that in the absence of the vacation or partial of the easements as platted, their structures would remain nonconforming under the Laramie County land-use regulations. It appeared that these structures within portions of easements were built prior to Laramie County establishing a building permit process which would have “caught” this intrusion and potentially barred construction within platted easements.

18. Conflicting testimony was offered by multiple lot owners as to the level of use of the existing platted easements. Multiple lot owners testified that they wished to maintain the easements as platted and testified that they had been used for hiking, access to the adjoining state park, horse riding et cetera. The lot owners seeking vacation testified to minimal or no use of the easements over time. Individuals seeking vacation as well as their agent testified that due to topography, many of the platted easements were not, and could never be, used for access to lots.

19. One lot owner, a realtor, and another individual representing the Cheyenne Board of Realtors, opposed the applications and testified regarding their concerns that modification or vacation of the easements in the subdivision could affect sale of properties in the subdivision and rendered proper revelation of the conditions on the property by a realtor more difficult. A representative of a title insurance agency testified in regard to her industry’s similar concerns, in particular, in regard to the clarity of access to lots as the platted easements in the absence of any publically dedicated roads represented the only possible access.

20. Generally, the applicants argued in favor of the vacations and partial vacations on the grounds that they would solve any “encroachment”



issues for structures built inside easement boundaries and minimized any impact on other subdivision owners through claims of minimal use of the platted easements. Lot owners opposed to the vacations pointed to the language on the plats and the understanding of purchasers as to the joint ownership of all lot owners in the easements as platted. Some of them testified that the easements were in fact used and they generally testified that they believed their rights in the platted easements would be abridged should the applications be granted. Individuals, not lot owners in the subdivision but representing interests such as real estate sales and title insurance, opposed the vacations on the grounds of the creation of uncertainty and possible negative effect on sales and the provision of title insurance.

21. At the conclusion of the public hearing, discussion was had among the Board members. A motion was made and seconded to approve the applications for vacation as presented by the applicants in the modified form as provided by their agent on May 3, 2016. The Motion was seconded and failed on a vote of 3 against and 2 in favor, resulting in a denial of the applications for vacation and partial vacation of certain platted easements in the Mountain Meadows subdivision.

II. Conclusions of Law

1. The Laramie County Comprehensive Plan (2001) designates this area as best suited for Very Low Density Rural/Agricultural uses. It states, “these areas are far removed from the providers of public services and have relatively lower levels of road access.”

2. W.S. 34-12-106 states, in part, that “No plat **or portion thereof** for which a subdivision permit has been obtained pursuant to W.S. 18-5-304 shall

be vacated as herein provided without the approval of the County Commissioners”. The 2nd and 3rd Filing of Mountain Meadows subdivision permits were obtained pursuant to W.S. 18-6-304.

3. Section 2-1-101(m) of the Laramie County Land Use Regulations states:

“All such vacation instruments shall be approved by the Board for areas outside of the incorporated limits of the city or town. Vacations shall be executed in accordance with W.S. 34-12-106 through W.S. 34-12-111.”

4. W.S. 34-12-108 states in part: “Any part of a plat may be vacated under the provisions, and subject to the conditions of this act [§§ 34-12-101 through 34-12-104, 34-12-106 through 34-12-115]; provided, such vacating does not abridge or destroy any of the rights and privileges of other proprietors in said plat.”

5. Public notice of the hearing and intent of the application was mailed to all adjacent property owners. The agent for the applicants testified that the applicants had arranged for notice to be provided to all lot owners in the Mountain Meadows subdivision. Notice of the impending action was also published in the local newspaper as provided by the Laramie County land-use regulations.

6. Two public hearings on the matter were held. Testimony and evidence were taken from multiple parties both in favor of and opposing the action requested by the applicants.

7. The primary focus of the Board’s decision, as mandated by statute, is the question of whether the relief sought by the applicants would “abridge or destroy any of the rights and privileges of other proprietors in said plat.”

8. Contrary to the assertions and/or beliefs of the applicants, the 20' foot easements provided for in the covenants would, in fact, be vacated and or significantly modified in the event that the Board granted the applications and provide the relief as sought in the amended filings provided at the May 3, 2016 hearing.

9. The provision in the covenants states: "Twenty feet (20') in width private easements shall be maintained on all sides of each Lot except for the south boundaries of lots 50, 52, 53 which shall remain as platted in the Third Filing dated December 19, 1978, and **except as otherwise modified or vacated by approval of the Laramie County Board of County Commissioners.** (Emphasis added). Based on the language in the covenant itself, action by the Board, unless specifically exempting or in some way dealing with the 20 foot easement provided for in the covenants, would eliminate or potentially halve, the 20 foot easements.

10. Eliminating or modifying the 20 foot easements would remove a right provided by the Homeowners Association through the covenants to all lot owners in Mountain Meadows subdivision without the consent of all or a proper majority of the land owners.

11. Based on the statements on the faces of the plat for the 2nd and 3rd filing of the Mountain Meadows subdivision, the Board determines that the intent of the Developer/Dedicator was to vest interests in the easements surrounding each of the lots in the 2nd and 3rd filing in *all* lot owners in the Mountain Meadows subdivision.

12. The dedication of the easements in the Mountain Meadows subdivision was the product of "statutory dedication." "A statutory dedication

is one pursuant to the terms of the statute, and is almost universally created by the filing and recording of a plat.” *Town of Moorcroft v. Lang*, 779 P.2d 1180, 1183 (Wyo. 1989)

13. “The acknowledgment and recording of such plat, is equivalent to a deed in fee simple of such portion of the premises platted as is on such plat set apart for streets, or other public use, or is thereon dedicated to charitable, religious or educational purposes.” W.S. § 34-12-104

14. In order to determine the intent of the Dedicator and the nature of the dedication on a plat, the Board must first look to the plain language on the face of the plat. *Owsley v. Robinson*, 2003 WY 33, ¶ 12, 65 P.3d 374, 377 (Wyo. 2003)

15. Language on the face of the plat in both the 2nd and 3rd filing is clear and unambiguous. The Dedicator “does hereby reserve forever for exclusive use of all future landowners within the subdivision and *future filings thereof*, their invitees and permittees, areas shown as comments here on for the purpose of private access, utility access, hiking trails, bridle paths, etc” (emphasis added) The platted easements are, therefore, *not* dedicated to the use of the general public.

16. The Wyoming Supreme Court has determined that in the case of a statutory dedication, for a purpose other than public use, such as for streets and alleys, the method of analysis applied to easements is employed. An easement is “an interest in land which entitles the easement holder to a limited use or enjoyment over another person's property. Provided the easement does not clearly indicate it is exclusive to the dominant owner, the owner of the servient estate retains the right to use the easement area.” *Owsley* at 377 (Citations



omitted)

17. “In construing an easement, we seek to determine the intent of the parties to the easement. *R.C.R., Inc. v. Rainbow Canyon, Inc.*, 978 P.2d 581, 586 (Wyo.1999). *See also* Restatement Third, Property (*Servitudes*) § 4.1 (2000). We begin by attempting to glean the meaning of the easement from its language.” *Hasvold v. Park Cty. Sch. Dist. No. 6*, 2002 WY 65, ¶ 13, 45P.3d 635, 638 (Wyo. 2002)

18. “If the language of the easement is not ambiguous and if the intent of the parties can be gathered from its language, that should be done as a matter of law.” *Steil v. Smith*, 901 P.2d 395, 396 (Wyo. 1995) “A corollary of this general rule, which we commend to adjoining landowners, is that the owner of an easement and the owner of land each possess rights and each must, as far as possible, respect the other's use.” *Wallis v. Luman*, 625 P.2d 759, 768 (Wyo.1981); *Bard Ranch Co. v. Weber*, 557 P.2d 722, 730-31 (Wyo.1976)

19. Again, with respect to the language found on the face of both the 2nd filing plat and the 3rd filing, it appears apparent that the intent of the Dedicator was that the easements on the property lines surrounding the various lots were intended to be for the use and enjoyment of all landowners within the Mountain Meadows subdivision.

20. If an easement has “been set aside for public use, the public authority would hold title to it in trust for the public's benefit.” *Carnahan v. Lewis*, 2012 WY 45, ¶ 22, 273 P.3d 1065, 1072 (Wyo. 2012) This is not the case with the easements in question in this application for vacation. All interests in the Mountain Meadows easements are private, and held in joint ownership by all lot owners in the subdivision.


21. Based on the foregoing, the Board of commissioners of Laramie County determined that the application for vacation and partial vacation in this matter, as brought and requested, if granted, would abridge and/or destroy the rights and privileges of other proprietors in the plat.

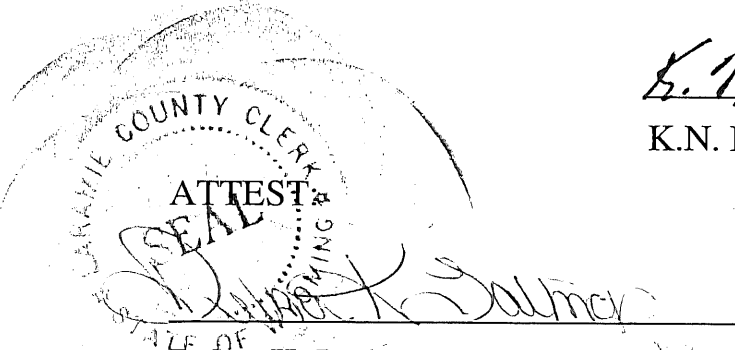
III. Order

IT IS THEREFORE ORDERED that above noted Applicant's Application for vacation and partial vacation of the easements as described in the Applicant's submission of May 3, 2016, is hereby denied.

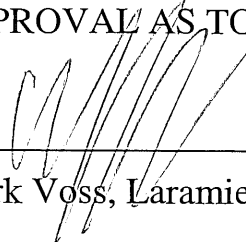
Dated this the 17 day of May, 2016.

BOARD OF COUNTY COMMISSIONERS
OF LARAMIE COUNTY, WYOMING:


K.N. Buck Holmes, Chairman


Debra K. Lathrop
Laramie County Clerk

APPROVAL AS TO FORM ONLY:


Mark Voss, Laramie County Attorney

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER DENYING REQUEST FOR PARTIAL VACATION OF PORTIONS OF MOUNTAIN MEADOWS SECOND AND THIRD FILING** was placed in the U.S. Mail, postage prepaid, on the 22nd day of May, 2016, addressed to the following:

Casey Palma
Steil Surveying Services
1102 W. 19th St.
Cheyenne, WY 82001

John W Firestone and Gay O. Firestone
Lots 38, 3940
1191 Granite Springs Rd.
Cheyenne, WY 82009

Charles M Heneke
Lot 32
1191 Granite Springs Rd.
Cheyenne, WY 82009

Mary Beth Stepan for the Mary Beth Stepan Trust
Lots 25, 26
1191 Granite Springs Rd.
Cheyenne, WY 82009

Veryln D. Osborne and Carol A. Osborne
Lot 33
1191 Granite Springs Rd.
Cheyenne, WY 82009

Judith Ivester, Trustee for the Judith Ivester Trust
Lots 82, 90
1191 Granite Springs Rd.
Cheyenne, WY 82009



RECP #: 691207
RECORDED 8/30/2016 AT 2:28 PM BK# 2514 PG# 964
Debra K. Lee, CLERK OF LARAMIE COUNTY, WY PAGE 13 OF 13

RESOLUTION # _____

**A RESOLUTION DENYING A PARTIAL EASEMENT VACATION ON TRACT 90,
MOUNTAIN MEADOWS 3RD FILING, LARAMIE COUNTY, WYOMING.**

WHEREAS, Wyoming State Statutes §18-5-101 to 18-5-107; §18-5-201 to 18-5-208; §18-5-301 to 18-5-315 authorize Laramie County, in promoting the public health, safety, morals and general welfare of the county, to regulate the use of land through zoning in unincorporated Laramie County; and

WHEREAS, The Laramie County Board of Commissioners have previously adopted the Laramie County Land Use Regulations; and

WHEREAS, this application *does not* meet the criteria for a Board Approval pursuant to section 1-2-100 of the Laramie County Land Use Regulations; and

WHEREAS, W.S. 34-12-108 states that: “Any part of a plat may be vacated under the provisions, and subject to the conditions of this act; provided, such vacating does not abridge or destroy any of the rights and privileges of other proprietors in said plat; and provided, further, that nothing contained in this section shall authorize the closing or obstruction of any public highways laid out according to law.”

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF LARAMIE COUNTY, WYOMING, as follows:

The Laramie County Board of Commissioners finds that:

- a. This application *does not* meet the criteria for Board Approval pursuant to section 1-2-100(a) of the Laramie County Land Use Regulations.
- b. The proposed vacation *would* abridge or destroy the rights and privileges of other properties in the plat.

And that the Laramie County Board of Commissioners denies the partial easement vacation on Tract 90, Mountain Meadows 3rd Filings Subdivision, as shown on the attached Exhibit Map A.

PRESENTED, READ, AND DENIED this _____ day of _____, 2016.

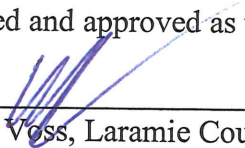
LARAMIE COUNTY BOARD OF COMMISSIONERS

Buck Holmes, Chairman

ATTEST:

Debra K. Lee, Laramie County Clerk

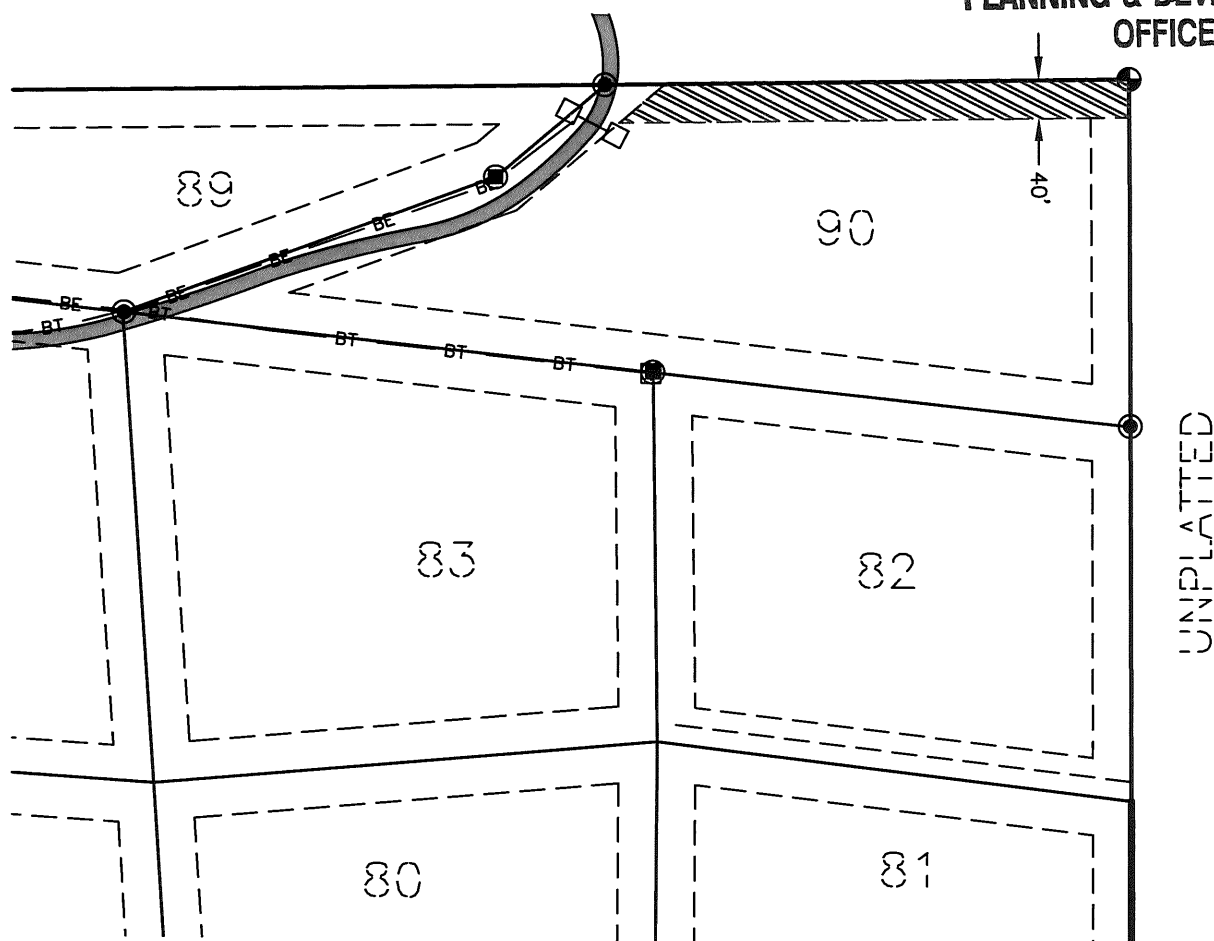
Reviewed and approved as to form:



Mark T. Voss, Laramie County Attorney

JUL 01 2016

EASEMENT VACATION EXHIBIT

PLANNING & DEVELOPMENT
OFFICEVACATION DESCRIPTION (s)

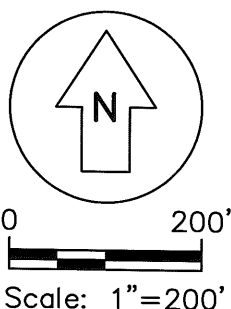
That 40' easement along the North line of Tract 90,
EXCEPT that portion falling within the West 40' of said Tract 90.

LEGEND

- FOUND 1½" ALUMINUM CAP STAMPED "SSS LS 2500"
- ⊗ FOUND 1½" ALUMINUM CAP STAMPED "PELS 649"
- ⊗ FOUND 1½" ALUMINUM CAP ILLEGIBLE
- ▲ FOUND 1½" ALUMINUM CAP STAMPED "LS 4828"
- FOUND 1½" ALUMINUM CAP STAMPED "LS 558"
- ◆ FOUND MAGNETIC NAIL
- FOUND 1½" ALUMINUM CAP STAMPED "PELS DMH"
- Ⓡ FOUND ⅝" IRON REBAR
- BE — EXISTING OVERHEAD ELECTRIC LINES
- OE — EXISTING UNDERGROUND ELECTRICAL LINES
- BT — EXISTING BURIED TELEPHONE LINE
- Ⓜ EXISTING TELEPHONE PEDESTAL
- ▨ PORTION OF EASEMENT(S) TO BE VACATED

NOTES

- 1) The descriptions, dimensions and extents of the portions of easements to be vacated are based on record plat(s) and/or legal description(s) and shall be lengthened or shortened such that integrity of existing easements to remain is upheld in their entirety and said remaining easements shall govern said descriptions, dimensions and extents.
- 2) In addition to the vacation of the platted easement, and pursuant to Section IV.B(5) *Easements of the Declaration of Protective Covenants for Mountain Meadows Subdivision First, Second and Third Filings*, this described area is hereby reserved in its entirety for private use of the owner of Tract 38.



EASEMENT VACATION EXHIBIT
WITHIN
TRACT 90
MOUNTAIN MEADOWS THIRD FILING
SECTION 21, T14N, R70W 6TH P.M.
LARAMIE COUNTY, WYOMING

PREPARED FEBRUARY 2016



STEEL SURVEYING SERVICES, LLC
PROFESSIONAL LAND SURVEYORS

1102 WEST 19th ST. CHEYENNE, WY. 82001 ○ (307) 634-7273
756 GILCHRIST ST. WHEATLAND, WY. 82201 ○ (307) 322-9789
www.SteelSurvey.com ○ info@SteelSurvey.com