



Laramie County Planning & Development Office

3966 Archer Pkwy
Cheyenne, WY 82009
Phone: 307.633.4303

June 14, 2021

AVI

Attn: Bruce Perryman
1103 Old Town Lane, Ste. 101
Cheyenne, WY 82009

Re: Denial of Administrative Plat Application- Park Estates 4th Filing
Project PZ-21-00083

Mr. Perryman,

As you are aware, the application for an administrative plat in regard to the above noted portion of Park Estates 4th Filing, has been in the review and process by our office. After further review, our office has determined that the application, and the project it represents, does not meet criteria as an "administrative exemption" pursuant to LCLUR 2-1-101(d) and 2-1-102. Nor does it meet the requirements for processing as an "administrative plat." The Application for Administrative Plat, is therefore denied.

The basis for this decision includes, but is not limited to, the following:

Subsection (d) allows the Planning and Development director to exempt an owner/applicant from certain requirements in W.S. 18-5-306, including W.S. 18-5-306 (a) (ii) if the project meets certain criteria. The subsection further states that, in such a case, an administrative plat process may be allowed pursuant to these regulations.

Among the criteria which must be met for an Administrative Exemption, and any subsequent referral to the administrative platting process, are that the:

"proposed subdivision meets the density requirements designated in the Laramie County Comprehensive plan and any applicable zoning district, whichever is smaller, ...and any findings from the of the Planning Commission hearing of the Preliminary Development Plan which support the exemption..." LCLUR 2-1-101 (d)(i)(iii)

As to the latter, as the record reveals, there was no hearing of a preliminary development plan before the Planning Commission. The project file contains no evidence of any finding or

decision in regard to an exemption from the preliminary development plan pursuant to LCLUR 2-1-100 (b).

As with the initial decision for this to be treated as an administrative plat, it is unclear when or by whom that decision was made. That subsection, (b), also requires that the project be "in conformance with all requirements of the Laramie County land-use regulations."

The proposed project does not meet the density requirements of the zoning district in which the property lies, that is, zone district "AR." The density requirement in this zone district is a minimum of 5 acres. Park Estates, having been platted in 1977, Lot 5 at 2.05 acres and Lot 6 at 1.75 acres are considered a nonconforming use in regard to density. Should a new lot or lots, be proposed in this same area, as in this project, that nonconforming use ceases to be operative and the land is subject to the existing zoning regulation, which requires a five-acre minimum. The creation of these new tracts would likewise remove the "nonconforming" provisions in the small wastewater regulations as well.

The proposed tracts in this application, per the Revised Plat submitted on 5-11-21, are, 1.11 acres and 2.69 acres.

The project therefore proposes an unlawful subdivision, in the absence of a zone change, under the existing Laramie County land-use regulations. This means that it does not meet the criteria under either subsection (b) or subsection (d) and LCLUR 2-1-100 for an administrative exemption to either the preliminary development plan or the administrative exemption for platting. It should be noted that a zone change application is not considered part of the administrative plat process and is a separate proceeding.

Additionally, the current revised administrative plat states, under the heading, "Vacation Statement": "This plat vacates Tracts 5 and 6 of Park Estates and the easements denoted by the cross-hatch note in the legend, within the bounds of this administrative plat." Vacation of lots in a platted subdivision are governed not only by the LCLUR but also by Wyoming statutes.

In particular, this represents a "partial vacation" pursuant to Wyo. Stat. Ann. § 34-12-106. This statute provides in pertinent part, "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." Such vacations cannot be granted in the absence of a finding by the governing body that the vacation does not "abridge or destroy any of the rights and privileges of the proprietors in said plat." Id.

The LCLUR subsection immediately preceding the "administrative plats" section of the regulations, at 2-1-101 (m) states:

Vacation

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.

Administrative plats are processed only at the agency level, and do not go before either the Planning Commission or the Board of County Commissioners. As a result, this vacation of two lots in the Park Estates subdivision would be in violation of the above noted provision and state law. In addition, no process exists pursuant to Title 34 to render the appropriate decision in regard to the potential abridgment or destruction of any rights. As a result, an administrative plat process is inappropriate for such an action.

The LCLUR was adopted under multiple authorities including those provided in Wyo. Stat. Ann. § 34-12-101 et seq. See, LCLUR 1-1-101. The LCLUR further provides that in the event that conditions imposed by any provision of other regulation or law are more restrictive or impose higher standards or requirements, the more restrictive or higher standards or requirements govern. LCLUR 1-1-103. As the Title 34 requirements in regard to partial vacation are clearly more restrictive and require at a minimum, a public hearing, they would arguably apply in this circumstance.

Under the "review criteria" for an administrative plat in 2-1-102 (e)(iv), an application for an administrative plat must demonstrate that "all proposed lots shall be buildable lots according to the existing zoning district standards." The proposal in this matter, is for the annexation of the smaller of the 2 newly created tracts to be annexed into the City of Cheyenne with the remaining tract at 2.05 acres, remain under Laramie County jurisdiction. Based on both the zone district requirement for density as well as the applicable small wastewater regulations, this would not be a "buildable" lot.

The intent of the administrative plat process is described at 2-1-102 (a):

Administrative plat procedures are intended to provide expedited review and approval for minor adjustments to legal boundaries and title of property for proper recording. These adjustments have little or no impacts on public facilities and infrastructure and are within ownership patterns or development patterns that have otherwise been determined in accordance with the Laramie County Comprehensive Plan.

The application indicates, under, "description of work," that the proposal was for a "lot line adjustment." At a minimum, this is an inaccurate description of the nature of this project. As the above indicates, the process is intended to encompass "minor adjustments" to legal boundaries or lot lines. The standard definition of the word "adjustment" is, "a small alteration or movement made to achieve a desired fit, appearance or result." The proposal vacated two existing lots in a platted subdivision and created two tracts well below the density provided for in the zoning district, leaving one unbuildable lot. The proposal additionally anticipates the annexation of one of those two lots into the City of Cheyenne. This is not a 'minor' adjustment.

The project presents a level of complexity and significant change, as well as being in potential violation of certain aspects of LCLUR regulations and Wyoming law, such that it is inappropriate for consideration as an administrative plat.

Lastly, as noted above, the record is incomplete in regard to the required process. It is unclear from the record available how this matter was designated as appropriate for administrative plat. Under the regulations, the decision to provide the exemptions noted above is made at a "pre-

application" meeting. However, no notes exist of the meeting in this particular matter and the application itself indicates that that meeting took place by phone.

It would appear that that the pre-application meeting referenced in the application was a phone conversation between the Planner ultimately assigned to the project and the Development Director, who, on that occasion, spoke as a representative of the agent for the project, having been recused from the matter in his official capacity. The Public Works Director, designated to step in for the nominal director under such circumstances, was not consulted nor present in this meeting. The records therefore do not contain any supporting evidence as to the circumstances under, or by whom, the decision to exempt this was made.

Recognizing that this denial may have the effect of delaying your project the Department would note that a number of options continue to exist. An application for a conventional subdivision permit can be filed. It would appear that an application for a zone change in the County would be required in order to bring the lots proposed within appropriate density requirements. The issue of provision of potential water and sewer, would of course need to be resolved as well. 2nd, a petition to entirely vacate the 2 lots could be brought. This could be coupled with a subsequent or simultaneous subdivision and zone change of the resulting vacated property. Third, one or both of the lots in Park Estates subdivision could be proposed for annexation by the City. Should that annexation go forward and be completed, the property could be developed under city jurisdiction.

This decision denying the application for an administrative plat by the assigned Development Director is subject to appeal to the Board of County Commissioners, pursuant to section 1-2-102 of the LCLUR.

Sincerely,

A handwritten signature in black ink, appearing to read "Molly Bennett". The signature is fluid and cursive, with the first name "Molly" written in a larger, more prominent script than the last name "Bennett".

Molly Bennett
Planning and Development Director
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