AGENDA
LARIMER COUNTY PLANNING COMMISSION
Wednesday, April 20, 2016/6:30 P.M./Commissioners' Hearing Room

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. PUBLIC COMMENT ON THE COUNTY LAND USE CODE

D. PUBLIC COMMENT REGARDING OTHER RELEVANT LAND USE MATTERS NOT ON THE AGENDA

E. APPROVAL OF THE MINUTES FOR THE MARCH 16, 2016 MEETING.

F. AMENDMENTS TO AGENDA

G. ITEMS:

1. MOUNTAIN WHITEWATER DESCENTS AMENDED SPECIAL REVIEW #16-Z2002

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2. PEAK VIEW ESTATES CONSERVATION DEVELOPMENT #14-S3231

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3. WINDJAMMER ROADHOUSE SPECIAL EXCEPTION #15-Z1995

Staff Contact: Karin Madson **Page 130**

H. REPORT FROM STAFF

I. ADJOURN

NEXT MEETINGS: Wednesday, May 11, 2016: BCC/Planning Commission worksession
Wednesday, May 18, 2016: Planning Commission hearing

2. TITLE: Peak View Estates Conservation Development – Preliminary Plat

REQUEST: Preliminary Plat for a Conservation Development consisting of 2 residential lots (approx. 8-9 acres each) and one residual lot (22.25 ac.) with an existing residence and outbuildings. An appeal to Section 8.14.2.S. of the Land Use Code (LUC) regarding connectivity and an appeal to Section 8.14.4. requiring utility easements between lots where to common lot line is the centerline of the ditch.

LOCATION: SW ¼ of NW ¼ 29-04-69; located east of Beverly Drive and north of Meining Road.

APPLICANT/ OWNER: Ellyn J. and William B. Prescott
1166 Rocky Heaven Lane
Berthoud, CO 80513

STAFF CONTACT: Karin Madson

PLANNING DEPT FILE #: 14-S3231

SITE DATA:

Parcel Number(s):	94290-00-004
Total Development Area:	40.2 acres +/-
Number of Lots/Tracts:	
Existing/Proposed	1/3
Number of Dwelling Units:	
Existing/Proposed	1/3
Existing Land Use:	Rural Residential / Agriculture
Proposed Land Use:	Single Family Residential
Existing Zoning:	FA-1 Farming
Adjacent Zoning:	FA-1 Farming (in all directions)
Adjacent Land Uses:	Rural / SFR Residential (in all directions)
Services:	
Access:	Direct access from Rocky Heaven Lane via Meining Road
Water:	Little Thompson Water District
Sewer:	On-site septic systems
Fire Protection:	Berthoud Fire District
Vehicle Trips Generated**:**	30 ADT

PROJECT DESCRIPTION/BACKGROUND:

Background

The 40-acre parcel has been historically used for residential and agricultural uses. The property consists of the residence including a garage, barn, and other accessory structures. The property contains unique features such as Dry Creek on the northern portion of the property and the Dry Creek Lateral irrigation ditch which bisects the property.

Proposal

The applicant is seeking approval of a Conservation Development Land Division, to allow the creation of 2 additional residential lots and a residual lot of 22.25 acres. The residual lot contains a 2 acre building envelope which is counted as developed area. The total development area consists of 40.1 acres; approximately 20.01 acres will be used as Residual Land.

The project site is zoned FA-1 Farming which has a minimum lot size of 2.3 acres per dwelling unit. The total Developable Land Area as defined by the Larimer County Land Use Code for the project is 40.01 acres. The land under water (pond of 0.24 acres) can not be included in this acreage. The maximum number of dwellings allowed by zoning on this property is approximately 17. The applicant is proposing 3 units. As defined in Section 5.3 of the Land Use Code a proposed Conservation Development must provide a minimum Development Area of 50% and a minimum Residual Land Area of 50% of the Total Developable Area for the project. The applicant is proposing the following based upon a Total Developable Land Area of 40.01-acres:

Site Data	**Min. Req'd**	**As Proposed**
Developable Land	40.01-ac	40.01-ac
Development Area*	20-ac (50%)	20.01-ac (50%)
Residual Land – 50%*	20-ac (50%)	20.00-ac (50%)

The applicant proposes to retain the residual land in private ownership along with the existing residence. The residual land is laid out so that it includes the portion of the property north of the Dry Creek Lateral Ditch.

Infrastructure/Services

Access to the site is proposed from Rocky Heaven Lane via Meining Road from County Road 23E. An access easement is proposed to serve the residual lot. Menifee Street is a new road proposed along the southern property line. Water service will be provided by the Little Thompson Water District, and on-site septic systems are proposed for sewage disposal. The project site is within the Town of Berthoud sewer service area.

REVIEW CRITERIA:

Larimer County Land Use Code:

This project is subject to the requirements for a Conservation Development as described in Section 5.3 of the Larimer County Land Use Code as follows:

Section 5.3 Conservation Development

5.3.1 Purpose Conservation Development is intended to ensure that residential development on parcels of 30 acres or more (outside Growth Management Areas) is designed with creativity to maintain the open character of rural areas and protect and maintain agricultural uses and environmentally-sensitive areas while permitting development to the zoning density. This is accomplished by clustering development on lots smaller than would otherwise be permitted and keeping the remainder of the site in residual land to:

A. Maintain the open character of rural areas;
B. Protect and encourage continuation of existing agricultural uses;
C. Protect and maintain environmentally-sensitive areas or features such as steep slopes, flood plains, hazard areas, unique geologic features, ridgelines, unique vegetation and critical plant communities, stream corridors, wetlands or riparian areas, wildlife habitat and migration corridors, areas containing threatened or endangered species and special places of Larimer County; and
D. Promote compatibility with existing and permitted adjacent land uses.

5.3.4 Review Criteria

A. To approve a Conservation Development, County Commissioners must find the following conditions exist:

1. **The proposed Conservation Development is compatible with existing and allowed land uses in the surrounding area;**
   The zoning of the site allows for more units than proposed. The area to the north & east of the site is characterized by larger parcels. Further east is the Cottonwood Knolls Subdivision. The area south of the site is characterized by subdivided lots (Kent Estates and Arleigh Acres) while the area to the west of the site is characterized by subdivided lots (Foothills Estates II). The proposed use is consistent with both existing and allowed uses in the surrounding area as it would provide a mix of residential, agricultural and open space features.

2. **The applicant for the proposed conservation development has demonstrated that the proposed conservation development will comply with all applicable requirements of this code;** The applicant must demonstrate that the proposal complies or has the ability to comply with the Land Use Code and other requirements. Staff reviewed the proposal for compliance with Section 5.3 Conservation Development and Section 8. Standards for All Development. Some Section 8 Standards are not applicable or impacted by this project. Refer to the following discussion of these sections of the Land Use Code.

3. **The proposed Conservation Development will result in no substantial negative effect on environmentally sensitive areas or features, agricultural uses or lands;**
   County Maps of natural resources identify potential wetland areas associated with the ditch and the Dry Creek drainage. Additionally, a portion of the site is mapped as a Mule Deer winter concentration area. The proposed design avoids the wetland areas.

4. **Approval of the proposed conservation development will not result in a substantial adverse impact on other property in the vicinity of the proposed conservation development;** It is not anticipated that the proposed development would have a substantial adverse impact on other properties in the vicinity. Several letters received in opposition to this proposed development at the sketch plan review stage. The applicant modified their plan in response to the concerns raised and is now proposing 2 new lots rather than 5 as originally proposed.

5. **The recommendations of referral agencies have been considered.** The referral comments have been incorporated into this review and attached to this report.

The following sections of the Land Use Code are referenced in Review Criteria 2 for Conservation Developments. The proposal must meet the requirements of both Section 5.3 Conservation Development and Section 8 Standards for All Development.

<u>5.3.6 Residual Land Design</u>

A. Size and Configuration

1. The minimum amount of residual land required in a Conservation Development must be 80% of the total developable land area of the site unless a lesser percentage is allowable as provided in Subsections 4 which states, in part, Conservation developments in the FA-1 zoning district in areas within officially recognized sanitary sewer service areas where it is clearly not feasible to connect to sewer and where on-site septic systems are proposed for individual lots, are required to provide a minimum of 50 percent of the total developable land area as residual land.

In order for this proposal to be developed at a minimum of 50% residual land, the applicant will need to demonstrate that the extension of public sewer is clearly not feasible. Doug Ryan, comments dated Feb. 4, 2016 commented that the Town of Berthoud sewer line is 2 miles to the east and that unless the Town comments otherwise, he believes it is reasonable to conclude that public sewer is not currently feasible in this location. The Town of Berthoud indicated they have no concerns.

B. Uses in Residual Land

1. All residual land must be maintained and remain undeveloped in perpetuity using a legal instrument such as a Development Agreement or conservation easement to set forth such conditions and restrictions, except as noted in Subsections a through f in this section. The residual land will be protected through

the use of a Development Agreement and provisions for maintenance outlined in a use plan that will be part of that Development Agreement.

5.3.7 Cluster Design

A. Cluster Size and Design

3. Clusters must be physically separated from one another so the appearance and visual impacts of these developed areas on the intervening residual land is minimized.

This particular design responds to the site constraints and opportunities in a way that directs the majority of the development on the southern portion of the property.

4. The location of structures and other improvements in the development area of a Conservation Development must place the highest priority on the preservation of environmentally sensitive areas and agricultural uses. The location of home sites and the corresponding layout of lots and streets must have a lower priority and must be designed to create a compact development pattern.

Again, the proposed layout of residential and residual lots places priority on the area associated with the Dry Creek Lateral and the Dry Creek drainage.

B. Lot Size and Design

1. No minimum lot size is required in Conservation Developments except for those developments and lots that use lot septic systems or wells. In those instances, the minimum lot size is 2 acres (87,120 square feet).

The applicant is proposing a minimum lot size of 8.29 acres for the smallest lot. The lots are proposed to be served with individual on site septic systems. The Department of Health and Environment commented (refer to the memo from Doug Ryan, dated Feb. 4, 2016) reviewed the geotechnical report submitted and believes the is adequate space and options for septic systems.

2. Diversity and originality in lot design is encouraged to achieve the best possible relationship between development and features of the land; to minimize alteration of the natural site features and topography; to relate to surrounding properties; to improve the view from and the view of buildings; and to lessen the area devoted to roads and utilities.

The proposed layout is designed to relate to the natural features of the land. The proposed building sites are located on the southern half of the property, adjacent (with the exception of the proposed road) to an existing development.

3. Flexibility in lot size is encouraged to promote a design that is sensitive to the natural environment; adapts to the natural topography of the site; accommodates the mix of residential land uses and housing types proposed within the development; and is compatible with agricultural uses and other existing and allowed uses.

The layout proposed by the applicant attempts to preserve some natural features and topography, and would be compatible with the existing use of the site and other existing and allowed uses in the area.

4. To the extent practical, home sites should be located to enhance visual access to residual land both from the proposed development and from adjacent lands.
The proposed design provides visual access to residual land from the proposed lots.

C. Building Envelopes.

1. In lieu of setbacks, building envelopes must be designated for each lot to identify the area where structures may be constructed and to provide adequate separation between structures and uses or activities. Building envelopes must be designed to avoid hazard areas, the tops of ridgelines or slopes, view corridors, open fields and agricultural infrastructure.
The proposed lots include building envelopes.

2. Building envelopes must be established for buildings related to agricultural uses in the residual land and designed to cluster buildings and structures together in the least sensitive portion of the area.
The building envelopes proposed relate to the existing structures on the property, with the exception of an agricultural barn.

<u>Section 8.0 Standards for All Development</u>
All Section 8 Standards were considered in the staff evaluation of this project; applicable standards are included here.

8.1 Adequate Public Facilities
Section 8.1.1 Sewage Disposal Level of Service Standards: (refer to the memo from Doug Ryan, dated Feb. 4, 2016) The proposed Peak View Estates Conservation Development is situated within the service boundaries of the Town of Berthoud's planned sewage district. The Town of Berthoud indicated that they have no comments or concerns with this proposal and in the past has indicated no plans to extend sewer service to this area in the foreseeable future. Mr. Ryan indicated that he believes it is reasonable to conclude that public sewer is not currently feasible in this location and that there is adequate space and options for septic systems.

Section 8.1.2 Domestic Water Level of Service Standards: (refer to the memo from Doug Ryan, dated Feb. 4, 2016) The proposed development will receive water from the Little Thompson Water District. The district provided a letter of commitment dated Jan. 8, 2016 to serve the proposed lots. The Division of Water Resources commented (letter from Tracy L. Kosloff, dated Feb.1, 2016) that the submittal did not describe the source of water rights needed to supply the anticipated demands of this development. Because of this they could not comment on the potential for injury to existing water rights or the adequacy of the proposed water supply. This issue will need to be resolved at the final plat stage and the source of the water needed identified and reviewed.

Section 8.1.3 Drainage Level of Service Standards: (Refer to the memo from Clint Jones, dated Feb. 3, 2016) The Engineering department provided comments regarding the requirements for stormwater detention and infiltration facilities that will need to be included with the final drainage report. The ditch company will need to review the final plat drainage information as well.

Section 8.1.4 Fire Protection and Emergency Medical Service Level of Service Standards: Fire protection will be provided by the Berthoud Fire Protection District. Their Fire Station #2 in located at the intersection of County Road 23 and County Road 8. Comment from Berthoud Fire include the requirement for a hydrant and the intersection of Rocky Heaven Lane and Menifee Street. As an alternative the residences could be fire sprinklered if adequate flows are not available.

Section 8.1.5 Road Capacity and Level of Service Standards: The standards in this section help to ensure that a development will have safe and adequate access to public roads and transportation related services and that the development does not create a demand for additional public improvements or services that cannot be met with existing public resources. In his memo dated Feb. 3, 2016, Clint Jones provided comments with regard to access, the connectivity appeal, and maintenance of the internal street.

Section 8.2 Wetland Areas: County Maps of natural resources identify potential wetland areas associated with the ditch and the Dry Creek drainage. Rob Helmick, Environmental Coordinator commented that it appears that the pond on the site appears in aerial photography in 2005. We would hope that the property owner obtained the required permits and that the dam has been inspected for safety. No further information is needed at this time.

Section 8.3 Hazard Areas: County maps indicate geologic hazards are low. The Little Thompson Water District provided comments with regard to the provision of potable water and the dam failure hazard associate with the Dry Creek Dam. The existing house is within this failure area; however the proposed new lots appear to not be affected. Please refer to the email from Mike Cook dated June 3, 2014.

Section 8.4 Wildlife: No comments were received from Colorado Parks and Wildlife. A portion of the site is mapped as a Mule Deer winter concentration area.

Section 8.5 Landscaping: No landscaping is proposed or required for the development.

Section 8.6 Private Local Access Road and Parking Standards: Parking for the residences will be provided on the lots.

Section 8.7 Road Surfacing Requirements: The proposed improvements to Rocky Heaven Lane and the proposed Menifee Street will include an all-weather surface. Refer to the comments from Clint Jones, dated Feb. 3, 2016 for information on access and right-of-way construction permit requirements.

Section 8.8 Irrigation: An irrigation ditch currently crosses the property. Irrigation easements must be shown on the Final Plat. Comments from the ditch company include plat note requests (these will be included in a disclosure notice by not on the plat), easement requirements, the existing ditch crossing, a request for an agreement between the property owner and the ditch company, that historic drainage patterns be maintained during and following construction and the need for their review of the final plan. The applicant is in the process of working out an agreement with the Ditch Co. If the applicant enters into an agreement with the ditch company as part of this development, the agreement will need to be finalized at final plat.

8.11 Air Quality Standards and 8.12 Water Quality Standards*:* Dust Control for unpaved roads is required on any unpaved roadway exceeding 200 vehicles per day. Stormwater permits are required when a proposed project will disturb more than one acre of land. The Health Department provided information (refer to the memo from Doug Ryan, dated Feb. 4, 2016) in regard to compliance with these Standards.

8.13 Commercial Mineral Deposits: No designated commercial mineral deposits exist on the site.

8.14 Development Design for Land Division:
Section 8.14.1.R. Connectivity. ***All land divisions must be designed to permit the continuation of streets, roads, trails, pedestrian access, utilities and drainage facilities into adjacent property. The connection must provide a logical, safe and convenient circulation link for vehicular, bicycle and/or pedestrian traffic with existing or planned circulation routes to allow a neighborhood traffic circulation system and to improve emergency and service access. Particular attention must be given to access to destinations such as schools, parks and business or commercial centers.***
Where future connectivity is required to adjacent undeveloped parcels, a road must be constructed to the property line meeting applicable County Road or Street Standards. When such a road is constructed, a sign stating "Future Road Connection" shall be erected and maintained in a conspicuous location along such road. The applicant has request an appeal to this requirement.

The Review Criteria for Appeals are as follows:
A. **Approval of the appeal will not subvert the purpose of the standard or requirement.** It is Staff's opinion that approval of this appeal would subvert the purpose of this requirement. Staff requested that the applicant design the development so that connectivity to parcels to the east could be established, providing the potential for a connection to Melody Road (not built out) in the future. In addition, this connection would provide connectivity to parcels along the south boundary of this development, should those parcels be divided in the future. The Development Services Review Team does not support approval of this appeal since the "un-built" streets nearby have an established pattern planned for connectivity.

B. **Approval of the appeal will not be detrimental to the public health, safety or property values in the neighborhood.** Approval of the appeal is desirable to many nearby neighbors, with the majority opposed to the connectivity requirement and in support the applicant's appeal. Approval of the appeal could prohibit future connectivity and may impact future safety as the area grows and properties further divide in the future.

C. **Approval of the appeal is the minimum action necessary.** The applicant could choose to provide connectivity as required. If the appeal is approve no action is needed on the part of the applicant. If the appeal is not approved the applicant will need to revise their plans accordingly.

D. **Approval of the appeal will not result in increased costs to the general public.** Approval of the appeal should not result in increased costs to the public unless a connection is determined to be necessary in the future.

E. **Approval of the appeal is consistent with the intent and purpose of the Code.** Approval of the appeal is not consistent with the intent and purpose of the LUC to provide a logical, safe and convenient circulation link for vehicular, bicycle and/or pedestrian traffic with existing or planned circulation routes to allow a neighborhood traffic circulation system and to improve emergency and service access.

Section 8.14.4.E. Utility easements must be a minimum of eight feet on each side of abutting rear lot lines. Rear lot lines not adjacent to subdivided property must have ten-foot utility easements. The proposed rear lot lines are along an irrigation ditch and in some areas the property line is the center of the irrigation ditch. The Development Review Team supports an appeal to this section since it does not make much sense to have a utility easement along or within an irrigation ditch.

The Review Criteria for Appeals are as follows:

A. **Approval of the appeal will not subvert the purpose of the standard or requirement.** There is adequate space for utility easements along for front and side lots lines of the proposed lots.

B. **Approval of the appeal will not be detrimental to the public health, safety or property values in the neighborhood.** Approval of the appeal would not be detrimental to public health, safety or property values.

C. **Approval of the appeal is the minimum action necessary.** If the appeal is not approved the applicant will need to provide the required easements. In some areas this would be in the irrigation ditch and would likely not be supported by the ditch company.

D. **Approval of the appeal will not result in increased costs to the general public.** Approval of the appeal should will not result in increased costs to the public.

E. **Approval of the appeal is consistent with the intent and purpose of the Code.** Approval of the appeal is consistent with the intent and purpose of the LUC as it allows for flexibility in a solution where the requirement may not work for a particular situation.

8.15 Lighting: The applicant is encouraged to include these guidelines into the project to the extent practicable. One way this might be achieved is through homeowner covenants. The applicant is not considering covenants for the development. They are agreeable to a plat note. Staff suggests these guidelines be included in the disclosure notice since these are not guidelines the County would choose to enforce.

8.16 Fences: No additional fencing is proposed for the development.

OTHER MAJOR CONCERNS AND ISSUES:

The issues and concerns with the proposed conservation development are outlined in this report. There are no additional concerns or issues.

SUMMARY & CONCLUSIONS:

The Peakview Conservation Development as proposed would divide a 40.25 acre property into 2 residential lots and one residual lot with an existing residence and outbuildings. The Development Service Team believes that the application adequately addresses the review criteria and standards for this type of development.

The Development Service Team supports the appeal to Section 8.14.4. of the Larimer County Land Use Code regarding utility easements.

The Development Service Team does not support the appeal to Section 8.14.2.S. of the Land Use Code (LUC) of the Larimer County Land Use Code regarding the provision of connectivity.

DEVELOPMENT SERVICES TEAM FINDINGS:

The Development Services Team recommends to the Larimer County Planning Commission the adoption of the following findings with respect to this Conservation Development.

A. The proposed conservation development is compatible with existing and allowed land uses in the surrounding area;
B. The applicant for the proposed conservation development has demonstrated that the proposed conservation development will comply with all applicable requirements of this code;
C. The proposed conservation development will result in no substantial negative impact on environmentally sensitive areas or features, agricultural uses or other lands;
D. Approval of the proposed conservation development will not result in a substantial adverse impact on other property in the vicinity of the proposed conservation development; and

E. The recommendations of referral agencies have been considered.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

The Development Services Team recommends the Larimer County Planning Commission recommend to the Board of County Commissioners Approval of the **Peakview Estates Conservation Development, File #14-S3231** and the **Appeal to Land Use Code Section 8.14.4.** subject to the following condition(s):

1. The Final Plat shall be consistent with the approved preliminary plan and with the information contained in the **Peakview Estates Conservation Development, File #14-S3231**except as modified by the conditions of approval or agreement of the County and applicant. The applicant shall be subject to all other verbal or written representations and commitments of record for the **Peakview Estates Conservation Development.**

2. The applicant shall execute a Disclosure Notice to be recorded with the Final Plat. This notice will provide information to all lot owners of the conditions of approval and special costs or fees associated with the approval of this project. The notice shall include, but is not limited to; rural and agricultural issues, fees, building envelopes, fire department requirements, requirements for engineered footings and foundations, requirements and costs associated with engineered septic systems, the need for passive radon mitigation, and the issues raised in the review and or related to compliance with the Larimer County Land Use Code.
   The Disclosure Notice shall include information regarding the dam failure hazard associated with the Dry Creek Dam as it relates to the existing home on Residual Lot A.
   The Disclosure Notice shall also include the following information:
   Lighting Guidelines:
   a. Outdoor fixtures should be designed, shielded, aimed, located and maintained to prevent glare and light trespass on abutting properties and the vicinity.
   b. The style of light standards and fixtures should be consistent with the style and character of architecture proposed on the site.
   c. The use of exterior lighting should be minimized in areas of important wildlife habitat. Lighting should be designed so it does not spill over onto such habitat.
   d. All outdoor lighting, except low-output (2000 lumens or less) lighting, should be equipped with an on-off switch.

3. The following fees shall be collected at building permit issuance for new single family dwellings: Thompson R2-J school fee, Larimer County fees for County and Regional Transportation Capital Expansion, and Larimer County Regional Park Fees (in lieu of dedication). The fee amount that is current at the time of building permit application shall apply.

4. Fire Requirements – The final construction plans shall include a hydrant at the intersection of Rocky Heaven Land and Menifee Street that shall be designed to be capable of providing a water supply that meets the requirements of the Berthoud Fire Protection District. Specifically, fire hydrants shall be capable of flowing at 1000 GPM with a 20 Psi residual pressure. The applicant/developer shall provide evidence of satisfactory fire flows prior to the issuance of any permits. In the event fire flows are not satisfactory, the residences shall be fire sprinklered with NFPA 13D residential sprinklers, installed by an approved contractor. Plans for the sprinkler system shall be approved by the Berthoud Fire Department.

5. All habitable structures will require an engineered foundation system. Such engineered foundation system designs shall be based upon a site specific soils investigation. The lowest habitable floor level (basement) shall not be less than 3 feet from the seasonal high water table. Mechanical methods proposed to reduce the ground water level, unless it is a response after construction, must be proposed on a development wide basis.

6. Passive radon mitigation measures shall be included in construction of residential structures on these lots. The results of a radon detection test conducted in new dwellings once the structure is enclosed but prior to issuance of a certificate of occupancy shall be submitted to the Building Department. As an alternative, a builder may present a prepaid receipt from a radon tester which specifies that a test will be done within 30 days. A permanent certificate of occupancy can be issued when the prepaid receipt is submitted.

7. The Final Plat application shall include information to describe the source of water rights needed to supply the anticipated demands of this development. This information shall also be provided to the Little Thompson Water District. This information will then need to be reviewed and confirmed to be adequate for the Division of Water Resources to confirm a finding of no potential for injury to existing water rights and the adequacy of the proposed water supply.

8. The Final Plat application shall include information to address the comments of Clint Jones, Engineering Department, dated Feb. 3, 2016.

9. The Final Plat application shall include information to address the comments #2, #3, and #7 from the Dry Creek Lateral Ditch Company, in the letter from Randy Starr, dated Feb. 12, 2016.

The Development Services Team recommends the Larimer County Planning Commission recommend to the Board of County Commissioners Denial of the **Peakview Estates Conservation Development, File #14-S3231, Land Use Code Appeal to Section 8.14.2.S.** regarding the provision of connectivity.

PEAK VIEW ESTATES CONSERVATION DEVELOPMENT
PRELIMINARY PLAT SUBMITTAL
PROJECT DESCRIPTION

The proposed 40.25 acre subdivision is located in the Northwest 1/4 of Section 29, Township 4 North, Range 69 West of the 6th P.M.. The subdivision Kent Estates lies directly to the south, Foothills Estates lies directly to the west and unplatted properties lie to the north and east.

The purpose of this application is to subdivide a 40.25 acre parcel into 2 residential lots being 8.29 acres and 8.91 acres, and one residual lot of 22.25 acres. The property is naturally divided in half by an irrigation ditch owned by the Dry Creek Ditch. The property to the north of the ditch has improvements including an existing house, barn, garage/work shop, shed and riding arena. The size, location and configuration are shown on the Preliminary Plat drawing. Natural features on the north half of the property include the Sweck Lateral, Dry Creek Ditch and a pond. The existing use of the northerly end of the property is pasture grazing for horses and has been historically used for agriculture uses.
The property north of the Dry Creek Ditch, and a small portion south of the ditch are proposed to be the residual parcel where agricultural uses will continue.
The southerly half of the property is currently flat grazing land and has no significant features. The southerly half is where the 2 new residential lots will be located.

REVIEW CRITERIA

The proposed subdivision was designed to take advantage of the site design principles of the Larimer County Land Use Code and it meets the review criteria as stated in the Larimer County Land Use Code, with the exception of an appeal to Section 8.14.2.S (connectivity). There are no environmentally sensitive areas identified on the subject property, and there are no discernable adverse affects to adjacent properties, as a result of the proposed subdivision.
The property is compatible with existing and allowed land uses in the surrounding area. The lots to the south of the proposed subdivision are residential consisting of approximately 5 acres each, to the east is a 28 acres +/- unplatted parcel, the parcel to the west is Foothills Estates II which is comprised of 5-6 acre lots and the proposed development abuts their open space, and the parcel to the north is a 40+/- acre unplatted parcel. All parcels are used for agricultural and residential uses.
The recommendations of referral agencies have been considered and the applicant will continue to work with the agencies.

PROPOSED CHANGES & IMPROVEMENTS

As stated earlier, the purpose of this application is to subdivide a 40.25 acre parcel into 2 residential lots being 8.29 acres and 8.91 acres, and one residual lot of 22.25 acres. The total developable land is 40.01 acres. The residual parcel will contain 50% of the total developable area. There is no area on the subdivision that will be used for non-residential use. Landscaping will be at the owners discretion.
The location of 2 additional homes on the southern half of the property blends in with a subdivision to the south, which is comprised of smaller lots, being approximately 5 acres each, while leaving the northern portion of the property with a rural feel which

blends in with the property to the north. Clustering the 2 new homes to the south reduces infrastructure costs and separates the property at a logical breaking point, along the Dry Creek Ditch. The owners of the Dry Creek Ditch have also requested that there be a 100' buffer from the centerline of the ditch to any new homes, which further creates a buffer for the residual lot.
The existing zoning is FA-1 and is to remain.

CIRCULATION AND LOCATION

The proposed subdivision is currently accessed off Meinning Road and Rocky Heaven Lane (A.K.A. Green Ridge Road). Rocky Heaven Lane (A.K.A. Green Ridge Road as platted) is classified as a local road and will be brought up to an all-weather surfaced roadway to meet the recommendations of Larimer County Planning Department. Rocky Heaven Lane is accessed off of Meinning Road. Meinning Road is classified as a local road and is currently an all weather surface, 40' wide. Meinning Road is currently only accessible off of County Road 23E, which is classified as a collector road. With the addition of only 2 additional lots, the proposed subdivision is not to have an adverse effect on traffic on Meinning Road.

The proposed lots will access off of a proposed roadway which will run parallel along the southerly line of subject property for approximately 400'+/-. The roadway will end in a cul-de-sac designed per the Larimer County Road Design and Construction Standards. The proposed roadway will be a public road and will be a 24' wide, 2 lane gravel drive constructed as an all weather road surface per Larimer County Road Design and Construction Standards. The residual parcel and existing home will be served by an access easement along the westerly property line, where the current driveway is located. The applicant will work with the Berthoud Fire Protection to insure that they will satisfy Berthoud Fire Protection standards. The applicant will provide additional turn-arounds as necessary to meet the requirements of the Berthoud Fire Protection.

Access point at the intersection of Meinning Road and Rocky Heaven Lane demonstrate adequate and unobstructed site distance looking both east and west along Meinning Road. There is also adequate and unobstructed site distance at the new intersection of Rocky Heaven Lane and Menifee Street.

The county has requested that we provide connectivity to the east. After further analysis by the applicant, the applicant is asking for a waiver of connectivity which is discussed at the end of this report.

IRRIGATION FACILITIES:
There are no existing or proposed irrigation facilities on subject property.

FIRE PROTECTION:

The subject property is serviced by the Berthoud Fire Protection District, and is not located within the Larimer County Wildfire Hazard area. The Berthoud Fire Protection District Station is located at the intersection of County Road 8 and County Road 23 which is 2.6 miles away. The nearest fire hydrant is located on the north side of Meinning Road approximately 375 feet east of the intersection of Meinning Road and Rocky Heaven Lane. The fire department has requested a fire hydrant at the intersection of Rocky Heaven

Lane and Menifee Street. The applicant will comply with this request.

UTILITIES:

All necessary utilities required for the development of the property will be extended to the property line of each lot.

Sewer: The existing residence is serviced by an onsite septic system. The proposed lots will also be serviced by Individual Septic Systems per Larimer County Codes and Standards, including Health Department and Engineering Standards.

Water: Little Thompson Water District
Existing water lines are shown on the Site Inventory Map.
Water supply is currently being provided to the existing residence by Little Thompson Water District. Little Thompson will be providing service to the proposed subdivision. Currently the size of the waterline in Meinning road is 6" There is a 2" line from Meinning road to the existing residence. A new line per Little Thompson Water District Standards will be constructed to service the new subdivision.

Electric: Poudre Valley REA is currently providing service to the existing residence and will provide service to the proposed subdivision.

Gas: Excel Energy is currently in Rocky Heaven Lane and in proposed Menifee Street and will be extended to the proposed new lots. The existing house will not be served.

Telephone: Centurylink is currently providing service to the existing residence and will provide service to the proposed subdivision. The lines are in Rocky Heaven Lane and there are enough extra lines to service the propose subdivision.

LAND DEDICATIONS:
There are no proposed land dedications.

HOMEOWNERS ASSOCIATION:

There will be a Homeowners Association that will be responsible for the maintenance of the roads and to ensure that the proposed lots are developed in a responsible manner.

OTHER INFORMATION

PREVIOUS APPLICATIONS: The applicant submitted a sketch plan for a Conservation Development in 2004 for 7 additional lots. No further action was taken at that time.

APPEAL REQUEST FROM CONNECTIVITY

The county is requesting that the applicant provide connectivity to the east. The following is to demonstrate that Section 8.14.1.S, Connectivity, is not appropriate for the Peak View Estates Conservation Development. Connectivity in this case, would impose an

undue hardship, and in all probability, the connectivity would never be used because the property owner to the east would need to construct a bridge over dry creek ditch to meet Larimer County Regulations that would be a financial hardship and not practical. In addition, the parcel to the east has access off of Cottonwood Lane. (See the 2 Exhibits at the end of this report).

A. Approval of the Appeal will not subvert the purpose of the Connectivity Design Standard.

The purpose of the Connectivity Design Standard contemplates the continuation of streets, roads, and trails into adjacent properties. The county is requesting connectivity to the adjacent parcel to the east. The property to the east currently has access off of Cottonwood Lane which accesses off of County Road 21. There is an existing easement from the applicants east property line to Cottonwood Lane. In order to construct this easement as recorded, there would need to be a bridge that crosses the Dry Creek Ditch. The easement cuts across a major portion of a an existing 5 acre parcel of land. The easement also follows the Dry Creek Ditch. The owners of the Ditch have requested that no construction comes within 100' of the Dry Creek Ditch as located on the applicants parcel. The owners of the Ditch most certainly would not appreciate a county road running beside the ditch and crossing it. In addition, crossing the ditch with a county road would be very costly and it would not be cost effective. If the parcels to the east did decide to develope the property, they still have access to Melody Road, which accesses Meinning Road, but would more than likely access off of Cottonwood Lane. The neighbors of Arleigh Acres and Kent Estates have both expressed their desire to not have connectivity between neighborhoods. They enjoy their neighborhoods and would like to keep their identity and not have one big neighborhood. We don't foresee the adjacent parcels to the south resubdividing their parcels into 2.5 acres tracts. There is a very strong neighborhood group who is opposed to any further subdividing of any parcels into anything smaller than the existing lot sizes in Kent Estates, which is 5 acres +/-. If the owners to the south do decide to subdivide, they can still access the north half of their lot via a private driveway easement through their own lot.

B. Approval of the Appeal will not be detrimental to the public health, safety, or property values in the neighborhood.

There is no evidence that granting this Appeal would in any way prove to be detrimental to the public's health, safety, or property values in the neighborhood. Health and safety issues for future landowners in the Peak View Estates Conservation Development have been addressed and satisfied through the normal course of this application process.

C. Approval of the Appeal is the Minimum action necessary.

Approval of this Appeal would be the minimum action necessary, in order to fulfill the stated intent of the Conservation Development program. Peak View Estates is not a phased development, therefore no future access planning is required for this Conservation Development. Also, there are no known developments being planned on adjacent properties to the south or to the east which might indicate the need for future access and connectivity planning.

D. Approval of the Appeal will not result in increased costs to the general public.

The Peak View Estates Conservation Development is being planned and proposed with all infrastructure and utility improvements to be established on the subject property and along Rocky Heaven Lane, at the owners sole cost and expense, and without any impact, to adjacent properties.

E. Approval of the Appeal is consistent with the intent and purpose of the Code.
The Code identifies Conservation Developments as being a plan to ensure creatively designed residential development that will maintain the open character of rural areas, and protect existing agricultural uses. The proposal clearly meets this intent, through a design which demonstrates minimal intrusion of roadway and utility infrastructure, in order to preserve the maximum agricultural acres. The roads and utility infrastructure planned are appropriate for the residential development, and meet the county standards for the same. Any increase in roadway and/or utility infrastructure, in an effort to plan for future development on adjacent properties, would adversely affect the neighborhood characteristics trying to be achieved through the Conservation Development process. A road would be built that would never be used. Impervious surface would be increased where it could have been used for agricultural land. The road would be built which would more than likely fall apart because it would not be used.
The main access point for the Conservation Development would be off of Meinning Road. Our proposed new road which access 2 new lots would end in a cul-de-sac.

F. Summary
The applicant has gone from proposing 5 new additional lots, to proposing 2 new additional lots. They have responded to the comments from the neighbors and have attempted to comply with the requirement that they respond to the neighbors comments. The neighbors seem to favor the new subdivision and are not in favor of connectivity. They have already fought to deny connectivity from Meinning to Green Ridge Road and have succeeded. They most certainly would not like to see traffic from County Road 21, to Cottonwood Lane, to Meinning road.
In addition, it would be a very costly endeavor to cross the ditch with a bridge that would meet Larimer County Road Standards.
Therefore, it does not seem practical, to build a road to the east end of the property.
The attached drawings show the Larimer County Assessors map with the adjacent parcels, along with a drawing showing the overlaying easement to Cottonwood Drive and its relationship to the Dry Creek Ditch.

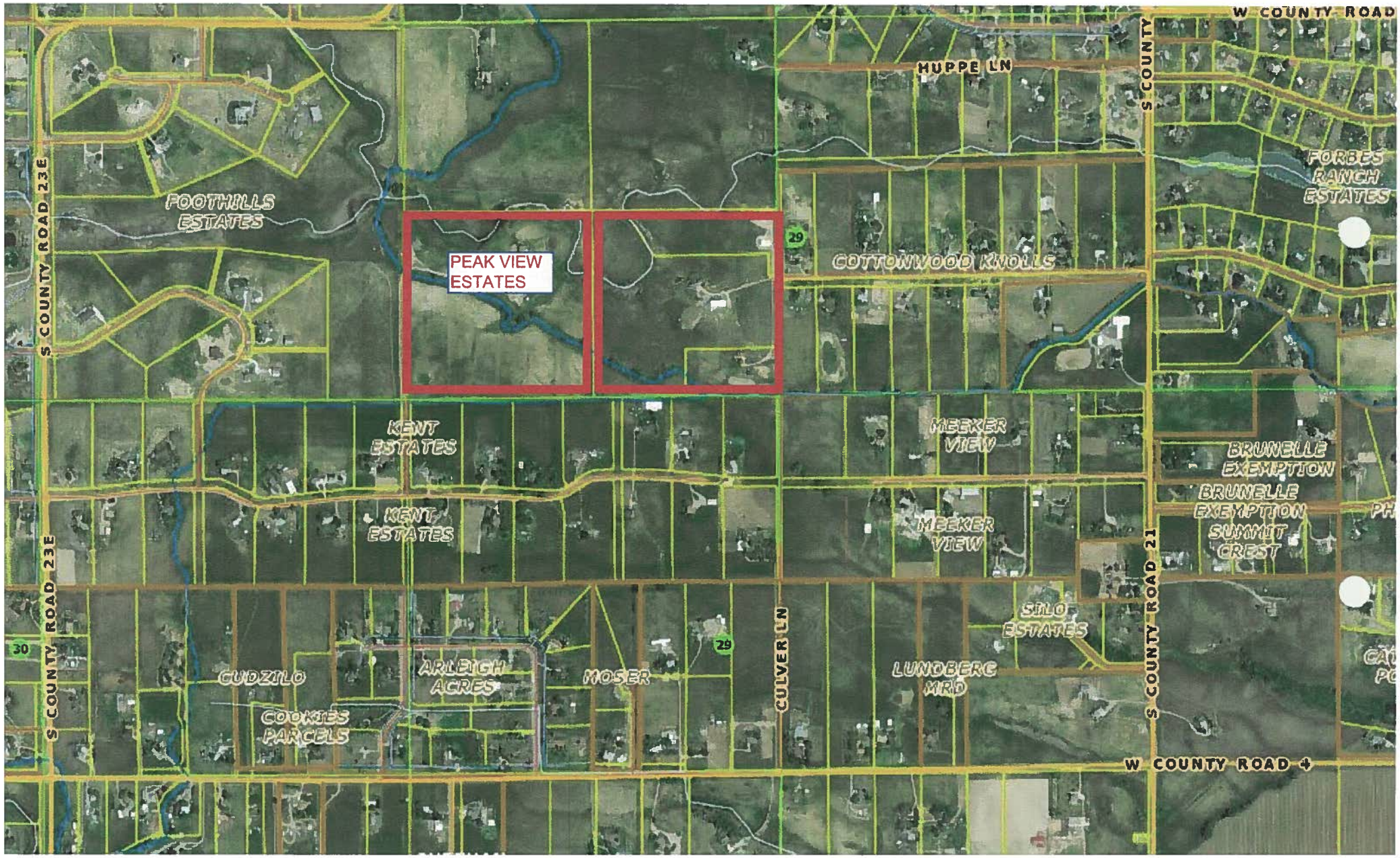
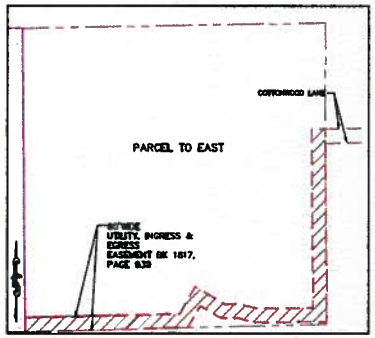
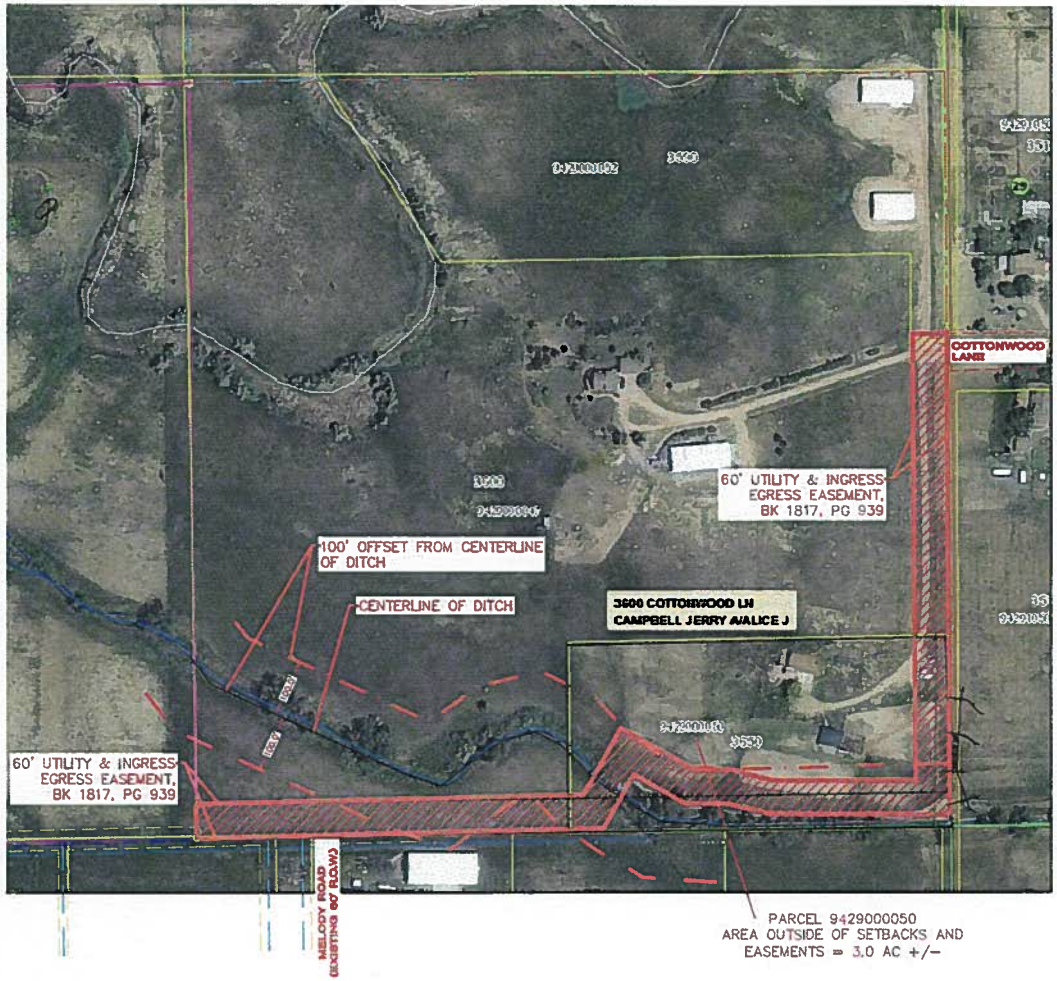
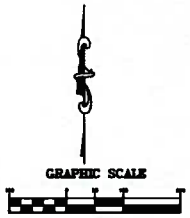

W COUNTY ROAD
HUPPE LN
S COUNTY
FORBES RANCH ESTATES
FOOTHILLS ESTATES
S COUNTY ROAD 23E
PEAK VIEW ESTATES
29
COTTONWOOD KNOLLS
KENT ESTATES
MEEKER VIEW
BRUNELLE EXEMPTION
BRUNELLE EXEMPTION
SUMMIT CREST
KENT ESTATES
MEEKER VIEW
S COUNTY ROAD 21
SILO ESTATES
30
29
CULVER LN
GUDZILO
ARLEIGH ACRES
MOSER
LUNDBERG MRD
COOKIES PARCELS
W COUNTY ROAD 4

EXHIBIT SHOWING PARCELS TO EAST







LARIMER COUNTY
COMMITTED TO EXCELLENCE

Karin Madson <madsonkc@co.larimer.co.us>

Peak View Estates

1 message

ellynandbill@aol.com <ellynandbill@aol.com> Mon, Feb 22, 2016 at 5:54 PM
To: kmadson@larimer.org

Karin,

I would like to ask for a waiver for LUC section 8.14.4, requiring utility easements between lots where the common lot line is the centerline of the ditch.

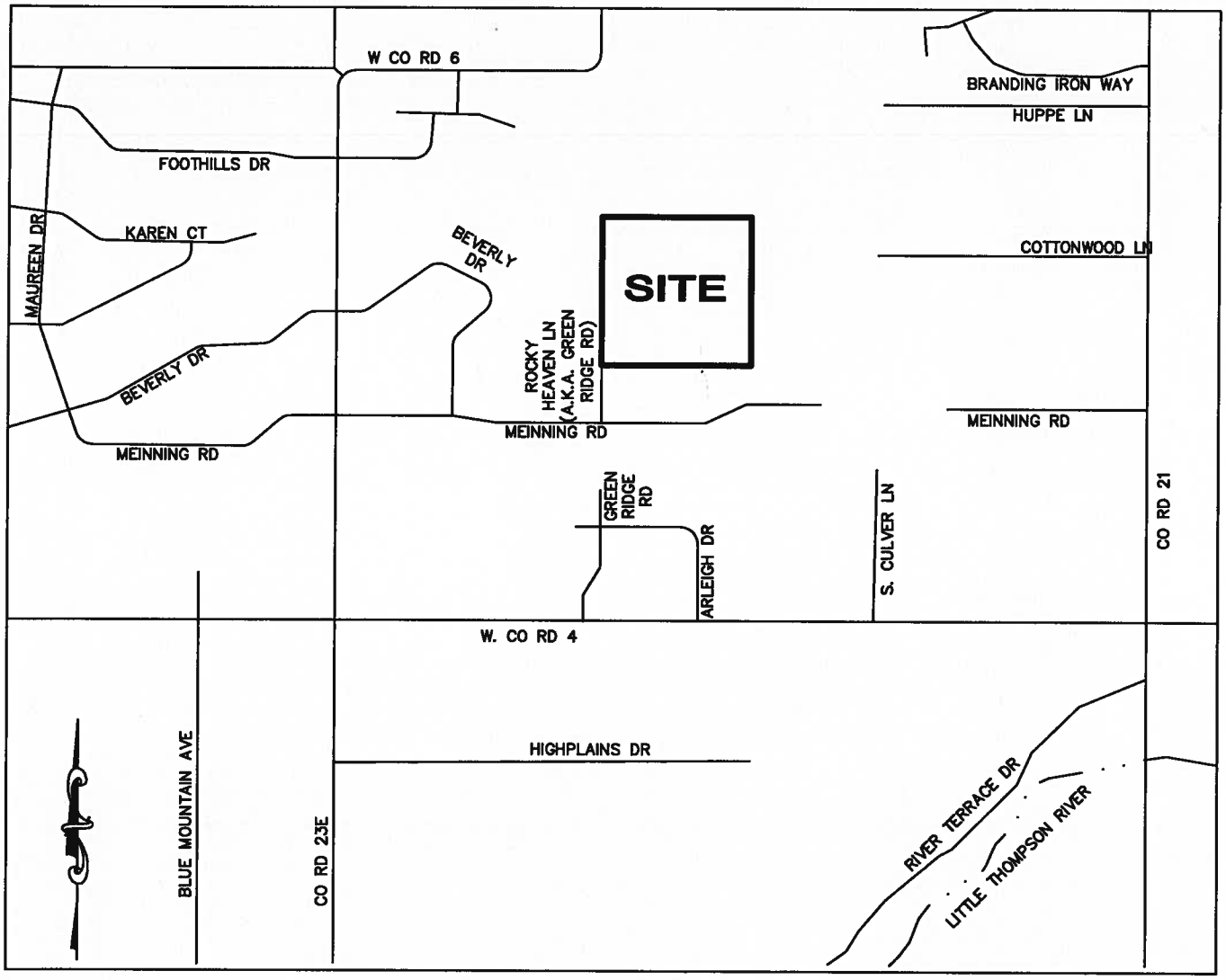
Please let me know what else I need to do to have us scheduled for the hearing.
We are going to Larimer County tomorrow to do our own research on the minerals.
We are in the process of responding to the attorney for the ditch company.

Thanks
Ellyn

EXHIBIT "A"

LOCATED IN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 4 NORTH,
RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF LARIMER, STATE OF COLORADO

SHEET 1 OF 1



Vicinity Map
NOT TO SCALE

JOB NUMBER: 1566,794
DRAWN BY: E. PRESCOTT
DATE: JANUARY 4, 2016

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

Flatirons, Inc.
Surveying, Engineering & Geomatics
655 FOURTH AVE
LONGMONT, CO 80501
PH: (303) 776-1733
FAX: (303) 776-4355
www.FlatironsInc.com

BY:EPRESCOTT FILE:66794-PRELIM PLAT-C15.DWG DATE:1/4/2016 7:41 AM

PEAK VIEW ESTATES PRELIMINARY PLAT

FILE# 14-3231

A PARCEL OF LAND, LOCATED IN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 4 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO

SHEET 1 OF 1

TOTAL AREA = 1,753,383 SQ FT, OR 40.25 ACRES, MORE OR LESS

Parcel Description

(PROVIDED BY GUARDIAN TITLE AGENCY, LLC)

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 4 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO.

Boundary Closure Report

COURSE: N88°40'43"E LENGTH: 1327.42'
COURSE: S00°34'04"E LENGTH: 1321.95'
COURSE: S88°38'02"W LENGTH: 1324.50'
COURSE: N00°41'43"W LENGTH: 1322.85'

PERIMETER: 5296.83' AREA: 1,753,383 SQ. FT.
ERROR CLOSURE: 0.01 COURSE: N82°46'47"W
ERROR NORTH: 0.001 EAST: -0.010

PRECISION 1: 529682.00

Site Data

1. THE EXISTING PROPERTY IS ZONED FA-A FARMING AND IS NOT PROPOSED TO BE CHANGED
2. ACREAGE OF TOTAL DEVELOPMENT: 40.25 ACRES
3. ACREAGE OF DEVELOPABLE LAND: 40.01 ACRES
4. TYPE & # OF LOTS: 2 RESIDENTIAL LOTS & 1 RESIDUAL LOT
   LOT 1 = 8.29 ACRES
   LOT 2 = 8.91 ACRES
   RESIDUAL LOT = 22.25 ACRES
5. DENSITY: 1 DWELLING UNITS PER 13.42 ACRES
6. THERE ARE NO NON-RESIDENTIAL USES ON SUBJECT PROPERTY.
7. EXISTING AND PROPOSED WATER SUPPLY: LITTLE THOMPSON WATER
8. SEWAGE DISPOSAL: INDIVIDUAL SANITARY SEPTIC SYSTEM
9. IRRIGATION WATER: THERE IS NO IRRIGATION WATER EXISTING OR PROPOSED.

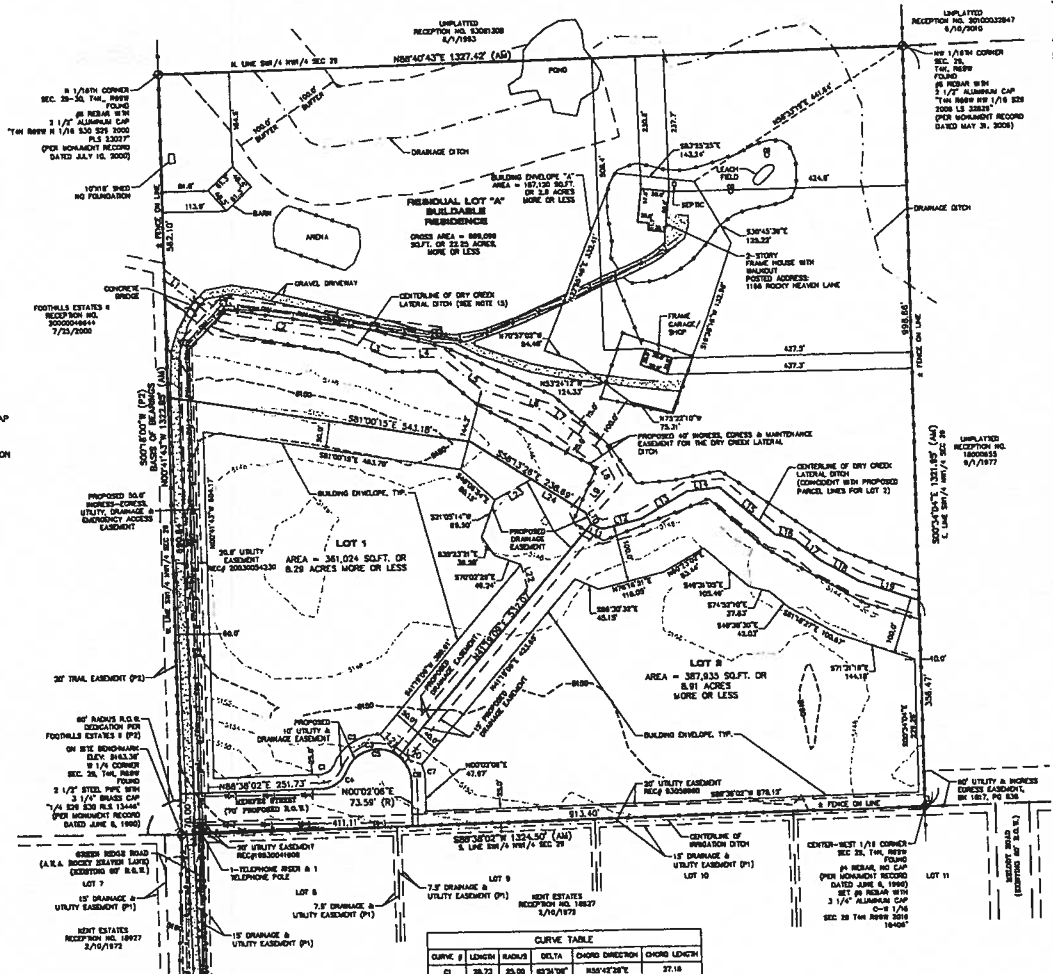
Legend

- FOUND ALIQUOT MONUMENT AS DESCRIBED
- SET 30" #5 REBAR WITH 3 1/4" ALUMINUM CAP "FLATIRONS SURVEYING LS 16406"
- (AM) AS MEASURED AT TIME OF SURVEY
- (P1) AS PER THE PLAT OF KENT ESTATES RECEPTION RECEPTION NO. 18927
- (P2) AS PER THE PLAT OF FOOTHILL ESTATES II RECEPTION NO. 200000496444
- GRAVEL
- FENCE
- WATER LINE
- CLEANOUT
- ELECTRIC LINE
- OVERHEAD UTILITY LINE
- UTILITY POLE
- TELEPHONE LINE
- TELEPHONE RISER
- GAS LINE
- WATER LINE
- WATER LINE PROPOSED
- ELECTRICAL LINE PROPOSED

PARCEL LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	121.85	S53°46'28"E
L2	216.30	S81°11'25"E
L3	82.08	S68°15'40"E
L4	63.35	S89°32'05"E
L5	90.77	S30°34'28"E
L6	124.47	S70°57'02"E
L7	110.24	S53°14'12"E
L8	58.04	S26°08'32"E
L9	78.58	S42°17'14"W
L10	22.88	S25°31'32"E
L11	15.83	S88°30'32"E
L12	70.42	N76°18'51"E
L13	94.22	N60°23'02"E
L14	56.48	N84°38'48"E
L15	127.19	S48°31'05"E
L16	37.38	S74°32'10"E
L17	84.19	S46°36'38"E
L18	81.46	S81°18'27"E
L19	111.14	S71°31'18"E
L20	43.17	S70°47'08"E
L21	58.48	N40°41'13"W
L22	41.88	S15°22'32"E
L23	74.18	N82°03'44"E
L24	112.38	S58°13'28"E

GRAPHIC SCALE

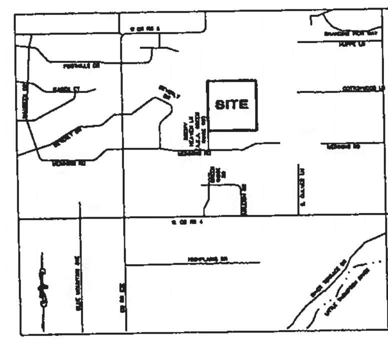
(IN FEET)
1 inch = 100 ft.
CONTOUR INTERVAL = 2'



CURVE TABLE					
CURVE #	LENGTH	RADIUS	DELTA	CHORD DIRECTION	CHORD LENGTH
C1	28.73	25.00	65°34'08"	N55°42'28"E	27.18
C2	104.84	85.00	70°39'38"	N38°02'32"E	98.15
C3	111.32	80.00	106°18'16"	S75°36'03"W	96.03
C4	57.47	50.00	65°34'08"	N55°42'28"E	54.36
C5	164.71	60.00	157°17'38"	N78°34'27"W	117.65
C6	53.38	60.00	50°58'08"	N23°25'18"W	51.65
C7	33.30	85.00	22°26'38"	N11°26'17"W	33.08

Notes

1. GUARDIAN TITLE AGENCY, LLC, COMMITMENT NUMBER 7615-38521, DATED NOVEMBER 17, 2015 AT 7:00 A.M., WAS ENTIRELY RELIED UPON FOR RECORDED INFORMATION REGARDING RIGHTS-OF-WAY, EASEMENTS AND ENCUMBRANCES IN THE PREPARATION OF THIS SURVEY. THE PROPERTY SHOWN AND DESCRIBED HEREON IS A PORTION OF THE PROPERTY DESCRIBED IN SAID TITLE COMMITMENT.
2. ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS PRELIMINARY PLAT WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
3. THIS PRELIMINARY PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF BILL PRESCOTT, ELLYN PRESCOTT AND GUARDIAN TITLE AGENCY, LLC, NAMED IN THE STATEMENT HEREON. SAID STATEMENT DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS STATEMENT BY THE SURVEYOR NAMING SAID PERSON.
4. THIS SURVEY IS VALID ONLY IF PRINT HAS SEAL AND SIGNATURE OF SURVEYOR.
5. BASIS OF BEARINGS: GPS DERIVED BEARINGS BASED ON A BEARING OF NORTH 00°41'43" WEST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29, BETWEEN A FOUND 2 1/2" STEEL PIPE WITH 3 1/4" BRASS CAP, "1/4 S29 S30 RLS 13446" AT THE WEST QUARTER CORNER OF SECTION 29 AND A FOUND #5 REBAR WITH 2 1/2" ALUMINUM CAP "T4N R69W N 1/16 S30 S29 2000 PLS 23027" AT THE N 1/16TH CORNER OF SECTIONS 29-30 AS SHOWN HEREON. COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NORTH AMERICAN DATUM 1983 (NAD83). ALL BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
6. SOURCE INFORMATION FROM PLANS AND MARKINGS HAVE BEEN COMBINED WITH OBSERVED EVIDENCE OF UTILITIES TO DEVELOP A VIEW OF THOSE UNDERGROUND UTILITIES. HOWEVER LACKING EXCAVATION, THE EXACT LOCATION OF UNDERGROUND FEATURES CANNOT BE ACCURATELY, COMPLETELY AND RELIABLY DEPICTED. WHERE ADDITIONAL OR MORE DETAILED INFORMATION IS REQUIRED, THE CLIENT IS ADVISED THAT EXCAVATION MAY BE NECESSARY. NO EXCAVATIONS WERE MADE DURING THE PROGRESS OF THIS SURVEY TO LOCATE BURIED UTILITIES AND STRUCTURES. ALL UNDERGROUND UTILITIES MUST BE FIELD LOCATED BY THE APPROPRIATE AGENCY OR UTILITY COMPANY PRIOR TO ANY EXCAVATION, PURSUANT TO C.R.S. SEC. 9-1.5-103.
7. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT AND/OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE C.R.S. SEC 18-4-508. WHOEVER WILLFULLY DESTROYS, DEFACES, CHANGES, OR REMOVES TO ANOTHER PLACE ANY SECTION CORNER, QUARTER-SECTION CORNER, OR MEANDER POST, ON ANY GOVERNMENT LINE OF SURVEY, OR WILLFULLY CUTS DOWN ANY WITNESS TREE OR ANY TREE BLAZED TO MARK THE LINE OF A GOVERNMENT SURVEY, OR WILLFULLY DEFACES, CHANGES, OR REMOVES ANY MONUMENT OR BENCH MARK OF ANY GOVERNMENT SURVEY, SHALL BE FINED UNDER THIS TITLE OR IMPRISONED NOT MORE THAN SIX MONTHS, OR BOTH. 18 U.S.C. § 1858.
8. THE DISTANCE MEASUREMENTS SHOWN HEREON ARE U.S. SURVEY FOOT.
9. THE CONTOURS REPRESENTED HEREON WERE INTERPOLATED BY AUTOCAD CIVIL 3D (DIGITAL TERRAIN MODELING) SOFTWARE BETWEEN ACTUAL MEASURED SPOT ELEVATIONS. DEPENDING ON THE DISTANCE FROM A MEASURED SPOT ELEVATION AND LOCAL VARIATIONS IN TOPOGRAPHY, THE CONTOUR SHOWN MAY NOT BE AN EXACT REPRESENTATION OF THE SITE TOPOGRAPHY. THE PURPOSE OF THIS TOPOGRAPHIC MAP IS FOR SITE EVALUATION AND TO SHOW SURFACE DRAINAGE FEATURES. ADDITIONAL TOPOGRAPHIC OBSERVATIONS MAY BE NECESSARY IN SPECIFIC AREAS OF DESIGN. TOPOGRAPHIC INFORMATION IS ONLY SHOWN ON A PORTION OF THE SITE.
10. BENCHMARK INFORMATION: A GPS DERIVED ELEVATION WAS ESTABLISHED AT AN ONSITE BENCHMARK AT THE SOUTHWEST CORNER OF SUBJECT PROPERTY, BEING THE WEST QUARTER CORNER OF SECTION 29, BEING A FOUND 2 1/2" STEEL PIPE WITH 3 1/4" BRASS CAP WITH AN ELEVATION OF 5163.38 FEET. A CHECK SHOT, 0.2'±, WAS TAKEN ON NGS POINT # 410, BEING A STAINLESS STEEL ROD LOCATED NEAR THE INTERSECTION OF STATE HIGHWAY 287 AND SE-18, LOCATED 2.5 MILES FROM SITE (SEE NGS DATA SHEET FOR MORE INFORMATION), WITH A PUBLISHED ELEVATION OF 5088.18 FEET (NAVD88). NO DIFFERENTIAL LEVELING WAS PERFORMED TO ESTABLISH THIS ELEVATION.
11. FLOOD INFORMATION: THE SUBJECT PROPERTY IS LOCATED IN ZONE X UNSHADED, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, ACCORDING TO THE FEMA FLOOD INSURANCE RATE MAP; COMMUNITY-PANEL NO. 08069C-1375 G, DATED FEBRUARY 6, 2013. THE MAP DOES NOT DIFFERENTIATE BETWEEN ZONE X UNSHADED AND ZONE D. FLOOD INFORMATION IS SUBJECT TO CHANGE.
12. DATES OF FIELD WORK: NOVEMBER 11, 2015.
13. THE WORD "CERTIFY" AS SHOWN AND USED HEREON MEANS AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THE FACTS OF THIS SURVEY AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EXPRESSED OR IMPLIED.
14. THE TOTAL AREA OF THE SUBJECT PROPERTY IS 1,753,383 SQ. FT. OR 40.25 ACRES, MORE OR LESS. AREA AS SHOWN HEREON IS A RESULTANT FACTOR, NOT A DETERMINATIVE FACTOR, AND MAY CHANGE SIGNIFICANTLY WITH MINOR VARIATIONS IN FIELD MEASUREMENTS OR THE SOFTWARE USED TO PERFORM THE CALCULATIONS. FOR THIS REASON, THE AREA IS SHOWN AS A "MORE OR LESS" FIGURE, AND IS NOT TO BE RELIED UPON AS AN ACCURATE FACTOR FOR REAL ESTATE SALES PURPOSES.
15. THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE COMMITMENT AND CONTAINS THE TITLE COMMITMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.
    #4 ANY LOSS OR DAMAGE RESULTING FROM RIGHT-OF-WAY OR EASEMENTS FOR DRY CREEK LATERAL DITCH, THE HANDY DITCH AND THE SWECK LATERAL DITCH INCLUDING ANY LOSS OR DAMAGE RESULTING FROM THE MAINTENANCE OF SAID DITCHES. THE EXACT LOCATION IS NOT DISCLOSED BY THE PUBLIC RECORD. (THERE ARE NO KNOWN EXISTING WRITTEN EASEMENTS ACROSS SUBJECT PARCEL FOR SAID DITCHES)



Vicinity Map
NOT TO SCALE

Owner/Applicant
ELLYN AND BILL PRESCOTT
1168 ROCKY HEAVEN LANE
BERTHOUD, CO 80513
970-532-4199

REVISION	DATE

PRELIMINARY PLAT
PREPARED FOR
ELLYN AND BILL PRESCOTT

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Flatirons, Inc.
Surveying, Engineering & Geomatics
www.FlatironsInc.com
655 FOURTH AVE LONGMONT, CO 80501 PH: (303) 776-1733 FAX: (303) 776-4355
3825 IRIS AVE, STE 395 BOULDER, CO 80301 PH: (303) 443-7001 FAX: (303) 443-9830
3660 DOWNING ST UNIT E DENVER, CO 80205 PH: (303) 936-6997

JOB NUMBER: 15-68,794
DATE: 12/30/2015
DRAWN BY: E. PRESCOTT
CHECKED BY: JK/KE/JZG

SHEET 1 OF 1

LARIMER COUNTY
COMMITTED TO EXCELLENCE

Karin Madson <madsonkc@co.larimer.co.us>

Peakview Estates - PH submittal comments

ellynandbill@aol.com <ellynandbill@aol.com>
To: kmadson@larimer.org

Wed, Feb 10, 2016 at 6:38 PM

Karin,

I am going to try and respond to your letter, although I still may need to speak with you on the phone. Following is my response and questions to your comments.

Attached are the referral comments received on your application. Some will require you to address them others have no action required. Please refer to the comments for details.

After going through the referral response comments, it appears that there are 2 issues I need to address at this point. I need to rename the road per addressing and I need to contact the Division of Water Resources and let them know that we will be buying shares of water from someone to meet our water requirements. Please let me know if there is anything else I should be addressing at this time.
In addition, I have reviewed your application materials and have the following comments:

1. IRRIGATION FACILITIES: Project description indicated that there are no irrigation facilities present. The ditches shown on the plat will be required to be shown in an irrigation ditch easement. The minimum requirements for that ditch easement (unless there is historically something different) are noted in Land Use Code (LUC) section 8.8.4.D. These requirements will need to be reflected on the preliminary plat. The project description should also identify all ditches. We don't have any comments from the Ditch Co, so you may want to contact them directly to assure their needs have been met.

We have left a message for the Dry Creek Ditch company to contact us if they have any questions about our plat. We have not heard back from them. I currently have the Dry Creek Ditch shown on the plat. Do you want me to lable it as "irrigation Ditch Easement"? I have looked at the section you quoted and will make sure it meets those requirements.
You say "ditches" on the plat. On the north end of the plat is the Sweck Lateral. To my knowledge this is not an irrigation ditch. It is a drainage ditch that will carry water on and off depending on the weather. Are you asking that I put this in an "irrigation ditch easement"? I have revised the description to include the Sweck Lateral. The revised description is attached.

2. LAND DEDICATION: The project states that there are no proposed land dedications. The general rule is that public roads are required. If private roads are proposed an appeal will be required. Please refer to LUC section 8.14.1.M. and section 9.7.

I am confused at how to handle this. I have looked at the sections referenced and I do understand that I can do a private road and not dedicate the road if I am not providing connectivity. We do not have a preference whether we dedicate the road or not, we would just like to not provide connectivity to the east. Can you please be a little more specific and tell me exactly what I need to do to resolve this comment. Is this something that can be as a condition of preliminary plat approval depending on whether or not our ask for a waiver is approved or not? It would help me if you could specifically tell me what I need to do. I think you understand what we would like to do.

3. USE PLAN: In the section "building envelope" there is a reference to agricultural activities, including a horse boarding facility. If a horse boarding facility were to be established it would need to be located within the building envelope (including arena & any areas used for a boarding facility). We would consider a proposed use as "development", which must be included in the developed area calculation. Please refer to LUC section 5.3.6.B.b. A stable that is use for the benefit of the residents would be allowed, but not a public boarding facility. Please adjust these statements accordingly.

I have revised the USE PLAN. It is attached.

4. USE PLAN: in the section "Buildings and Structures outside of a building envelope" there is a limitation of 5% coverage of the lot. You should include this limitation in this section. Also please note any arena would be required to be for "private use" only.

I have revised the USE PLAN. It is attached.

5. LIGHTING: One of your neighbors commented (on the phone) that they are concerned with lighting. You may want to consider the recommendations in LUC section 8.15.6. for inclusion in the proposal and the covenants. This item is routinely brought up at the PC hearing.

I have reviewed the section. We are considering not doing a Homeowners Association since there are only 3 lots involved and doing a maintenance agreement for the roads. Can I add a note to the plat that references 8.15.6-A?

6. EASEMENT & UTILITY STANDARDS: Please review LUC section 8.14.4 to ensure the development meets these easement and utility standards.

I have reviewed the standards and will make revisions as necessary.

Additionally, although I will not be able to attend, there is a Staff field trip this Thursday, Feb. 11. They will likely be visiting your property again. Are they able to drive into the property?

As I said on my message today. Yes, they can come onto the property. There is a keypad with a gate. They will need to contact my husband when they arrive to let them in. Just to warn you it is muddy out here. Also, if they could give him a 2 hour window of when they will be here, he will make sure he is here.

Hopefully the items that need to be addressed can be done fairly quickly. As I mentioned on the phone the next available Planning Commission hearing is in April. We would need to be fairly certain those items (including referral comments) can be addressed prior to the hearing. The decision to schedule will be made internally on March 1st. When the hearing date is set you will need to do the Mineral Interest Notification 30 days prior to the hearing.

I don't see a problem with getting these issues resolved this week. I think the main one that I am confused about is your comment #2.

Thanks
Ellyn
[Quoted text hidden]

---

2 attachments

14-S3231_project_desc-2016-02-09.pdf
25K

USE PLAN FOR RESIDUAL LOT A OF PEAK VIEW ESTATES 2016-02-009.pdf
9K

USE PLAN FOR RESIDUAL LOT A OF PEAK VIEW ESTATES CONSERVATION DEVELOPMENT

SITUATE IN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO

This report will outline the allowed uses for Residual Lot A, Peak View Estates Conservation Development (Property). The Property shall be held in private ownership to be owned and maintained by the owners, their heirs, successors and assigns. The residual land (located outside the approved Building Envelope) is to remain with the uses as described below. Access to and use of Residual Lot A will not be made available to other residents of the development. This Use Plan does not restrict the rights of a mineral, gas or oil owner or lessee from extracting said mineral, gas or oil deposits.

NUMBER OF ANIMAL UNITS

Animal numbers shall be limited to allowable animal units per the FA-Farming Zoning District. The Property shall be managed in a husband like manner.

BUILDING ENVELOPE

The Property contains an approved Building Envelope. Any future construction of structures not relating to those activities which promote any agricultural activity, including but not limited to a private horse boarding for the benefit of the residents, farming activity, raising of livestock, must be located within the building envelope.

BUILDINGS AND STRUCTURES OUTSIDE OF A BUILDING ENVELOPE

Accessory structures and improvements necessary for agricultural or equestrian uses are allowed outside of the Building Envelope. Those structures and improvements include barns, animal shelters, arenas (for private use) and other similar improvements. There is a limitation of 5% coverage of the lot for buildings and structures outside of a building envelope.

EROSION, DUST AND SURFACE WATER POLLUTION

The Property Owner will be responsible for maintaining the property as a healthy environment for both humans and animals. At no time shall the lots be susceptible to any sort of erosion, including but not limited to, erosion by wind and water. The Property Owner will be required to vegetate the lot using the specified seed mix as outlined in the Declaration of Protective covenants for Peak View Estates Conservation Development to prevent any kind of erosion.

IRRIGATION

Irrigation water is not available to the Property. The Dry Creek Lateral Ditch exists on the site. At no time shall disruption of existing irrigation courses and patterns and use and operation of said irrigation facilities cease to exist.

William B. and Ellyn Prescott
1166 Rocky Heaven Lane
Berthoud, CO 80513
Telephone No. 303-443-7001 Ext. 680

February 23, 2016

Randolph W. Starr
210 East 29th Street
Loveland, CO 80538

Re: File Number 14-3231 Peak View Estates

Dear Mr. Starr:

We have received your letter and agreement of February 12th, 2016. We assume you have seen the preliminary plat of Peak View estate. In response to your letter we have the following comments referencing your paragraph numbers.

Letter

2-5. There is an existing fence placed there by the ditch company.

3. There is an existing crossing concrete bridge over the ditch and no further crossings are anticipated.

4. There are approximately 10 cottonwood trees. We have no objection to the company removing these trees in the event they impede the water flow.

Agreement

Concerning your proposed agreement, references made to your paragraph numbers.

5. We will obtain a good and sufficient drainage plan.

5.03-5.04. While we agree that drainage plans should not be changed we object to a blanket easement that is not defined. There will be no change in existing irrigation or drainage patterns. We do not know of any underground drains or ditch laterals.

6A. We would ask that you insert the statement after trees "which impede water flow."

6C. At the end of the sentence that ends with overflowing the ditch to insert "unless caused by ditch company negligence."

6F. Insert, after requirements of the ditch company, "except existing crossing."

7.01. The prevailing parties to the litigation should receive their attorney's fees.

8.01. We are not willing to waive future claims of any kind; we are willing to waive known claims.

8.04(3). After agreement insert, "unless caused by Ditch company's negligence or its breach of this agreement."

Enclosed is a draft of your proposed agreement with our revisions.

Please call if you have any questions.

Ellyn J. Prescott

Ellyn J. Prescott

William B. Prescott

cc: Karin Madson, Larimer County Planner w/ Enclosures

Directors:
Bill Szmyd, President
Bob Acker
Larry Brandt
Peter Bridgman
Paul Bukowski
Kathy Gallivan-Crist
Ed Martens

Little Thompson Water District

District Manager:
James C Hibbard
835 E Highway 56
Berthoud, CO 80513

P 970.532.2096
F 970.532-3734
www.LTWD.org

January 8, 2016

Bill Prescott
1166 Rocky Heaven LN.
Berthoud, CO 80513

Dear Mr. Prescott:

This letter is in response to your request for a water service commitment for up to 2 additional residential lots, in the location described as follows:

PORTIONS OF SEC. 29, T4N, R69W -- LARIMER COUNTY, CO
At Rocky Heaven Ln. and Meinning road

The District provides water service within its service area as defined by the District. The provision of water service by extension of existing water lines of the District to the above property and the installation of taps for lots is done under the terms of the Rules and Regulations of the District established by the Board of the District from time to time. You may obtain a copy of the Rules and Regulations from the District. This letter outlines the provisions of the Rules and Regulations, however this letter does not change any provisions of the Rules and Regulations. The Board of the District may alter and amend the Rules and Regulations at any time, and the provisions of this letter are subject to alteration and amendment based on changes in the Rules and Regulations of the District.

We currently have a 6" diameter water line located along Meinning road with additional capacity available Therefore, we can commit to provide service to the above property, subject to the limitations in this letter, and the following additional limitations on the provision of water service are:

1. All improvements to District facilities required to provide service will be the financial responsibility of the developer in accordance with the District Rules and Regulations.

2. You will need to install a minimum 6" diameter waterline from Meinning road to the location of the required fire hydrant on Rocky Heaven Ln. to provide service to the proposed development. The two new water meter pit would be installed at this location. You may also relocate your existing tap to this new line.

3. **Little Thompson Water District does not currently accept cash in lieu payments for water rights for developments**. You will be required to provide water rights to meet the projected needs of the proposed development. LTWD requires .7 acre-ft of FIRM yield water for each standard residential 5/8" x ¾ " tap. This would be the equivalent of 1.4 shares of CBT water per tap. Several native ditch system water shares can also be utilized to meet these needs. You would need to provide historical usage information to evaluate the ditch shares for dedication for this project. You will also be responsible for some water share fees and a dry up covenant for the dedicated shares.

4. There is a $2,000 per hydrant fee that needs to be paid prior to installation of the fire hydrant. You will be responsible for any improvements or upgrades needed to meet the required fire flows in your subdivision.

5. Prior to initiating water service, you will need to provide evidence that the property is included in the Municipal Sub District of the Northern Colorado Water Conservancy District. You can find information on having your property included at the offices of the Northern Colorado Water Conservancy District.

6. The design, installation and total cost of the project will be the responsibility of the developer.

This commitment letter will expire two years from the date of this letter. The current fee for the domestic 5/8" X 3/4" tap is $30,700. **YOU ARE HEREBY ADVISED THAT THE RULES, REGULATIONS AND TARIFFS OF THE DISTRICT ARE SUBJECT TO CHANGE WITHOUT NOTICE; AND THIS LETTER IS ISSUED WITH THE SPECIFIC LIMITATION THAT THE DISTRICT MAY CHANGE THE RULES, REGULATIONS AND TARIFFS APPLICABLE TO THE ABOVE PROPERTY AT ANY TIME WITHOUT NOTICE TO YOU OR ANY PERSON.**

If you have questions, please contact me.

Regards,

Michael T. Cook PE
District Engineer

Neighborhood Comments for Peak View Estates Subdivision
Owner/Applicant: William & Ellyn Prescott

Peak View Estates is a 40.25 Acre tract that is located north of Kent Estates on Rocky Heaven Lane which is off of Meinning Road. Foothills Estates lies to the west and unplatted parcels lie to the east and north.

The Applicant originally requested 5 lots ranging from 3.47 acres to 4.04 acres with a residual lot of 20.02 acres. Because of all the neighbors' concerns, the applicant is now proposing 2 lots with one residual lot. There were numerous letters received during the sketch plan review and there was also a neighborhood meeting held on January 4, 2016.

Following are the comments from the letters received during the sketch plan review. Most of the letters had the same concerns.

Comment: Lot sizes are not in accordance with the rest of the neighborhood. Most lots are 5 acre lots, where the proposed lots are much smaller.

Response: The applicant has reduced the number of additional lots to 2. One 8.29 acre lot and one 8.91 acre lot.

Comment: Does the owner plan to eventually develop the 20 acre parcel?

Response: No

Comment: Both Kent Estates and Arleigh Acres are opposed to any connectivity of roads between neighborhoods. The minimal traffic is a big appeal to living in this area.

Response: We are only proposing 2 lots, so providing connectivity is not an issue between the 2 neighborhoods. We are also not providing connectivity to the east, so that will not be an issue in the future.

Comments: Does the owner realize that the vast majority of homeowners in this area have lived here for 20+ years and like the freedom and privacy of the country? Most development along the front range is happening on the east end near i-25, not in the foothills.

Response: We have reduced the number of lots to 2 and are not providing connectivity to the east.

Comment: maximizes density and sprawl near our neighborhood in Kent Estates. Peak View lots will be much smaller.

Response: We have reduced the number of lots to 2 and are not providing connectivity to the east.

Comment: Traffic will increase noticeably. Tear up the road with the additional traffic. The road is used by walkers and horseback riders because it is quiet, relatively traffic free.

Response: We have reduced the number of lots to 2 and are not providing connectivity to the east.

Comment: Access to the north makes more sense.

Response: We do not have access to the north.

Comment: I am against the connection of Meinning Road to Green Ridge Road. There were several letters from the neighbors who live in Arleigh Acres who expressed this concern.

Response: We have reduced the number of lots to 2 and do not need to provide connectivity to the south.

Comment: our property has an irrigation ditch that runs along the north side of our acreage. The proposal indicates that a new road will immediately abut the ditch on the north side. As it is now, Rocky Heaven Lane is frequently flooded during our all-too-brief irrigation season where the road crosses the irrigation ditch. This would have to be corrected in order to ensure that we continue to receive irrigation water reliably. Thereto, how will the County/developer ensure that the new "all weather road isn't washed out or into the irrigation ditch?

Response: The road is being designed by an engineer to meet Larimer County requirements.

Comment: While locating the lots on the high ground at the south end of the subject property presumable protects the developer's view, it would adversely impact ours, particularly as the homes would be in a direct line of sight from our patio. To our mind, a better solution would be to locate the new road down slope and adjacent to the dry Creek Ditch, where the houses wouldn't be as visible from properties in Kent Estates.

Response: We are only proposing 2 lots now. The dry creek lateral ditch is requiring a 100' setback from the ditch. This would create an unusable space between the ditch and the new road. This would also create much more impervious surface. It is in consistent to the Conservation Plan objectives to have the 2 lots located on the south 1/2 of the property and the residual lot north of the ditch.

Comment: The proposed access road is stated as being gravel. Unless this is treated and maintained on a regular schedule or paved, the homeowners to the east of the development will be subject to air born dust from predominately west winds. This could exacerbate existing breathing problems.

Response: We only proposing 2 lots now and will follow Larimer County recommendations and regulations.

Comments: The Peak View Estates would be the first subdivision to not have access from a major thoroughfare: ie: 23E, 6W or 4W. This would be a precedent for future subdivisions to cut through existing subdivisions in order to provide access. Is this consistent with the county's vision of future growth:

Response: I believe this is done all the time.

Comment: Several neighbors from Arleigh Acres have commented that they do not want Green Ridge Road extended through to Meinning Road.

Response: This is no longer an issue since we have reduced the number of additional lots to 2.

Comment: Subdivision plan shows favoritism towards the Presoctt parcel permitting the Prescott family to live in an isolated section of their parcel without consideration for ROW possibilities along the western edge of their parcel to the north.

Response: The whole point of the Conservation easement is to leave a parcel for either open space or for one resident. The applicant does not have access to the west or the north. In addition, the Sedgewick lateral converges to the north of the parcel and is a fairly wet and boggy area which would be hard to cross, even if there was access.

Comment: Any new developments should include a fire hydrant.

Response: A fire hydrant will be provided at Menifee and Rocky Heaven Lane.

Comment: Kent Estates is made up of semi self-sustaining and country lifestyle valuing residents. It contains a variety of market livestock, poultry, horses, hay production, irrigation, large gardens, small orchards, bees and all that accompanies these agriculture practices. The owners in Kent Estates will be negatively impacted by this development.

Response: We are only doing 2 extra lots which are almost double the size of the lots in Kent Estates.

Comments: It appears that there is only on access to the proposed Peak View Estates. There should be two entrances and/or exits.

Response: We have only added 2 additional lots. The homeowners who attended the Neighborhood meeting fully support our proposal and support our waiver for connectivity. They will be writing letters to support this. They would like to see our revised proposal be approved.

The majority of the letters were concerned about the size of the lots and the additional traffic associated with the additional lots and the connectivity from Green Ridge Road to Meinning Road. The applicant revised the plan considerably to take into account their concerns as they were told by the county that they needed to address their issues. A neighborhood meeting was held with the new plan and it was approved by the neighbors attending the meeting. In addition, they are supporting us to not provide connectivity to the east.

The neighborhood meeting was held at the Berthoud Library located at 236 Welch Avenue in Berthoud, Colorado. The meeting began at 6:00 and finished at 7:30. There were 19 people in attendance. Bill Prescott was the Meeting Facilitator, Ellyn Prescott was the note taker, Karin Madson was at the meeting to represent the county and answer questions the applicant could not answer.
Following are questions from the meeting:

Comment: Can you put the road to go north and along the dry creek lateral ending at a cul-de-sac, instead of going along the south property line?

Response: No, we need to provide a 100' buffer from the ditch and it makes more sense to build a shorter road and reduce the impervious surface.

Comment: Concerns about irrigation water and what size culvert will be put in and will it impede the ditch. Why weren't standards followed when the original driveway was put in.

Response: The road will be brought up to county standards and will follow county requirements. We did not put the road in. There are different standards for driveways and roads.

Comment: Is there any guarantee that someone can subdivide the 9.0 acre lots?
What is the minimum size lot? Maybe we should fight them now before someone decides to subdivide the 9 acres parcel.

Response: No there is no guarantee, they need to go through the platting process to plat it. (there was further discussion about the process someone would have to go through to plat the process. The person who had the questions was not convinced that someone would not plat the property again, the rest of the people seemed to think that they would fight that battle when and if it ever happened.)

Comment: Why do you need a 50' wide drainage easement?

Response: It is 15' wide.

Comment: Are you having to run new water?

Response: Yes

Comment: Will they have irrigation?
Response: no

Comment: Who will maintain Meinning if it gets beat up because of the construction?

Response: It is a county maintained road.

Comment: Can someone put up a trailer?

Response: No we will not allow a trailer.

Comment: How far off our ditch can you build?

Response: 25'

Comment: What direction are the utilities coming from, where is the fire hydrant going to be?

Response: They are in the road. We don't know at this time where the hydrant will go, it is up to the fire department.

Comment: Who maintains Rocky Heaven? Will there be dust suppressant?

Response: The homeowners for Peak View Estates, probably not dust suppressant - not enough traffic.

Comment from the applicant: We are asking for a waiver to not provide connectivity to the east. If you are in support of this write a letter.

Response: Yes, we will write a letter.

Comment: Can you have a feed lot?

Response: It depends on what the zoning allows, unless the applicant does not allow it.

Comment: Will you set up covenants?

Response: Yes. We will set up a limit on livestock.

Comment: Will you have street lights?

Response: No

Comment: Are they going to have irrigation rights?

Response: No.

Comment: Are there any concerns about the neighbors facing into the back yards of the lots to the south?

Response: No.

LARIMER COUNTY
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DEPARTMENT OF HEALTH AND ENVIRONMENT

1525 Blue Spruce Drive
Fort Collins, Colorado 80524-2004
General Health (970) 498-6700
Environmental Health (970) 498-6775
Fax (970) 498-6772

RECEIVED
FEB 8 2016

To: Karin Madson
Larimer County Planning Department

From: Doug Ryan Doug Ryan

Date: February 4, 2016

Subject: Peak View Estates CD – Preliminary Plat

The Peak View Estates CD is a proposal to divide 40.2 acres into two residential lots of 8+ acres each and one residual lot with a residential building envelope.

Sewer. The Land Use Code contains standards for sewer service that distinguish between public sewer and on-site alternatives. Section 8.1.1.B.2.c. specifies that new developments may use on-site sewer systems only when it is not feasible to connect to public sewer. This property is within the Town of Berthoud planned sewer service area as designated in the North Front Range Water Quality Planning Association's *Areawide Water Quality Management Plan 2013 Update*. The closest Town sewer line is more than two miles to the east. Unless the Town indicates otherwise, I believe it is reasonable to conclude that public sewer is not currently feasible at this location.

Sewer service for each lot will be by individual on-site septic systems. A preliminary indication of the suitability for new systems can be obtained from a review of soil mapping provided through the Natural Resources Conservation Service. The map I prepared from their website is attached. The soil survey shows several different soils on the property. The soils south of the ditch in the area of the new lots are the Kim loam and Nunn clay loam. The main issue with these soils can be slower percolation rates. The Nunn series is classified as very limited for conventional septic systems and the Kim series as somewhat limited.

To address these mapped conditions, the applicant provided a preliminary geotechnical report prepared by Earth Engineering Consultants, LLC and dated December 23, 2015. That report includes soil profile and percolation tests on Lots 1 and 2. The results show moderate to slow percolation and shallow sandstone bedrock on Lot 1. Groundwater was not observed to the depths explored. The report indicates that engineered designed sewer systems may be necessary given the range of conditions encountered.

The other important feature is the Dry Creek Lateral ditch. Irrigation ditches are a concern because they tend to raise groundwater levels during the irrigation season, and because they may be subject to contamination by adjacent septic systems. The regulations we administer for on-site septic systems require a 100' setback between the absorption field and ditch. The preliminary plat anticipates this and our assessment is that adequate area is available to maintain those setbacks.

Given the conditions noted above, it would be my view that the design of the preliminary plat to include two large lots with adequate space and options for site development is an appropriate way to respond to those conditions in terms of planning for future septic systems.

Water. Water is to be supplied by the Little Thompson Water District. In a letter dated January 8, 2016, the District committed to provide standard residential service to the two new lots subject to the terms of the Rules and Regulations of the District. Our office has reviewed those Rules and Regulations, and determined that they offer an equivalent level of service to the standards outlined in Section 8.1.2.A.1 of the Larimer County Land Use Code relating to domestic water service. The letter satisfies our concern regarding this issue.

Dust Control for Unpaved Roads. Meining Road and Rocky Heaven Lane, providing access for this property, are gravel or dirt surface. The Colorado Air Quality Control Commission's regulations concerning particulate (dust) emissions require the owner or operator responsible for maintenance of any unpaved roadway which has vehicle traffic exceeding 200 vehicles per day to use all available, practical methods which are technologically feasible and economically reasonable in order to minimize particulate emissions resulting from the use of the roadway. Control measures to be employed may include but are not necessarily limited to, chemical stabilization, paving, speed restrictions and other methods approved by the Air Pollution Control Division. The Adequate Public Facilities standard for roads in Section 8.1.5 of the Land Use Code relate back to these State requirements for dust control. As a practical matter, the type of control that is most feasible depends on the amount of traffic and on other maintenance factors. As with other cases, the County Engineering Department will make a final determination on the category of dust treatment that is most appropriate.

Mosquito Control. This project will utilize a stormwater detention/water quality pond in the northeast part of Lot 1. Mosquitoes will try and utilize the pond as a breeding site. Controlling mosquitoes is an important practice to prevent spread of the West Nile Virus. Limiting the design water quality detention time to less than 72 hours generally prevents mosquito eggs from maturing to the adult stage. Additionally, regular maintenance of ponds and outlet structures is necessary in order to keep them functioning properly.

Rural Area Issues. The area surrounding this proposal is rural in nature and future occupants should be aware of some unique issues that may be encountered. Examples include lack of mosquito control, potential conflicts with wildlife, and adjacent agricultural operations. I recommend that disclosure affidavits be prepared to inform potential owners about these types of issues.

Horse Pasture Management. The zoning for this area allows for horses and other livestock. If livestock are to be kept, the owners should be aware that it has been our experience that lots of this size must be managed very carefully in order to maintain grass cover in the pasture. Overgrazing produces lots with bare ground and scattered weeds. Erosion and polluted runoff results from such a situation, and affect the lot owner, neighbors and the environment. The Larimer County Cooperative Extension Service has extensive information about pasture management. I recommend that lot owners contact that office if they intend to keep livestock.

Thank you for the opportunity to comment on this proposal. I can be reached at 498-6777 if there are questions about any of these issues.

Enclosure: NRCS Web Soil Survey Map

cc: William and Ellyn Prescott

Septic Tank Absorption Fields—Larimer County Area, Colorado
(Peak View Estates CD)

Map Scale: 1:3,130 if printed on A portrait (8.5" x 11") sheet.

N

Meters: 0 45 90 180 270

Feet: 0 150 300 600 900

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 13N WGS84

LARIMER COUNTY
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ENGINEERING DEPARTMENT

Post Office Box 1190
Fort Collins, Colorado 80522-1190

(970) 498-5700
FAX (970) 498-7986

MEMORANDUM

TO: Karin Madson, Larimer County Planning Department

FROM: Clint Jones, Larimer County Engineering Department CJ

DATE: February 3, 2016

SUBJECT: Peak View Estates CD- Sketch Plan

Project Description/Background:
This is a Preliminary Plat Review for a conservation development consisting of 2 residential lots and one residual lot with a residential building envelope. The site is located east of Beverly Drive and North of Meining Road.

Review Criteria:
The intent of the Preliminary Plat submittal is to justify the feasibility of the proposal. Larimer County Engineering Department development review staff members have reviewed the materials that were submitted to our office under these guidelines and per the criteria found in the Larimer County Land Use Code (LCLUC), Larimer County Rural Area Road Standards (LCRARS), Larimer County Stormwater Design Standards (LCSDS) and pertinent Intergovernmental Agreements.

Transportation/Access Issues:
1. The applicant is appealing Section 8.14.1.R of the LCLUC, which states all land divisions must be designed to permit the continuation of streets, roads, trails, pedestrian access, utilities and drainage facilities into adjacent property. The Larimer County Engineering Department does not support this appeal.
2. This office requests that a Homeowners' Association be responsible for the maintenance of the internal streets, since Larimer County no longer accepts new or additional subdivision roads for maintenance.
3. The applicant should contact the Berthoud Fire Authority to ensure that the building and internal street layout is adequate for their purposes.

Drainage/Floodplain/Erosion Control Issues:
1. Per Senate Bill 15-212, effective August 15, 2015 all new stormwater detention and infiltration facilities are required to provide notification to all parties on the substitute water supply plan email list maintained by the State Engineer. The notice must include the location of the facility, surface area at design volume, and data that demonstrates that the facility complies with the required release rates. This information must be entered using the required data sheet and maps found on the State Compliance Portal at https://maperture.digitaldataservices.com/gvh/?viewer=cswdif. A copy of the data sheet also needs to be included in the final drainage report. For additional information regarding

this requirement you can read the applicable links at www.UDFCD.org or contact the County review engineer.

2. The boundaries of this project include or are adjacent to an irrigation ditch. Therefore, the Ditch Company will need the opportunity to review and comment on this proposal as it relates to their easements, setbacks, access, and site drainage.

Fees and Permits:

1. Per Section 9.5 and 9.6 of the LCLUC, Engineering Staff would like to notify the applicant that Transportation Capital Expansion Fees will be required at the time of building permit issuance in accordance with duly enacted transportation capital expansion fee regulations then in effect. If the applicant would like to have an estimate computed, please contact the Review Engineer.
2. A Development Construction Permit (DCP) will be required for construction of the site improvements. All necessary DCP fees and associated conditions (Section 12.5 of the LCLUC) will apply. The DCP Fee is collected at the time of DCP issuance in accordance with duly enacted DCP fee regulations then in effect. According to current regulations, Staff estimates the Development Construction Permit fee for this development to be $300 (at $150 per lot x 2 lots). Upon recordation of the final plat, the applicant will need to contact the Larimer County Engineering Department for additional requirements associated with this permit.
3. Any access construction on Rocky Haven Lane, or work in the County right-of-way, will require an Access or Right-of-Way Construction Permit from this office.

Staff Recommendation:

The Larimer County Engineering Department would support an approval of this application. The applicant should be aware that more detailed plans and reports will be required at Final Plat.

Please feel free to contact me at (970) 498-5727or e-mail me at cdjones@larimer.org if you have any questions. Thank you.

cc: Ellyn/William Prescott, 1166 Rocky Heaven Lane, Berthoud CO 80513
file

LARIMER COUNTY
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Karin Madson <madsonkc@co.larimer.co.us>

Peak View Est 14-S3231

Rob Helmick <helmicrp@co.larimer.co.us> Mon, Jan 25, 2016 at 3:15 PM
To: "Madson, Karin" <kmadson@larimer.org>

Karin,

I have reviewed the information for this project and do not have any comments beyond those provided at sketch plan.

–
Robert Helmick, AICP
Larimer County Community Development Division
Development Planning
PO Box 1190
Fort Collins CO 80524
rhelmick@larimer.org
970-498-7682

COMMUNITY DEVELOPMENT DIVISION

P.O. Box 1190
Fort Collins, CO 80522-1190
Planning (970) 498-7683 Planning Fax (970) 498-7711
Building (970) 498-7700 Building Fax (970) 498-7667
http://www. larimer.org/building

ADDRESSING REVIEW COMMENTS

PROJECT NAME: PEAK VIEW ESTATES CD

CASE NUMBER: 14-S3231

DATE: 01/26/2016

Project Scope: A CONSERVATION DEVELOPMENT (CD) CONSIDTING OF 2 RESIDUAL LOTS (APPROXIMATELY 8-9 ACRES EACH) AND ONE RESIDUAL LOT OF 22.25 ACRES WITH AN EXISTING RESIDENCE AND OUTBUILDINGS . THE REQUEST ALSO INCLUDES AN APPEAL TO SECTION 8.14.2.S OF THE LARIMER COUNTY LAND USE CODE REGARDING CONNECTIVITY.

Staff Comments on Addressing: MENIFEE HAS BEEN APPROVED AS A VIABLE ROAD NAME. STREET (ST) IS NOT ACCEPTABLE. COURT (CT) WOULD BE MORE APPROPRIATE FOR THIS ROAD. ANY FURTHER PLATS SHOUD HAVE MENIFEE CT FOR THE ROAD NAME. LOT 1 WILL BE SITE ADDRESSED 4040 AND LOT 2 WILL BE SITE ADDRESSED 4000 MENIFEEE CT, BERTHOUD, CO 80513. RESIDUAL LOT A WILL RETAIN ITS EXISTING ADDRESS.

Addressing submittal requirements: MENIFEE CT WILL BE THE ROAD NAME.

Sent to: KARIN MADSON-PLANNER II, WILLIAM/ELLYN PRESCOTT-OWNER/APPLICANTS

Respectfully submitted,

DAN KUNIS
GEOGRAPHIC INFORMATION SPECIALIST
LARIMER COUNTY COMMUNITY DEVELOPMENT DIVISION
970-498-7680
dkunis@larimer.org

LARIMER COUNTY
COMMITTED TO EXCELLENCE

Karin Madson <madsonkc@co.larimer.co.us>

Case # 14-S3231

Jim Frick <frickj@co.larimer.co.us> Wed, Jan 27, 2016 at 11:29 AM
To: Karin Madson <kmadson@larimer.org>

Karin,

Road & Bridge has no problems with this proposal.

Thanks,

Jim

–
Jim Frick
Non-Paved Roads Group Manager
Road and Bridge Department
2643 Midpoint Drive, Suite C
P.O. Box 1190
Fort Collins, CO 80522-1190
970-498-5663
970-498-5678 Fax

Berthoud Fire Protection District

Date: 1/25/2016
Larimer County Community Development Division
Karen Madson, Planner II
Bill Prescott
P.O. Box 1190
Fort Collins Colorado, 80522-1190

Re: Peak View Estate CD 14-S3231 Comments

Dear Karin:

Please disregard my last comments for the Peak View Estates CD dated 12/31/2015. I made an assumption that the existing home, barn, arena and garage shop were proposed new structures.

I spoke with Mr. Prescott and we determined that only one fire hydrant is required at the intersection of Rocky Heaven Lane and Menifee Street to meet fire flow requirements for new buildings.

Note:

An alternative to water lines and fire hydrants is installation of an approved NFPA 13D residential sprinkler in the residence(s).

In the event that sprinkler systems are required, approved contractors must do the work. Plans shall be submitted to the Fire District for review.

If you have any questions, please direct them to me at your earliest opportunity.

Respectfully,

P. Michael Bruner
Fire Marshal

CC: William B & Ellyn J Prescott
CC: File

PO Box 570, 275 Mountain Ave, Berthoud CO 80513
(970)532-2264 Phone, (970)532-4744 Fax, www.berthoudfire.org

Berthoud Fire Protection District

Date: 12/31/2015
Larimer County Community Development Division
Karen Madson, Planner II
Bill Prescott
P.O. Box 1190
Fort Collins Colorado, 80522-1190

Re: Peak View Estate CD 14-S3231 Re-Review

Dear Karin:

I have reviewed a plot plan recently given to me by the Prescotts. After meeting with Little Thompson Water Department and visiting the site, I have come the conclusion that driveway length and configuration limits Fire Department Access and the ability to deliver water (Fire Flow) to the proposed structures and property. My first review of this preliminary plat was on 6/3/2014.

New requirements:

Install a water line of at least six inches in diameter with two fire hydrants installed at the following locations:

The south east corner of Rocky Heaven Lane (AKA Green Ridge Road) and Menifee Street (proposed name) and at the northern most curve of Rocky Haven Lane on the south side the road if possible.

Note:

An alternative to water lines and fire hydrants is installation of an approved NFPA 13D residential sprinkler in the residence(s).

In the event that sprinkler systems are required, approved contractors must do the work. Plans shall be submitted to the Fire District for review.

Addressing/Street Names

Street names shall meet specifications set forth in the Larimer County Rules of Streets (see http://www.larimer.org/streets/rules.htm A street name already in use in Larimer Country cannot be duplicated. All proposed street names shall be approved by the Berthoud Fire Protection District and Larimer Emergency Telephone Authority (LETA). Proposed names shall be submitted to BFPD and LETA for review and approval.

If you have any questions, please direct them to me at your earliest opportunity.

Respectfully,

P. Michael Bruner
Fire Marshal

CC: William B & Ellyn J Prescott
CC: File

PO Box 570, 275 Mountain Ave, Berthoud CO 80513
(970)532-2264 Phone, (970)532-4744 Fax, www.berthoudfire.org

LARIMER COUNTY
COMMITTED TO EXCELLENCE

Karin Madson <madsonkc@co.larimer.co.us>

Peak View Estates CD

Stephanie Brothers <sbrothers@berthoud.org> Fri, Jan 29, 2016 at 2:20 PM
To: "kmadson@larimer.org" <kmadson@larimer.org>

Hello Karin

The Town has no nearby utilities or ROW that this plan will affect, therefore we have no comments.

Thanks for the referral

Stephanie Brothers, P.E.

Public Works Director

Town of Berthoud

328 Massachusetts Avenue

Berthoud, CO 80513

970-532-2643

LARIMER COUNTY
COMMITTED TO EXCELLENCE

Karin Madson <madsonkc@co.larimer.co.us>

Peak View Estates CD ~ Comments of The Dry Creek Lateral Ditch Company

Randy Starr <randy@starrwestbrook.com> Fri, Feb 12, 2016 at 9:18 AM
To: "Karin Madson (kmadson@larimer.org)" <kmadson@larimer.org>

Karin:

Word came to one of the Board members of Dry Creek Lateral about this proposed subdivision. I had not received any referral materials about the subdivision request. I was asked to submit comments about the subdivision proposal without having the normal documents you send out to me.

There may be additional comments if those materials are provided. Thanks. If you have any questions please let me know.

Randy

Randolph W. Starr

Starr & Westbrook, P.C.

210 East 29th Street

Loveland, CO 80538

Voice 970-667-1029

Fax 970-669-3841

Email: Randy@starrwestbrook.com

This transmission contains information from the law firm of Starr & Westbrook, P.C. that is confidential or privileged. The information is intended to be for the use of the person named on this transmission. If you are not the intended recipient, any disclosure, copying, distribution or use of the contents of this electronic information is prohibited. If you have received this transmission in error please notify us by telephone and you should immediately delete this transmission. The following notice is required by IRS Cir 230: To the extent the preceding correspondence and / or any attachment is a written tax advice communication, it is not a full "covered opinion." Accordingly, this advice cannot be used for the purpose of avoiding penalties that may be imposed by the IRS.

Letter Planning~Dry Creek Lateral Ditch Company~Peak View Estates~Prescott 021216 and Contract.pdf
171K

STARR & WESTBROOK, P.C.
ATTORNEYS AT LAW
210 EAST 29TH STREET
LOVELAND, COLORADO 80538
TELEPHONE 970-667-1029
FACSIMILE 970-669-3841

RANDOLPH W. STARR **E-Mail Randy@starrwestbrook.com**
MICHAEL A. WESTBROOK **E-mail Mike@starrwestbrook.com**

Friday, February 12, 2016

Larimer County Planning Division
Post Office Box 1190
Fort Collins, CO 80522-1190

REGULAR MAIL AND FACSIMILE 970-498-7711

Attention: Karin Madson

Re: File Number 14-S3231 - Peak View Estates Conservation Development - Preliminary Plat
Comments of The Dry Creek Lateral Ditch Company

By email only: kmadson@larimer.org

Dear Karin:

No referral of this new subdivision has been received by The Dry Creek Lateral Ditch Company. Any referrals from the County should be sent to me. The following are the comments of The Dry Creek Lateral Ditch Company (the Company) with respect to the above subdivision proposal.

1. The Company requests that the agency require that an agreement be entered into among the Company and all of the property owners (and all lienholders) setting forth the provisions that are discussed in this letter. ***The execution and recording of this agreement should be a condition of approval of this development by the County. A blank form of the agreement is enclosed with this letter.***

2. The Company has an easement for its ditch system across the property that is included within the development. Although the Company has not had its ditch system surveyed in this area, the Company has identified an easement width as 70 feet, being 35 feet on each side of the center line. Additional easement will be required, if necessary, to obtain a 25 foot strip on each side of the ditch (from the edge of the ditch for driving access and maintenance). The plat should be amended to show the Company's easement correctly. Additional easement area is necessary for structures such as lateral ditches used to irrigate the subdivision property and other property in the area, checks, headgates and access easements. The plat must also show the location of any lateral ditches. The plat should be corrected to show the actual location of the lateral ditches, and an easement width should be shown for each lateral.

3. The Subdivision apparently shows one existing road crossing over the ditch of the Company. If any change is made in the existing road crossing or any new crossing would be necessary, whether for roads, utilities, or other facilities, the Company would require that no

crossing of its ditches will be allowed without the prior written approval of the Company.

4. The Company has the authority to cut and remove trees within its right of way and the Company wants the applicant to acknowledge that the Company will, at an appropriate time, remove any and all such trees on the applicant's property. The Company wants the applicant to acknowledge that the applicant and its successor owners may not plant or otherwise landscape the ditch right of way. The Company also has the authority to install and maintain a road along each ditch bank for its purposes. **A note should be inserted on the plat of the Subdivision regarding these issues.**

5. The applicant must not place any fence within the right of way, and particularly across the right of way; and the applicant should agree not to install any gates or fences near the ditch company right of way without the prior written approval of the Company. Any fences approved by the Company along the ditch easement must be fireproof and stock-proof to prevent damage by cleaning of the ditch by burning and by humans and livestock and other sources to the ditch. There will not be permitted any livestock watering in the ditch. A chain link type fence should be constructed along the boundary of the Company's easement if a fence is to be constructed. **A note should be inserted on the plat of the Subdivision regarding these issues.**

6. The Company would identify to the applicant and the County that there may be subsurface waters that arise in the area of this development and that there are periods of time when, due to water flowing within the ditch system and otherwise, that portions of the property receive significant amounts of subsurface water that is very near to the surface, or resides on the surface. Due to this problem, the utility of certain portions of the property for construction of structures could potentially be unavailable. The Company has no plans to alter its operations as it would cure this surface and subsurface water issue. **A note should be inserted on the plat of the Subdivision regarding these issues.**

7. The Company wants the applicant to agree that all earth moving and landscaping shall be accomplished so that all return flow and waste water from irrigation will return to the historic point of discharge. The applicant should acknowledge that historic irrigation and drainage patterns should be maintained on the property so that there are no changes in the operation of the Company's facilities. A drainage plan should be required to be prepared by a competent engineer to analyze and report on any change in drainage patterns caused by the development of the property. The Company should be provided a copy of that plan and the Company should have the opportunity to review and comment on the plan. All drainage facilities constructed by the developer should be operated, maintained, repaired and replaced by the appropriate governmental entity.

8. The applicant should be required to maintain the existing irrigation and drainage patterns so that the quality of water entering the ditch from irrigation and from precipitation and other sources be maintained, and so that there is no change in point or type of drainage into the ditches that will occur. The applicant should be required to monitor and identify any pollutants or other hazardous materials that enter the ditch and should agree to stop any such deposit in the ditch system. **A note should be inserted on the plat of the Subdivision regarding these issues.**

9. The applicant should be required to agree to join a drainage district for this area in the

event of formation of such a district.

10. The applicant may own stock in the Company, and may also own water through the Northern Colorado Water Conservancy District, or otherwise. Since the ownership of the property will be divided by the subdivision, and since the Company's bylaws prohibit division of its stock ownership, the Company wants the applicant to inform the Company of the applicant's plan for administration of irrigation water. The Company suggests that a subdivision owners association be required to be formed for the ownership and administration of the irrigation water rights within the Subdivision.

11. The Applicant should acknowledge that: 1) No livestock watering, swimming, tubing, canoeing or other use of the ditch or water in the ditch is allowed; 2) No dumping of refuse, including but not limited to household garbage, waste materials, grass clippings, tree and shrub prunings, motor oil, chemicals, pesticides or herbicides is allowed; 3) No pumps for lawn or other irrigation are allowed in the ditch; 4) No use of the ditch easement for hiking, biking, horseback, motorcycle, off road vehicles or other motorized or non-motorized vehicle shall be allowed. **A note should be inserted on the plat of the Subdivision regarding these issues.**

If further information is needed concerning these comments then you should contact me.

Sincerely,

Randolph W. Starr

Enc.-Agreement
pc:
client

Owner and Owners' Address
William B. Prescott
Ellyn J. Prescott
1166 Rocky Heaven Lane
Berthoud, CO 80513

Engineer and Engineer's Address
None shown
Surveyor:
Flatirons, Inc.
655 4th Avenue
Longmont, Colorado 80501

AGREEMENT

This Agreement (the "Agreement"), is between **THE DRY CREEK LATERAL DITCH COMPANY**, a Colorado mutual irrigation company ("Ditch Company") and **William B. Prescott and Ellyn J. Prescott**, 1166 Rocky Heaven Lane, Berthoud, CO 80513 ("Landowner"), and is upon the following terms:

1. Subdivision and Ownership. Landowner is the owner of all of the property known as the Peak View Estates Conservation Development, a copy of which is attached hereto as Exhibit A (the "Subdivision"). Landowner represents and warrants that Landowner is, on the date of execution of this Agreement, the sole owner of the Subdivision. Landowner may have lien(s) against the Subdivision, and Landowner will obtain the written consent and acceptance of all lienholders by signature on this Agreement prior to its recording. Failure to obtain such written consent and acceptance from all such lienholders shall cause Landowner to be in default under this Agreement.

2. Background and Purpose. Landowner desires to obtain approval of the Ditch Company for certain matters required by the Larimer County, Colorado, Board of County Commissioners relating to the conditional approval of the Subdivision. The Ditch Company's interests will be benefited by the granting of its approval through the terms and conditions of this Agreement. Therefore, the parties acknowledge that valuable consideration exists for this Agreement among the parties. Landowner shall promptly reimburse or pay directly all of the Ditch Company's engineering and legal expenses incurred in the negotiation, administration and effectuation of this Agreement. Landowner agrees to pay all of the other fees and expenses provided for in this Agreement.

3. Ownership and Administration of Ditch Company Stock. Landowner does not own assessable shares of the Ditch Company and the subdivision has not historically been irrigated. Landowner agrees that the subdivision has abandoned any right of use in the ditch.

4. Ownership of Ditch Company Property Rights. The Ditch Company has an easement and right-of-way for its ditch, and appurtenant facilities described on the plat attached hereto. Landowner recognizes and confirms said ownership of the Ditch Company. Landowner agrees to execute a an easement in the form of Exhibit B attached hereto to have the Landowner confirm and convey the property rights of the Ditch Company. The easement shall be recorded at the expense of the Landowner along with this Agreement. Landowner grants and confirms to the Ditch Company an exclusive easement for the Ditch Company's irrigation ditch and appurtenant facilities as shown on the recorded survey plat of the Ditch Company's system together with rights of ingress and egress for Ditch Company purposes over and across the Subdivision. The width of the ditch easement is seventy feet, being thirty-five feet on each side of the centerline, and additional easement will be required, if necessary, to obtain a minimum of a 25 foot strip on the top of the bank on each side of the ditch.

5. Drainage.

5.01 There shall be no change made in the point, flow rate, volume, amount or type of drainage into the Ditch, except as provided in this Agreement. A Preliminary Drainage Report shall

be prepared by _____, which report shall be presented to the County and the Ditch Company. The Ditch Company shall be entitled to review the Preliminary Drainage Report during the time that the appropriate governmental agency is reviewing such report. The Landowner will incorporate the changes to the report and the Drainage Plan suggested by the Ditch Company's engineer. A Final Drainage Report shall then be prepared containing all of the required changes. The Ditch Company shall have a reasonable time (not less than 45 days) to review such Final Drainage Report and present objections to such report and to the design, installation or construction of any facilities that alter the historic drainage pattern. If Landowner fails or refuses to modify the Final Drainage Report to meet the objections of the Ditch Company, then the County shall make the final determination regarding the modifications of the drainage plan. The County shall be jointly and severally legally responsible for such drainage and drainage plan.

5.02 Landowner, nor their respective successors or assigns, shall cause, suffer or permit any hazardous material, pollutant or other foreign material to be deposited or discharged from or through the Subdivision into the Ditch or the water carried within the Ditch. Any person, including Landowner, having knowledge of such deposit or discharge shall immediately notify the appropriate governmental agencies and Ditch Company of any potential or actual such deposit or discharge by any person.

5.03 Landowner agrees that an easement exists for the historical waste water return ditches and Landowner agrees to regularly maintain, clean and repair the ditches on at least an annual basis prior to the irrigation season, and Landowner agrees to install a concrete pipe culvert of sufficient size based on the Ditch Company engineer's standards for lateral ditch crossings of roads or other surface uses that could affect the operation of the Ditch Company's ditch.

5.04 Landowner agrees that there may have existed for many years underground drain lines and lateral or field ditches carrying water across the properties. Landowner agrees that an easement exists for the underground drain lines and lateral or field ditches and they agree to regularly maintain and repair the lines and ditches on an "as needed" basis prior to the irrigation season.

5.05 In the event there is proposed or formed a drainage district under federal, state or local law or requirement, Landowner agrees to include all of the Subdivision property with the boundaries of such district.

6. Plat or Covenant Notes. The following notes shall be inserted by the Landowner onto the Subdivision Plat or into the perpetual covenants that run with the title to the Subdivision:

A. The Ditch Company has an easement for its ditch and has the authority to cut and remove trees within its right of way and it is acknowledged by the owners of the property in the Subdivision that the Ditch Company will, at an appropriate time, remove any and all such trees on the property. The owners of the property in the Subdivision acknowledge that the property owners and successor owners may not plant or otherwise landscape the ditch right of way. The Ditch Company also has the authority to install and maintain a road along each ditch bank for its purposes.

B. The property owners may not place any fence within the ditch right of way, and particularly across the right of way; and the property owners shall not to install any gates or fences on the ditch company right of way without the prior written approval of the Ditch Company. Any fences approved by the Ditch Company along the ditch easement must be fire proof and stock-proof to prevent damage by ditch cleaning by burning, humans and livestock and other sources to the ditch. There will not be permitted any livestock watering in the ditch. There will not be permitted any pumps in the ditch. Cattle guards instead of gates should be utilized instead of gates.

C. The property owners acknowledge and understand that there may be subsurface waters that arise in the area of this development and that there are periods of time when, due to water flowing within the ditch system and otherwise, that portions of the property receive significant amounts of subsurface water that is very near to the surface, or resides on the surface. Due to this problem, the utility of certain portions of the property for construction of structures could potentially be unavailable. The Ditch Company has no plans to alter its operations as it would cure this surface and subsurface water issue. Ditches may overflow and flood adjoining property and improvements. Property owners shall be solely responsible for all water that overflows the ditch and the Ditch Company shall not be liable for damage caused to any property or improvements due to water overflowing the ditch.

D. The property owners shall maintain the irrigation and drainage patterns existing on the date of recording of the plat so that the quality of water entering the ditch from irrigation and from precipitation and other sources is maintained, and so that there is no change in rate, amount, point or type of drainage into the ditches that will occur. The property owners shall monitor and identify any pollutants or other hazardous materials that enter the ditch and should agree to stop any such deposit in the ditch system.

E. The property owners acknowledge that: 1) No livestock watering, swimming, tubing, canoeing or other use of the ditch or water in the ditch is allowed; 2) No dumping of refuse, including but not limited to household garbage, waste materials, grass clippings, tree and shrub prunings, motor oil, chemicals, pesticides or herbicides is allowed; 3) No pumps for lawn or other irrigation are allowed in the ditch; 4) No use of the ditch easement for hiking, biking, horseback, motorcycle, off road vehicles or other motorized or non-motorized vehicle shall be allowed.

F. No crossings of the ditch are permitted without the prior written consent of the Ditch Company and compliance with the rules, regulations and requirements of the Ditch Company.

7. Miscellaneous

7.01 Attorney Fees, Law and Venue. In any action brought by the Ditch Company to enforce the provisions hereof, whether legal or equitable, and/or in any action involving Ditch Company and Landowner or any successor of Landowner whether to enforce the provisions of this Agreement or otherwise, the Ditch Company shall be entitled to reasonable attorneys' fees as fixed by the court. This Agreement shall be construed under the law of the State of Colorado. Venue for all actions shall be in the District Court of the county where the Subdivision is located.

7.02 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

7.03 Successors and Assigns. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the successors and assigns of Landowner and the Ditch Company, and each of them. Landowner's obligations hereunder shall terminate (and the successor(s) to Landowner shall arise) on the date that Landowner conveys all of Landowner's interest in the Subdivision to transferee(s). Whenever a transfer of ownership of a lot or tract takes place to a bona fide purchaser for value, liability of the transferor for breach of this Agreement thereafter terminates, and the grantor shall be liable only for breach(s) of this Agreement arising prior to the date of conveyance. This paragraph shall apply to any property dedicated to or conveyed to a governmental entity or any other person or entity by Landowner as a public improvement or utility. All amounts due by Landowner to the Ditch Company or to its stockholders, or otherwise

under the Agreement shall be assessed against the Subdivision under the terms of the covenants applicable to the Community; and the lien for such assessment against the Subdivision shall inure to the benefit of the Ditch Company and its stockholders for any amount due under the terms of the Agreement or otherwise. Such lien may be foreclosed against the Subdivision, or any portion thereof, by the Ditch Company or its stockholders, as provided in the covenants applicable to the Subdivision. The provisions hereof shall constitute covenants running with the land, burdening and benefiting each and every part of the properties and every interest therein. In addition, the provisions hereof shall be enforceable in equity as equitable servitudes upon the land and as covenants in an agreement between owners. This Agreement affects the property and title of the Subdivision, and this Agreement shall be recorded at the expense of Landowner, and after recording, the terms, conditions and covenants of this Agreement shall become a covenant running with the land of the Subdivision. This Agreement shall constitute a benefit and burden on the Subdivision and this Agreement shall be enforceable by the Ditch Company or any of its shareholders, or both the Ditch Company and any of its shareholders.

7.04 Construction, Waiver, Gender, Time of Essence. The provisions hereof shall be liberally construed to effectuate their purpose of creating a uniform plan for the development and operation of the Subdivision. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof. Whenever used in this Agreement, the singular shall include the plural, the plural the singular, and the use of any gender shall include all genders. Time is of the essence of this Agreement.

8. Liability and Indemnification.

8.01 Landowner, and Landowner's successors and assigns, hereby specifically waive and release all known or unknown Claims, damages, rights of indemnity, rights of contribution or other rights of any kind or nature for claims, damages, actions, judgments or executions that have arisen or may arise out of the maintenance, operation or use of the Ditch Company's ditch and easement, including, but not limited to: flooding due to overflow or breach of the Ditch Company's ditch; washing or erosion of the ditch bank; cleaning of the ditch and easement by any means including but not limited to burning or chemical means; and excavation of the ditch and storage of residue.

8.02 As used in this Agreement, the term "Claims" means (1) losses, liabilities, and expenses of any sort, including attorneys' fees; (2) fines and penalties; (3) environmental costs, including, but not limited to, investigation, removal, remedial, and restoration costs, and consultant and other fees and expenses; and (4) any and all other costs or expenses.

8.03 As used in this Agreement, the term "Injury" means (1) death, personal injury, or property damage; (2) loss of profits or other economic injury; (3) disease or actual or threatened health effect; and (4) any consequential or other damages.

8.04 Landowner covenants and agrees to at all times protect, indemnify, hold harmless, and defend the Ditch Company, its directors, officers, stockholders, agents, employees, successors, assigns, parents, subsidiaries, and affiliates from and against any and all Claims arising from, alleged to arise from, or related to any Injury allegedly or actually occurring, imposed as a result of, arising from, or related to (1) this Agreement; (2) the construction, existence, maintenance, operation, repair, inspection, removal, replacement, or relocation of the Facilities on or adjacent to the Easement; or (3) Landowner's or any other person's presence at the Subdivision as a result of or related to this Agreement.

8.05 Landowner's duty to protect, indemnify, hold harmless, and defend hereunder shall

apply to any and all Claims and Injury, including, but not limited to:

(1) Claims asserted by any person or entity, including, but not limited to, employees of Landowner or their contractors, subcontractors, or their employees;

(2) Claims arising from, or alleged to be arising in any way from, the existence at or near the Subdivision of water or ditches or other associated facilities; or

(3) Claims arising from, or alleged to be arising in any way from, the acts or omissions of Landowner, their sublessees, invitees, agents, members, or employees.

8.06 Landowner shall maintain adequate liability insurance with standard waiver of subrogation endorsement to insure the risks undertaken as a part of this Agreement in an amount not less than one million dollars or such other amount set from time to time by the Ditch Company naming the Ditch Company and the other indemnified parties as additional insureds. A certificate of such insurance shall produced by the Landowner upon request by the Ditch Company.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this _____ day of _____, 20_____.

THE DRY CREEK LATERAL DITCH COMPANY, a Colorado mutual irrigation company

By:_____
President—Peggy Malchow Sass

_____
Secretary—Stephen V. Gardner

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing was acknowledged before me this ___ day of _____, 20_, by Peggy Malchow Sass, as President, and Stephen V. Gardner, as Secretary of The Dry Creek Lateral Ditch Company, a Colorado mutual irrigation company.

Witness my hand and official seal.

_____
Notary Public

My commission expires: _____

_____

Landowner—William B. Prescott

_____

Landowner—Ellyn J. Prescott

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing was acknowledged before me this ___ day of _____, 20_, by William B. Prescott, and Ellyn J. Prescott, as Landowner.

Witness my hand and official seal.

_____

Notary Public

My commission expires: _____

ACCEPTED AND APPROVED:

LIENHOLDER:

_____

_____

By:_____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing was acknowledged before me this ___ day of _____, 2_, by _____, as _____, as Lienholder.

Witness my hand and official seal.

_____
Notary Public

My commission expires: _____

EXHIBIT "A"

COPY OF SUBDIVISION PLAT

(insert)

EXHIBIT "B"

EASEMENT AND RIGHT OF WAY AGREEMENT

This Easement and Right of Way Agreement, made and entered into by and between **William B. Prescott and Ellyn J. Prescott, 1166 Rocky Heaven Lane, Berthoud, CO 80513**, hereinafter called "**Grantor**" (whether grammatically singular or plural), and **The Dry Creek Lateral Ditch Company**, c/o Peggy Malchow Sass, President, 1329 U.S. Highway 287, Berthoud, Colorado 80513, hereinafter called the "**Ditch Company**."

1. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor hereby grants, sells, conveys and transfers to the Ditch Company, its successors and assigns, the sole, exclusive and permanent right to enter, re-enter, occupy and use the hereinafter described property to construct, reconstruct, inspect, upgrade, increase size or capacity, operate, repair, maintain, replace, remove and operate one or more open irrigation ditches and/or pipelines for the storage, transmission, distribution and service of irrigation water, and all above ground and underground and service appurtenances thereto, including metering stations, vaults, enclosures, identification signs, checks, headgates, dams and other fixtures, over, across, under and upon the following described land, situate in the County of Larimer, State of Colorado, to-wit:

SW ¼ OF NW ¼ of Section 29, Township 4 North, Range 69 West of the 6th P.M. [Peak View Estates Conservation Development; Assessor's Parcel Number 94290-00-004, Schedule Number R0493589, a/k/a 1166 Rocky Heaven Road, Berthoud, CO 80513]

The easement and right of way for ditches shall be seventy feet wide, being thirty-five feet on each side of the center line, or 25 feet from the top of the bank of the ditch on each side, whichever is greater.

2. Grantor further grants to the Ditch Company:

2.01 The right to grade the easement area for the full width thereof and to extend the cuts and fills with such grading into and on the land along and outside of the easement to the extent as the Ditch Company may find reasonably necessary;

2.02 The right to support the ditches and pipelines across ravines and water courses with such structures as the Ditch Company shall deem necessary;

2.03 The right of ingress to and egress from the easement over and across all of the land of Grantor by means of roads and lanes thereon, if such exists, otherwise by such route or routes as shall occasion the least practicable damage and inconvenience to Grantor;

2.04 The right of grading for, constructing, maintaining and using such roads on and across the lands as the Ditch Company may deem necessary in the exercise of the right of ingress and egress or to provide access to property adjacent to the land;

2.05 The right to install, maintain and use gates and/or cattle guards in all fences which now cross or shall hereafter cross the easement;

2.06 The right to mark the location of the easement by suitable markers set in the ground; provided that any such markers remaining after the period of construction shall be placed in fences or other locations which will not interfere with any reasonable use Grantor shall make of the easement;

2.07 All other rights necessary and incident to the full and complete use and enjoyment of the right-of-way and easement for the purposes herein granted.

3. Grantor hereby covenants and agrees:

3.01 That Grantor shall not erect or place any permanent building, structure, improvement, fence or tree on the described easement, and the Ditch Company shall not be liable for their removal if they are so placed, and Grantor agrees, at Grantor's sole expense to so remove such items.

3.02 That Grantor shall not excavate in or near the ditch and shall not diminish the ground cover in the easement or over any water lines and shall not substantially add to the ground cover in the easement or over the water lines or their appurtenances. There will not be permitted any livestock watering in the ditch.

3.03 Grantor shall not grant any other easement, right-of-way, permit or license upon, under or over said property without the written consent of the Ditch Company.

3.04 Grantor warrants that Grantor is the owner in fee of the above-described lands and will defend the title thereto against all claims, and that said lands are free and clear of encumbrances and liens of whatsoever character, except the following:_____.

4. It is agreed by the parties:

4.01 Grantor reserves all oil, gas and other minerals in, on and under the above-described lands, and Grantor shall not grant any right in the surface or otherwise that will materially interfere with the rights and privileges herein granted to the Ditch Company.

4.02 Each and every one of the benefits and burdens of this easement and right-of-way shall inure to and be binding upon the respective personal representatives, successors, and assigns of the parties hereto.

4.03 The easement includes the right to clean by mechanical, chemical or burning the ditch system, the right to deposit earth and other materials on the easement, the right to change the location of the ditch within the easement or to place the irrigation system in an enclosed pipe.

4.04 The Ditch Company hereby expressly reserves an easement over and across the Subdivision for the benefit of Ditch Company, its designated successors, their contractors, employees, materialmen, and assigns for the purpose of conducting therein and thereon such work of maintenance, improvement, construction, utility installation, development, and other reasonable activities as the Ditch Company may deem necessary or desirable.

4.05 The Ditch Company is granted the full right and authority to cut, trim, remove, destroy, or modify any trees, shrubs, grasses, structures, fences or other items within the easement or not within the easement but may cause a hazard within the easement. Landowner, and any homeowners association, shall not plant, place or maintain any trees, shrubs, grasses, structures, fences or other items within the easement, nor shall they plant, place or maintain any trees, shrubs, grasses, structures, fences or other items in such a manner, nor shall they place or maintain fence within the easement. Gates or cattle guards shall be installed in all fences so that the Ditch Company has easy passage to its ditch and facilities. The Ditch Company shall be provided keys for all locked gates.

IN WITNESS WHEREOF the undersigned has set his hand and seal as Grantor this _____ day of _____, 20___.

GRANTOR

_____
William B. Prescott

_____
Ellyn J. Prescott

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____ _____, 20__, by William B. Prescott, and Ellyn J. Prescott, as Grantor.
Witness my hand and official seal.

_____
Notary Public

My commission expires: _____

COLORADO
Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 821
Denver, CO 80203

February 1, 2016

Karin Madson, Planner II
Larimer County Community Development Division
Transmission via email: kmadson@larimer.org

Re: Peak View Estates CD
Case No. 14-S3231
SW ¼ NW ¼ Section 29, T4N, R69W, 6th P.M.
Water Division 1, Water District 4

Dear Ms. Madson:

We have reviewed the above referenced proposal to subdivide a parcel of 40.25 acres into a total of two (2) residential lots of 8-9 acres each and a residual lot of 22.25 acres. The residual lot will contain an existing residence and outbuildings. The request also includes an appeal to a connectivity requirement to build a road to the east end of the property.

Water Supply Demand

Estimated water requirements for the subdivision were not provided.

Source of Water Supply

Water is currently provided to the existing residence by the Little Thompson Water District ("LTWD"). The proposed water source for the two new residences is also the LTWD. A letter of commitment of service for the two additional residential lots dated January 8, 2016 was provided. This office most recently received information from the District regarding their water supply in a letter dated January 10, 2013. Based on that letter, the District had a total firm yield of 4,923 acre-feet at that time, with a total projected demand of 5,423 acre-feet during the period of 2016-2020. The LTWD requires developers to dedicate water rights sufficient to supply the anticipated demands within their development. LTWD requires 0.7 acre-feet of firm yield water for each standard residential tap, which is the equivalent of 1.4 shares of Colorado-Big Thompson project water per tap. The submittal did not indicate how this requirement was proposed to be met.

State Engineer's Office Opinion

As outlined in the statutes, Section 30-28-136(1)(h)(II), C.R.S., a municipality or quasi-municipality is required to file a report with the county and the State Engineer documenting the amount of water which can be supplied to the proposed development without causing injury to existing water rights. To expedite the evaluation of the water supply for the subdivision, a water supply report or statement should include a summary of water rights owned or controlled by the District, the anticipated yields of these rights both in an average year and dry year, the present demand on the system, the anticipated demand due to commitments for service entered into by the

District, and the amount of uncommitted firm supply the District has available for the future. Attachment A on page 3 of the memorandum entitled State Engineer's Actions of Proposed Water Supplies for Land Use Actions, contains the necessary information.

Since this information was not provided, our office cannot comment on the potential for injury to existing water rights or the adequacy of the proposed water supply under the provisions of Section 30-28-136(1)(h)(II), C.R.S. Should you or the Applicants have any questions regarding this matter or would like to provide the required information for our review, please contact Sarah Brucker of this office.

Sincerely,

Tracy L. Kosloff

Tracy L. Kosloff, P.E.
Water Resource Engineer

Cc: William B. & Ellyn J. Prescott (ellynandbill@aol.com)
Subdivision file no. 23759

COLORADO GEOLOGICAL SURVEY

1801 19th Street
Golden, Colorado 80401

Karen Berry
State Geologist

February 4, 2016

Karin Madson
Community Development Division
Larimer County
P.O. Box 1190
Fort Collins, CO 80522

Location:
SW¼ NW¼ Section 29,
T4N, R69W of the 6th P.M.
40.2849, -105.1476

Subject: Peak View Estates CD
Case # 14-S3231; Larimer County, CO; CGS Unique No. LM-16-0011

Dear Ms. Madson:

Colorado Geological Survey has reviewed the Peak View Estates conservation development plan. I understand the applicant proposes to subdivide 40.25 acres located at 1166 Rocky Heaven Lane, Berthoud, creating one residual lot and two residential lots. Proposed Residual Lot A (22.25 acres) contains an existing home, septic system, garage/shop building, barn, and arena. Proposed Lot 1 (8.3 acres) and Lot 2 (8.9 acres) are undeveloped. With this referral, we received a request for CGS review and a Site Data Sheet (January 14, 2016), a Project Description (undated), a Preliminary Plat (Flatirons, Inc., December 30, 2015), a Site Inventory Map (Flatirons, December 31, 2015), a set of two Preliminary Grading, Utility & Erosion Control Plans and a Preliminary Drainage Report (Flatirons, January 5, 2016), and a Preliminary Geotechnical Exploration Report (EEC, December 23, 2015). The Project Description states that water service will be provided by Little Thompson Water District, and the two new proposed lots will have onsite wastewater systems (OWS).

Dry Creek Lateral Ditch traverses the property. The site does not contain steep slopes, is not undermined, is not located within a mapped flood hazard zone, and is not exposed to or located within any identified geologic hazard areas that would preclude the existing and proposed residential/agricultural uses and slight increase in density. **CGS therefore has no objection to approval of the CD as proposed.** Potential development constraints include:

Expansive soils and bedrock. EEC's geotechnical report contain a valid description of surface and subsurface conditions on proposed Lots 1 and 2, and makes appropriate *preliminary* recommendations regarding subgrade preparation and grading, foundation and floor slab design, subsurface drainage, and pavement design and construction. Laboratory swell-consolidation testing on samples of sandy clay and sandstone/siltstone indicate relatively low swell potentials and a low risk of poor slab performance. However, higher swelling clay and claystone layers may be present.

CGS agrees with EEC (page 2 of the summary, pages 4, 6-7, and 8 of the report) that steeply dipping bedrock may be present beneath the site. Once building locations are finalized, test pits are recommended to confirm the presence or absence of steeply dipping bedrock. The only reliably effective method of mitigating the effects of steeply dipping, differentially expansive claystones, shales, and sandstones within the footprint of individual structures is overexcavation to a depth of approximately ten feet below lowermost foundation elements, extending laterally at least 10 feet beyond planned building footprints, with water conditioning to several percent above optimum water content and recompaction or replacement with non-expansive imported material.

Onsite wastewater systems (OWS, or septic systems). EEC's percolation test results and NRCS Soil Survey data for Larimer County indicate that, due to slow percolation rates, the OWS on proposed Lots 1 and 2 may need to be designed by an engineer. Engineered OWS tend to require more maintenance and have shorter lifespans than conventional systems, so a backup absorption field location should be identified on each lot.

Thank you for the opportunity to review and comment on this project. If you have questions or require further review, please call me at (303) 384-2643, or e-mail carlson@mines.edu.

Sincerely,

Jill Carlson, C.E.G.
Engineering Geologist

LARIMER COUNTY
COMMITTED TO EXCELLENCE

COMMUNITY DEVELOPMENT DIVISION

Post Office Box 1190
Fort Collins, Colorado 80522-1190
Planning (970) 498-7683 Building (970) 498-7700
Planning Fax (970) 498-7711 Building Fax (970) 498-7667
www.larimer.org/planning

RECEIVED JAN 25 2016

RECEIVED JAN

Thursday, January 14, 2016

U.S. ARMY CORPS OF ENGINEERS
TERRY MCKEE
9307 SOUTH WADSWORTH BLVD
LITTLETON CO 80128

Enclosed is a proposal for a conservation development plan that has been submitted to the Planning Department for review. Please review and comment as applicable.

Proposal Enclosed:	PEAK VIEW ESTATES CD
Case Number:	14-S3231
Comments Due By:	Thursday, February 04, 2016

NOTE: Colorado State Statutes C.R.S. 30-28-136 state in part that failure of a referral agency to respond to this mailing within twenty-one (21) days shall, for the purpose of the hearing on the plan, be deemed by the county as an approval of the submitted plan. If additional time is needed to respond to this mailing, please advise the staff planner within the 21 days with a request for additional time and an estimated time for the response. Please note that comments received after the 21 day deadline may not be able to be incorporated into the staff recommendations.

Meeting Type:	Larimer CO Planning Commission
Meeting Location:	Larimer County Courthouse Offices, Hearing Room - 1st Floor, 200 West Oak Street, Fort Collins, Colorado.
Meeting Date:	Unscheduled
Meeting Time:	Unscheduled 6:30

Please send your comments to the planner listed below and to the applicant at the following address:

PRESCOTT WILLIAM B/ELLYN J

1166 ROCKY HEAVEN LN
BERTHOUD CO 80513
ellynandbill@aol.com

Karin Madson
Planner II
970-498-7692
kmadson@larimer.org

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
DENVER REGULATORY OFFICE, 9307 SOUTH WADSWORTH BOULEVARD
LITTLETON, COLORADO 80128-6901

RE: Section 404 of the Clean Water Act Initial Comments

To whom it concerns:

In accordance with Section 404 of the Clean Water Act, the Corps of Engineers regulates the discharge of dredged or fill material, and any excavation associated with a dredged or fill project, either temporary or permanent, into waters of the United States (WOUS). You should notify this office if the project proposed falls within these regulated activities because the project may require a Department of the Army Section 404 permit.

A WOUS may include ephemeral and/or perennial streams, wetlands, lakes, ponds, drainage ditches and irrigation ditches. A wetland delineation must be conducted, and verified by the Corps of Engineers, using the methods outlined in the *Corps of Engineers Wetlands Delineation Manual (*Environmental Laboratory 1987) and *Regional Supplement to the Corps of Engineers Wetland Delineation Manual:* (using applicable Regional Supplement) to determine wetlands based on the presence of three wetland indicators: hydrophytic vegetation, hydric soils, and wetland hydrology. Wetland delineations must be conducted in the field by a qualified environmental consultant and any aquatic resource boundaries must be identified accordingly. Once the aquatic resources have been identified, only this office can determine if they are WOUS. Please note that development of the upland areas, avoiding stream and wetland resources, does not require authorization from this office.

Nationwide Permits (NWP) authorize common types of fill activities in WOUS that will result in a minimal adverse effect to the environment. Descriptions of the 52 types of nationwide permit activities and their general conditions can be found on our website: http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Colorado.aspx. Some fill activities require notifying the Corps before starting work. Also, some types/sizes of work may require additional information or mitigation.

Regional General Permits (RGP) authorize specific types of fill activities in WOUS that will result in a minimal adverse effect to the environment. Descriptions of the 4 types of regional general permit activities and their general conditions can be found on our website: http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Colorado/RegionalGeneralPermits.aspx. These fill activities require notifying the Corps before starting work, and possibly other local or state agencies. Also, some types/sizes of work may require additional information or mitigation. Please note several of the RGP's are applicant and location specific.

Individual permits may authorize fill activities that are not covered under the NWP or Regional General Permits (RGP's). This permit will be processed through the public interest review procedures, including public notice and receipt of comments. An alternative analysis (AA) must be provided with this permit action. The AA must contain an evaluation of environmental impacts for a range of alternatives. These alternatives should include the preferred action, no action alternative, and other action alternatives that would be the identified project purpose. Other action alternatives should include other practicable (with regards to cost, logistics, and technology) that meet the overall project purpose. The alternatives could include offsite alternatives and alternative designs. When evaluating individual permit applications, the Corps can only issue a permit for the least environmentally damaging practicable alternative (LEDPA). In some cases, the LEDPA may not be the applicant's preferred action. The individual permit application form and form instructions can be found on our website: http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/ObtainaPermit.aspx.

If the activity requires a Department of the Army permit as a result of any impacts to WOUS or any earth disturbances within that resource, a federal action will occur. For the Corps to make a permit decision, the applicant must provide enough information to demonstrate compliance with Section 106 of the National Historic Preservation Act (NHPA) and Section 7 of the Endangered Species Act (ESA).

The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to WOUS to the maximum extent practicable at the project site. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal. Any loss of an aquatic site may require mitigation. Mitigation requirements will be determined during the Department of the Army permitting review.

If the information that was submitted could impact WOUS, which are jurisdictional resources, this office should be notified. If a section 404 permit is required, work in an aquatic site should be identified by the proponent of the project and be shown on a map identifying the Quarter Section, Township, Range and County, Latitude and Longitude, Decimal Degrees (example 39.55555; -104.55555) and the dimensions of work in each aquatic site.

If there are any questions, please call the Denver Regulatory Office at **303-979-4120.**

Sincerely,

Kiel Downing
Chief, Denver Regulatory Office

Enclosures:
-PCN Requirements

Pre-Construction Notification (PCN) Requirements

(Nationwide Permit General Condition No. 31
from the February 21, 2012 Federal Register)

US Army Corps of Engineers,
Omaha District, Denver Regulatory Office
9307 South Wadsworth Blvd,
Littleton, CO 80128
Phone: (303) 979-4120
Website: http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Colorado.aspx

Contents of Pre-Construction Notification:

The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

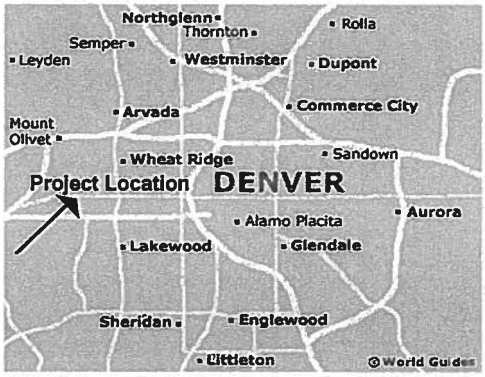
(5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

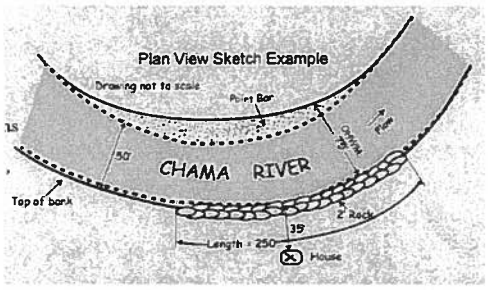
(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(8) Attach map and sketches- examples shown here.

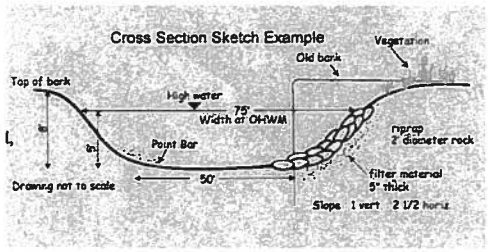
Location Map: Photocopy from road or topo map; indicate site location, any landmarks, etc.



Plan View Sketch: "Bird's-eye view"; include all features- distances, length and width; dimensions of features and stream/wetlands.



Cross Section Sketch: "Cut away view"; include heights, widths of structures, channel, wetland, bank slopes, etc.



4008 Meining Rd.

LARIMER COUNTY
COMMITTED TO EXCELLENCE

COMMUNITY DEVELOPMENT DIVISION
200 West Oak Street, Suite 3100
Post Office Box 1190
Fort Collins, Colorado 80522-1190
Planning (970) 498-7683 Building (970) 498-7700
http://www.larimer.org/planning

Neighbor Notification – Public Hearing Phase

You are receiving this letter because your property is located in the vicinity of a proposed Conservation Development. The application is in the second phase of review called the Public Hearing Phase. In this phase, public hearings are held and a final decision is made regarding the project. The project has been submitted and is being reviewed but it has not yet been scheduled for a hearing. When a hearing is scheduled, a notice will be sent informing you of the hearing date.

Your participation in the development review process is important. It will help to ensure that the proposed project receives the benefit of your comments and also assists the project applicant, Larimer County Staff, and Boards and Commissions to better understand your concerns. Therefore, we are asking neighbors to respond with comments about the application. Your comments are welcome at any time during this phase; however, all comments received prior to the public hearings will be included for consideration by the County Commissioners.

To submit comments and/or obtain additional information regarding the application, please visit the Current Development Applications section on the Planning Department website at www.larimer.org/planning/planning/current_applications.cfm or contact the planner assigned to review this project:

Name: Karin Madson
Phone: 970-498-7692
Email: kmadson@larimer.org
Mail: Larimer County Planning Department, PO Box 1190, Fort Collins, CO 80522

Summary of the Public Hearing Proposal

Application Name & File No.: PEAK VIEW ESTATES CD 14-S3231

Property Address: 1166 ROCKY HEAVEN LN BER

Property Size: 40.25

Request: A CONSERVATION DEVELOPMENT CONSISTING OF 2 RESIDENTIAL LOTS (APPROXIMATELY 8-9 ACRES EACH) AND ONE RESIDUAL LOT OF 22.25 ACRES WITH AN EXISTING RESIDENCE AND OUTBUILDINGS. THE REQUEST ALSO INCLUDES AN APPEAL TO SECTION 8.14.2.S OF THE LARIMER COUNTY LAND USE CODE REGARDING CONNECTIVITY.

Attached Documents

1. Neighbor Input Process Guide
2. Project Description (provided by applicant)
3. Vicinity Map
4. Proposed layout of project

Comments:

I Think The Connectivity NEEDS TO go Through IF There is Ever a Diaster (Fire Ect) There is only 1 WAY OUT. IT will Eventually HAve TO go Thru So MAKE The Developer pay Not the TAX payers.

My Name (Optional): My Address (Optional):

over

The materials disclosed in this notice are for informational purposes only. For more detailed information, please contact the Larimer County Planning Department at 970-498-7683 or the project planner listed above.

MR Bridgman Thinks If He Screams + yells He will get his way. Time For The County To Stand up + Enforce The Rules

LARIMER COUNTY
COMMITTED TO EXCELLENCE

Karin Madson <madsonkc@co.larimer.co.us>

Peak View Estates

jerry campbell <jcampbell@skybeam.com> Fri, Feb 12, 2016 at 9:54 AM
To: kmadson@larimer.org

This is to confirm the phone conversation of 2/11/2016. I do not ever plan to develop East of the proposed Peak View Estates. I do have concerns about the proposed road type for the development. If the surface is to be gravel only, it should maintained yearly with dust inhibitor. Failure to apply dust inhibitor would cause downwind residents breathing issues due to our predominately west winds.

Sincerely,
Jerry Campbell
3600 Cottonwood Lane

LARIMER COUNTY
COMMITTED TO EXCELLENCE

Karin Madson <madsonkc@co.larimer.co.us>

Comments from the Cottonwood Ln Road Association Meeting 2/22

1 message

Peter Reinke <pdreinke@gmail.com> Fri, Feb 26, 2016 at 1:49 PM
To: Karin Madson <kmadson@larimer.org>
Cc: Mike and Michele Freund <mmfreund2@msn.com>, Susan Reinke <susanreinke@gmail.com>

Larimer County Planning Commission and Board of County Commissioners –

I am writing to you in my capacity as Secretary of the Cottonwood Knolls Homeowners Association.

The Cottonwood Knolls Homeowners Association is made up of the nineteen property owners who live on Cottonwood Lane. The sole purpose of the Association is to set and collect annual fees and then use the money to maintain and improve our dirt road. We had our annual meeting this week, the evening of February 22, 2016. The purpose of the annual meeting is to review minutes of last year's meeting, review last year's financial statement, plan for the scope and timing of this year's maintenance schedule and discuss any issues relevant to the care, quality and enjoyment of the use of our road.

At this year's meeting, the Peak View Estates Project figured prominently in our discussions. At the end of the discussions, it was moved, seconded and passed unanimously that I communicate our recommendations to the Planning Commission and Board of County Commissioners.

We are very much opposed to any plan that results in increased traffic on our road. Increased traffic means increased noise and disturbance, increased dust, degradation of road quality, and increase in frequency and cost of maintenance. Increases in outside traffic would result in increased vehicle speed and dilution of the community feeling we all share when we meet our neighbors on the road.

We therefore are very much opposed to the county's request that the Peak View Estates project applicants construct a road on their project site to provide connectivity to the east. We feel this request would significantly increase the chances that Cottonwood Lane could be extended to connect our neighborhood to Meining Road. Connection to Meining road would open our neighborhood up to outside traffic and lead to the detrimental effects described in the preceding paragraph. We ask that the County Commissions agree with the applicant and reject the requirement regarding project site connectivity to the east.

Respectfully submitted on behalf of the attendants at the Cottonwood Road Meeting Feb. 22, 2016,

Michael Freund, President 3513 Cottonwood Ln.

Michele Freund, Treasurer 3513 Cottonwood Ln.

Peter Reinke, Secretary 3650 Cottonwood Ln. pdreinke@gmail.com 720-220-0301

Susan Reinke, 3650 Cottonwood Ln.

Don Brown, 3501 Cottonwood Ln.

Jerry and Alice Campbell, 3600 Cottonwood Ln.

Tom Cook, 3313 Cottonwood Ln.

Sylvia Cummings, 3413 Cottonwood Ln.

Barry Eklund, 3300 Cottonwood Ln.

Peter Glass, 3590 Cottonwood Ln.

Tiffany Hymel, 3100 Cottonwood Ln.

Mel Kooy, 3401 Cottonwood Ln.

Allen Meier, 3217 Cottonwood Ln.

Jerome Morris, 3200 Cottonwood Ln.

Darren and Sarah Schnedecker, 3301 Cottonwood Ln.

Dick and Rosann Stonacek, 3412 Cottonwood Ln.

Phil Stutsman, 3212 Cottonwood Ln.

LARIMER COUNTY
COMMITTED TO EXCELLENCE

Karin Madson <madsonkc@co.larimer.co.us>

Comments regarding Peak View Estates Pubic Hearing notification letter

Peter Reinke <pdreinke@gmail.com> Fri, Feb 26, 2016 at 2:08 PM
To: Karin Madson <kmadson@larimer.org>

Hello Karin –

We received the Neighbor Notification – Public Hearing Phase letter on January 22, 2016. We read the sentence, "The county has requested that we provide connectivity to the east." Then we saw the map of our property at 3650 Cottonwood Ln., showing a proposed road that would cover two of our five acres. We assumed that the county was proposing building a road down our driveway and through our property and drafted the following response.

We live at 3650 Cottonwood Lane, which is suddenly part of the Peak View Estates Conservation Development plan. We would like to explain our situation regarding the proposed development and our intense reaction to it.

We left the noisy, intrusive suburban setting of Boulder for the peace and quiet of rural Larimer County. It took a very long search to find the perfect property. We live at the end of a half-mile dirt road. The road owners association has continued to support maintaining the rural quality of neighborhood. This property was apportioned under a variance, not a subdivision, and we did not invest in being part of one, subject to development and other costs yet to be determined.

Unlike other properties along our quiet, dirt road, our home sits far back from the road, a relief from any traffic. Our dirt, double-track driveway goes 300 yards to our house, affording us the very privacy we paid for.

Yesterday, we read that the county now proposes building a road on our driveway, continuing through a new shed, through our fenced horse pastures and along the tall, Cottonwood tree-bordered ditch that we see from all the windows in our house. The area engulfed by the proposed road would destroy our best pasture south of our arena, near the ditch. It would destroy the use, if not obliterate, the arena, a major asset on our property. The driveway area in itself is a significant part of our limited pasture. The proposed access would destroy the useful scale of this small acreage for our agriculture use. It would destroy our peaceful enjoyment of our lovely home.

We have invested a significant amount of our sweat and funds to improve our home, the place we intend to stay for many, many years. It is sickening to be under the threat of the destruction of our lives by this proposed, hideous and unneeded development. We don't want to see fences, walled views to hide behind, the sound of ATVs and strangers driving through at 1 a.m., trash, questions of safety and privacy inside our home, and all the rest that comes with a public access to a very private area. We've very specifically stated in early comments about the development that we abhor lights in the night sky, and this would potentially introduce just that into this pool of dark, quiet, and safety. Our home is unusual, bermed on the north, with just a couple small windows east and west. The house is oriented toward the south, with lots of glass, thus all of our interior and exterior living is on display toward the ditch. The road would be an invasion of our home.

We are experiencing intense, negative reaction to this news, difficult to put into words. Despair, fear, and

anxiety come to mind, and we are distraught about it, so much that it will be impossible to sleep and impactful to work, much less sit taking in our primary view to the south, while contemplating this disaster in our lives. At our age, moving away will be a terrible hardship in terms of community we've just settled into, the tremendous dislocation of relocating, and the financial damage it will inflict. Our property will be degraded. If this were to go through, it will ruin us financially (our 'equestrian property' will be lost), as well as psychologically. At our age, at retirement, the thought of starting over again is completely overwhelming, all for an unnecessary access to two homes a quarter of a mile away, with perfectly adequate access from established roads to the west of the proposed development.

We wonder what we can do to further communicate our circumstance and prevent this plan.

We need to maintain the peaceful enjoyment of our property, a secluded acreage with just enough pasture, the primary value of it.

Regards,

Susan and Peter Reinke

3650 Cottonwood Ln

720-220-0301

Karin Madson <madsonkc@co.larimer.co.us>

Peak View Estates CD 14-S3231

BRIDGMAN PETER <peter.bridgman@msn.com> Wed, Apr 6, 2016 at 8:29 AM
To: "kmadson@larimer.org" <kmadson@larimer.org>

Karin
I have attached two documents on the Peak View Estates for your consideration.
The first is the petition from my friends and neighbors on our section of Meining Road.
The second document is those, who agree and have signed this petition.

We all look forward to the Public Meeting on Wednesday April 20th at 6.30pm in the courthouse.
We as a group support the approval of the sub-division, but we do NOT support the connectivity road.

Peter Bridgman
Secretary
Kent Estate Homeowners Association
970-532-2361

2 attachments

Prescott letter to planning dept March 16.doc
14K

Prescott people signing letter to planning March 16.doc
12K

Kelly Madsen
Larimer County Planning Department
Box 1190
Ft. Collins, CO 80521

Subject: Peak View Estates CD 14-S3231

We, the undersigned, are residents of Meining Rd immediately to the south of the proposed Peak View development. We support the development of two residential lots as described in the developer's application and also strongly support their appeal to section 8.14.2.S of the Larimer County Land Use Code regarding connectivity.

The intent of the County's requirement for connectivity is to eventually link Peak View Estates (and Meining Rd) to Cottonwood Lane and CR 21. In reading the Land Use Code regarding connectivity it is clear to us that none of the reasons for connectivity apply here. A connection to Cottonwood Lane and CR 21 would have no benefit for emergency service access. The Berthoud Fire Protection District's fire station is located at the intersection of CR 23 and CR 8 to the north of Meining Rd. An emergency response to Peak View Estates would proceed straight south on CR 23 to Meining Rd and then to Peak View Estates. This is much shorter than east on CR 8, south on CR 21, west on Cottonwood Lane to the connecting road to Peak View Estates. In the CR23/CR21 area there are NO "schools, parks, business or commercial centers" which would warrant connectivity, the nearest ones being five miles away in the Town of Berthoud.

More importantly, for us this is a quality of life issue. The ability to safely walk with our kids, grandkids, pets and horses down our quiet dead end country road is very important to us. We have a strong desire to protect this. Connecting Meining Road to CR 21 through Peak View Estates would inevitably lead to more traffic on our dirt road. We do NOT want this.

WE would point out too that there is precedent for granting the appeal to connectivity. In the past few years connectivity to Meining Road was waived by the County Commissioners for two lots on the Moser development to the south of us and a proposed connection between Arleigh Acres and Meining Road by extending Green Ridge Drive did not proceed. There was strong neighborhood opposition to both of these connections.

In conclusion, we ask the Planning Department and our County Commissioners to approve the Peak View Estates development and to grant the appeal to connectivity.

Signed by 40 residence of Meining Road
See the next document for details

Residents signing letter to Planning Department

Michael and Annie Saur	3712 Meining Road
Jay and Allison Woods	3704 Meining Road
Don and Dorothy Alderman	3705 Meining Road
Tom and Micki Elsey	4213 Meining Road
Susan McCarley	3809 Meining Road
Deborah Noland	3905 Meining Road
Peter and Barbara Bridgman	3713 Meining Road
Chris and Amy Kuber	3608 Meining Road
Frank and Marilyn Fleming	4508 Meining Road
Phil and Patti West	3904 Meining Road
Shana Wilson	4309 Meining Road
Ralph and Vera Giles	4404 Meining Road
Jennifer Martin	3913 Meining Road
David and Nicolette Ahrems	4212 Meining Road
Carol Brown	4204 Meining Road
Mark Babas	4309 Meining Road
Dan and Shelly Belleau	4205 Meining Road
Dave and Kathy Harris	4108 Meining Road
Al Maestas	3808 Meining Road
Jim and Pam Coleman	3912 Meining Road
Rena Patterson	4413 Meining Road
Jim and Carolyn Kelly	4412 Meining Road
Susan Chesson	4204 Meining Road
Brad Olsen	3913 Meining Road
Kent and Dori Gaibler	4405 Meining Road