

RESOLUTION No. 2006 - 16

TITLE: APPROVAL OF SUBDIVISION PERMIT AND FINAL PLAT FOR THE COPPERLEAF SUBDIVISION, ON LAND DESCRIBED AS PORTIONS OF SECTIONS 15, 22, AND 23 OF T52N, R105W (WORTHINGTON GROUP OF WYO, LLC, APPLICANTS)

WHEREAS, Robert Kudelski, corporate representative for the applicant Northfork Communities, Inc., and on behalf of the Worthington Group of Wyoming, LLC, owner of the subject property, who by assignment dated August 1, 2005, has assigned its rights to development of this subdivision to the applicant Northfork Communities, Inc., (Developer) has submitted a final subdivision plat and accompanying documents for the Copperleaf Subdivision, dividing 553 acres, more or less, into 131 residential lots pursuant to the grouped lot/open space subdivision option identified in the Park County Zoning Resolution Division 2-600, said subdivision being proposed for lands described as Sections 15, 22, and 23 of T52N, R105W, 6th P.M., Park County, Wyoming; and

WHEREAS, the Board of County Commissioners (Board) received the Developer's request for a meeting before the Board on said final plat submissions and the Board thereafter scheduled said meeting on their agenda for March 7, 2006, and that on March 7, 2006 the Board conducted their public review of the final plat submissions; and

WHEREAS, the Board in its review of a final plat, pursuant to the Park County subdivision regulations at Chapter IV, Section 3(b)(3) must conclude that:

1. The final plat is consistent with approved sketch plan and the applicant has complied with all conditions of sketch plan approval;
2. The subdivision complies with subdivision regulations and standards;
3. The Developer has signed a subdivision improvements agreement obligating the Developer to provide subdivision improvements as required by these regulations and obligating the Developer to provide an adequate financial guarantee prior to recordation of the plat;
4. The developer has provided certification from the Treasurer's office that all ad valorem taxes for years prior to the year in which approval is under consideration have been paid;
5. The plat map has been drawn to county standards and is suitable for recordation;
6. No change has occurred which would result in an inability to make the findings required for approval of a sketch plan;
7. Adequate provision has been made for water supply, sewage disposal, utilities and access; and

WHEREAS, the Board having held its public meeting and having reviewed the file, finds and concludes as follows:

The Board finds, that the final plat contains 131 residential lots ranging in size from approximately 1.23 acres to 2.8 acres all of which are located within the GR-5 zoning district as defined in the Park County Zoning Resolution (Zoning Resolution) and that the subdivision utilizes the grouped lot/open space/density bonus-type subdivision, as defined in the Zoning Resolution, with approximately 52% of the parent parcel

configured as a separate open space parcel, and that the number of lots set forth in the final plat submissions is the same as was set forth in the approved sketch plan,

The Board finds that the Developer has designated certain Tracts on the final plat that contain areas set aside for water and sewer treatment facilities, recreation, and the area formerly proposed for multi-family housing, and that said Tracts are consistent with uses proposed by the Developer in the sketch plan; and

The Board finds that the sketch plan proposed individual septic tanks but that the final plat submissions propose a central sewage system and that the central sewage system more adequately addresses public health & safety than individual on-lot septic systems; and

The Board finds that all lots in the subdivision have access to the Park County road system via County Road 6CU and that the lots have Wyoming Department of Transportation authorization for access to the State Highway system; and

The Board finds that proper public notice has been provided as set forth by County regulations; and

The Board therefore concludes, as it relates to Number 1 above, that the Zoning Resolution allows for grouped lot, open space type residential subdivisions in the GR-5 zone; that the Zoning Resolution allows for lot sizes as small as one acre in size in the GR-5 zone under the grouped lot, open space-type subdivision so long as 50% of the parent parcel is configured and set aside as open space; that, as previously indicated, lot sizes in this subdivision range in size from approximately 1.23 to 2.8 acres and that such lot sizes are in conformance with the Zoning Resolution and that the Zoning Resolution as publicly adopted is consistent with guidelines set forth in the County area plan, and that, based on the review set forth below related to compliance with subdivision regulations, the Board concludes that the final plat is consistent with the approved sketch plan and the Developer has complied with all conditions of sketch plan approval; and

The Board finds that the Developer has submitted various plat sheets, 49 pages of detailed construction drawings, a drainage report, road construction, improvement and traffic control plans and composite utility plans which have been extensively reviewed by the County Engineer and that the referenced submittals have been approved by the County Engineer as being in compliance with County regulations and that all necessary easements measured in required widths for roads, utilities and irrigation are indicated on the plat as approved by the County Engineer; that the Developer's plan for erosion control as approved by the County Engineer will be handled as construction moves forward and will require the Developer to file notice of their intent to request storm water discharge authorization through the Wyoming Department of Environmental Quality (DEQ) as is typical with construction of such subdivisions in addressing erosion control; that the Developer has submitted satisfactory information relating to their plan for revegetating disturbed areas of the subdivision; and

The Board finds that the area does not interface with brushlands or timberlands and has not been identified as being in an area of moderate or severe fire hazard by the Park County Fire Marshall and that the Park County Fire Marshall has approved of the subdivision firefighting plans which consist of ponds with a firefighting capacity in the millions of gallons which far exceeds the 3,000 gallons per residence requirement uniformly applied to subdivisions in Park County, and that the ponds will be of a depth greater than 10 feet ensuring that enough capacity exists under the ice in winter

conditions, and that said water is available for firefighting purposes via a hydrant system; and

The Board finds that the soils in the area of the subdivision were identified as problematic for individual septic systems and that in response the Developer has submitted a plan for a central sewage system with treatment lagoons which adequately addresses the soil suitability issue and that DEQ has provided their letter of no adverse recommendation regarding this subdivision which includes review of the sewage system; and

The Board finds that the developer has platted lots outside the 100-year flood plain as identified by the Developer's engineered drawings and approved by the Planning Coordinator in his capacity as the local administrator and that the principal use for this subdivision is for residential homesites and that the lots are platted in such a way as to allow for homesites to be built outside areas of flooding, and that no other geologic hazards, i.e., mass movement, avalanche or earthquake have been identified as having a significant impact on the subdivision; and

The Board finds that DEQ, in consultation with the Wyoming State Engineer has reviewed the Developer's plan for a central water distribution system drawing water from the Northfork of the Shoshone River under a water permit issued by the Wyoming State Engineer in May 2005 for year-round direct flow in the amount of 200 gallons per minute, and that the subdivision at full build-out (131 lots) will not require said amount of water according to calculations in the file and otherwise of record undisputed by any other calculations of record, and that the Developer has provided information in the file that, after checking with the State Engineer, there has been no recorded regulation or "call" on water rights on the Northfork of the Shoshone River, however, opponents to this subdivision have submitted pleadings from a separate proceeding indicating that in 1977 there was a "call" on the Northfork of the Shoshone River during a dry year, however, the Board herein takes notice that in 1993 the Bureau of Reclamation completed a project on the Buffalo Bill Dam and Reservoir which has allowed for significantly more water storage in Buffalo Bill Reservoir than existed in 1977 and that such additional storage creates significantly different and more favorable circumstances relating to satisfaction of water rights than existed in 1977, including the availability of water in a State of Wyoming storage account available for purchase and/or exchange; and that DEQ, after reviewing the Developer's water system plan as required by law and pursuant to their own rules and regulations has provided the Board with a letter with no adverse recommendations regarding the water supply system and that said review requires a demonstration of quantity, quality and dependability of the water supply system and that said review satisfactorily accomplishes the purposes of the Park County subdivision regulations, and that even so the Board has reviewed the information presented itself, and finds that, the water system as reviewed herein is dependent solely on the May 2005 water permit and that the Board is not in its review considering the availability of domestic water from any wells located on the subject property or from irrigation rights or other source, though the Board recognizes that the Developer does have potential access to additional water for domestic purposes should the Developer seek to follow whatever necessary local, state and/or federal procedures exist in supplementing its 2005 direct flow water permit; and that the system provides that all water mains are within the boundaries of the subdivision and that individual service lines are available to each lot line; and

The Board finds that DEQ has reviewed the Developer's plan for a central sewage treatment and disposal system and that after reviewing said plan as required by law and pursuant to their own rules and regulations, DEQ has provided the Board with a

letter with no adverse recommendations regarding the central sewage system, that said review satisfactorily accomplishes the purposes of the Park County subdivision regulations and that the system provides that all water mains are within the boundaries of the subdivision and that individual service lines are available to each lot line; and

The Board finds that the Developer has provided appropriate survey maps and/or plats which have been extensively reviewed by the County Engineer and which have been approved by the County Engineer as meeting plat standards; and

The Board finds that the Wyoming State Engineer has provided a letter approving the distribution of irrigation water within the subdivision; and

The Board finds that the local conservation district has provided its recommendation regarding the subdivision and that the Developer has responded to same and has provided a central water system and central sewage system; and

The Board finds that the Developer has submitted a title report indicating their ability to convey merchantable title to lots within the subdivision; and

The Board finds that the Developer has provided an affidavit informing the Board that they have obligated themselves to inform lot purchasers that lot purchasers have no legal riparian water rights to the natural flow of streams within the subdivision; and

The Board finds that the Developer has submitted covenants and by-laws establishing a homeowners association and requiring lot-owner participation in said association and that said covenants and bylaws require that the association is financially responsible for maintenance of all common facilities and improvements; and

The Board finds that the Developer has paid all necessary fees; and

The Board therefore concludes, as it relates to Number 2 above, that the Developer has complied with Park County subdivision regulations; and

The Board finds and concludes, as it relates to Number 3 above, that the Developer has signed a subdivision improvements agreement which obligates the Developer to build all improvements prior to recording the plat, as is allowed under Park County's subdivision regulations, and which sets forth that the plat cannot be recorded and lots released for sale until such improvements are completed, and that therefore the Developer has complied with criteria Number 3; and

The Board finds and concludes, as it relates to Number 4 above, that the Developer has provided certification from the Park County Treasurer that all ad valorem taxes for years prior to the year in which approval is under consideration have been paid and that therefore the Developer has complied with criteria Number 4; and

The Board finds and concludes, as it relates to Number 5 above, and as set forth herein above, that the plat map has been drawn to county standards and that therefore the Developer has complied with criteria Number 5; and

The Board finds and concludes, as it relates to Number 6 above, and as otherwise set forth herein above, that no change has occurred in the Developer's plan since sketch plan approval which would result in an inability to make findings required

for sketch plan approval and that therefore the Developer has complied with criteria Number 6; and

The Board finds and concludes, as it relates to Number 7 above, and as otherwise set forth herein above, that adequate provision has been made for water supply, sewage disposal, utilities and access and that therefore the Developer has complied with criteria Number 7; and

The Board finds that Park County regulations require the Developer to offer their roads for dedication as public rights-of-way; In the case of this subdivision, Park County has legitimate governmental interests in requiring such dedication; Park County's governmental interests are in limiting demands on law enforcement and in anticipating future growth and transportation connectivity within the community; and

The Board finds that the following reasons exist for requiring the dedication of rights-of-way in the case of this 131-lot subdivision:

1. Based on the County's experience and based on statements from Park County Sheriff Scott Steward, private subdivision roads in a 131-lot subdivision will create law enforcement problems. If the roads are public rights-of-way, law enforcement will not have to respond to trespassing complaints that would result if roads remained private. This is particularly true because of the large number of lot-owners in this subdivision and because landowners on the north side of the river and their guests, service people, etc., will be traveling through this subdivision in order to get to those homes. Trespassing complaints have occurred in the nearby Cody's Country Subdivision and other private road subdivisions as discussed by Park County Sheriff Scott Steward.
2. Furthermore, as discussed by Sheriff Steward, when roads are private, the county does not have the authority to enforce speed limits or other rules of the highway on those roads. Experience with other subdivisions indicates that subdivision lot-owners in subdivisions with private roads do not often understand the distinction between private subdivision roads and publicly dedicated roads. They often believe law enforcement should enforce speed limits and other rules of the highway on their private roads. This has occurred most recently in the Painter Estates Subdivision, as indicated by Sheriff Steward, where some lot-owners have called on the County to assist in removing a road blockage placed by another lot-owner on a private subdivision road. Law enforcement cannot be involved in this dispute, but nonetheless officers are obligated to respond to such calls in order to explain the circumstances. Law enforcement response to these kinds of disputes undermines their ability to respond to other important circumstances over which they do have authority. This again would be particularly true in the case of this subdivision due to its large 131-lot size.
3. The plat conditions allow emergency vehicles to pass over all roads in the subdivision. Emergency vehicles, however, may not necessarily include law enforcement vehicles used in executing a non-emergency search warrant on a specific lot. A warrant naming a specific lot would not allow officers to travel over other parts of the private subdivision property to get to the lot. In order to get around this obstacle, the warrant would have to describe the entire subdivision in order to get to a particular lot. This would not be necessary if the roads are publicly dedicated. Further, with private roads, law enforcement's job becomes more difficult as compared to public rights-of-way, when law

enforcement needs to develop probable cause for a search warrant as officers would be forced to view circumstances from off the property.

4. County Road 6CU runs north and south on the west side of this subdivision and is an access point for subdivision lot-owners to the County road system. If for some reason 6CU becomes impassable, residents outside this subdivision who use Road 6CU may need to be diverted to this subdivision's roads to access the highway. They could not easily do so if the roads were private.
5. Public rights-of-way generally promote public welfare and safety by preserving the County's ability to create connectivity between existing and future development. The public welfare dictates that roads be built with a view toward enhancing routes of travel throughout a community rather than simply within a particular subdivision. The Northfork of the Shoshone is a desirable area which has been extensively developed. The County can reasonably expect future proposals for significant development like this subdivision in the future.

The Board therefore concludes that this subdivision, if it had private roads, would burden Park County's legitimate governmental interests in limiting demands on law enforcement and in anticipating future growth and transportation connectivity within the community; that the required offer of dedication will help solve the problem indicated by the legitimate state interest because it will allow law enforcement to respond and carry out needed duties and it will assist the County in addressing future development connectivity and allow for necessary connectivity between existing developments; and that the estimated impact of this subdivision as set forth herein gives rise to the need for the dedication and is roughly proportional to the value and need for the dedication;

The Board further concludes that the final plat submissions constitute the final application for a subdivision permit and that the Board has the authority and jurisdiction pursuant to Wyoming Statute § 18-5-310 et seq. and the Park County Subdivision Regulations to review and approve applications for subdivision permits; and

NOW, THEREFORE, BE IT RESOLVED based on the foregoing, that the Board of County Commissioners hereby approves the Final Plat for the Copperleaf Subdivision.

APPROVED March 7, 2006, and signed and adopted by the Board of County Commissioners this 19th day of March, 2006.

**BOARD OF COUNTY COMMISSIONERS
PARK COUNTY, WYOMING**

Marie Fontaine
Marie Fontaine, Chair

Bucky Hall
Bucky Hall, Vice Chair

Tim A. French
Tim A. French, Commissioner

SEAL:

ATTEST:

Karen Carter
Karen Carter, Park County Clerk