

ORDINANCE 16-2013

AN ORDINANCE RELATING TO FURTHER PLAT APPROVALS FOR BONFIRE SUBDIVISIONS TO MEET REQUIREMENT OF COLORADO'S SURFACE DEVELOPMENT STATUTE AND DECLARING AN EMERGENCY

WHEREAS, Bonfire, LLC (“Owner”) is the owner of property in the southwest quarter of Section 27, Township 9 North, Range 68 West of the 6th P.M (the “Property”), which property was annexed into the Town of Wellington, Colorado (the “Town”) by annexation agreement and annexation plat recorded April 8, 2013 at reception numbers 20130026417 and 20130026418 of the records of the Clerk and Recorder of Larimer County, Colorado (the “Annexation”); and,

WHEREAS, the Final Plat for Bonfire Subdivision First Filing (the “First Filing Plat”) and the Final Plat for Bonfire Subdivision Second Filing (the “Second Filing Plat”) were approved in May of 2013 by the Town’s Ordinances 4-2013 (approval of Bonfire Subdivision First Filing) and 5-2013 (approval of Bonfire Subdivision Second Filing) (the “Original Approval Ordinances”) ; and,

WHEREAS, the First Filing Plat and the Second Filing Plat (collectively the “Plats”) have not been recorded; and,

WHEREAS, the caption of Ordinance 5, 2013 referenced approvals for the Bonfire Subdivision Second Filing however, Section 1 of the ordinance mistakenly provides that “[t]he Final Plat for Bonfire Subdivision *First* Filing...is hereby approved as a final Plat for a Major Subdivision”; and,

WHEREAS, §24-65.5-101 C.R.S. et.seq. (the “Surface Development Statute”) provides a mechanism for providing notice to owners of mineral interests concerning impending surface development; and,

WHEREAS, the Surface Development Statute at §24-65.5.103 provides that not less than thirty days before the date of a scheduled initial public hearing on an application for development, the applicant shall provide notice of the application to specified mineral estate owners; and,

WHEREAS, the Surface Development Statute at §24-65.5-103.3 further provides that local governments as a condition of surface owner approvals shall require the applicant to certify that notice was provided to mineral estate owners; and,

WHEREAS, the Town has no record that the applicant provided notice to the mineral estate owners prior to annexation or approval of the Plats; and,

WHEREAS, Owner provided to mineral estate owners Notification of Surface

Development dated August 28, 2013; and,

WHEREAS, the Town received requests for notice of future hearings related to the Property from mineral estate owners Anadarko E&P Onshore LLC and Anadarko Land Corp. (together “Anadarko”) by letter dated September 26, 2013 and received a supplement to that notice as well as a statement of objection/opposition dated October 2, 2013 (the “Objection”); and,

WHEREAS, by the Objection counsel for Anadarko notified the Town that Anadarko and Owner have stipulated to the Town’s approval of the Plats so long as:

- i) the Town requires as a condition of approval that Anadarko and Owner enter into an Agreement Concerning Certain Anadarko Mineral Rights (“Hard Rock Mineral Agreement”);
- ii) Bonfire agree not to transfer any portion of the Property prior to execution and recording of a surface use agreement covering the oil and gas interests owned by Anadarko (the “Surface Use Agreement”);
- iii) Bonfire agree as to the Property not to record the Plats or apply for any building permit for the Property prior to execution and recording of the Hard Rock Mineral Agreement and the Surface Use Agreement; and,

WHEREAS, subject to the outlined conditions, Anadarko has agreed to withdraw Anadarko’s objections so long as the Town includes as an approval condition of the Plats that Owner and Anadarko enter into the Hard Rock Mineral Agreement and the Surface Use Agreement; and,

WHEREAS, the Plats have been amended section 2 of the Original Approval Ordinances; and,

WHEREAS, this ordinance is being adopted and additional conditions for development are being imposed at the request of the Owner to insure that the requirements of the Surface Development Statute are met; and,

WHEREAS, the Board of Trustees of the Town of Wellington has found the application to be in substantial compliance with the requirements of the Wellington Municipal Code;

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO:

SECTION 1: Re-Approval. The Final Plat for Bonfire Subdivision First Filing and the Final Plat for Bonfire Subdivision, Second Filing, both being a portion of the

Bonfire Annexation, located in the Southwest Quarter of Section 27, Township 9 North, Range 68 West of the 6th Principal Meridian, Town of Wellington, County of Larimer, State of Colorado, are hereby re-approved and ratified as final plats for each Major Subdivision in accordance with the Wellington Municipal Code, subject to the conditions set forth in the Original Approval Ordinances and subject to the amended conditions as set forth below in section 2 and 3.

SECTION 2: Conditions. The Town Board, with the consent of Owner, imposes that following additional conditions relative to the Plats and execution by the Town and recording thereof:

- A. Owner shall provide the Town with proper certifications required by §24-65.5-103, C.R.S.
- B. Owner shall provide executed copies of the Hard Rock Mineral Agreement and the Surface Use Agreement between Anadarko and Owner by which agreement Anadarko shall acknowledge that all conditions set forth in the stipulation described in the October 2, 2013 supplement to notice and statement of objection have been resolved by Anadarko and Owner.
- C. The Town Attorney shall review and approve all dedication language on the Plat.

SECTION 3: Public Improvements Agreement. Prior to issuance of any building permit or disturbance of ground associated with the development of the Property, the Owner and Town shall enter into A Memorandum of Agreement for Public Improvements which, in addition to other agreements and obligations contained in the Town's Memorandum of Agreement for Public Improvements form and required in association with new development shall provide for:

- 1) The Town's participation in any and all public improvements including extension of water and sewer and widening of Sixth Street to the north end of the property.
- 2) Any reduction or waiving of impact fees as economic Development Incentive.

SECTION 4: Recording. Upon satisfaction of the Conditions set forth in Section 2 and 3 of this Ordinance if the Surface Use Agreement does not pertain to the First Filing Plat, the Town shall record the First Filing Plat. The Second Filing Plat shall not be recorded until the Second Filing Plat has been revised to accommodate the Surface Use Agreement.

SECTION 5: Repealer. The Board of Trustees hereby declares that should any section,

paragraph, sentence, word or other portion of this Ordinance or the rules and regulations adopted herein be declared invalid for any reason, such invalidity shall not affect any other portion of this Ordinance or said rules and regulations, and the Board of Trustees hereby declares that it would have passed all other portions of this Ordinance and adopted all other portions of said rules and regulations, independent of the elimination here from of any such portion which may be declared invalid.

SECTION 6: Necessity. In the opinion of the Board of Trustees of the Town of Wellington, this ordinance is necessary for the preservation and protection of the health, safety, welfare and property of the inhabitants and owners of property in the Town of Wellington.

SECTION 7: Emergency Clause. The Board of Trustees finds and determines that, because this ordinance concerns the immediate and ongoing administration and operation of the Town, its adoption as an emergency measure is necessary for the immediate preservation of the public's health, safety and welfare, and this ordinance shall therefore take effect immediately upon adoption as provided by law.

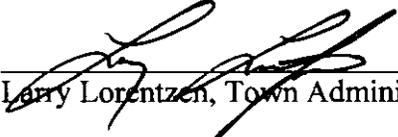
SECTION 8: Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours. Furthermore, the Mayor's signature shall be affixed to the plat and attested by the Town Clerk.

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON AND ORDERED TO BECOME PUBLISHED THIS 8th DAY OF OCTOBER, 2013 AND ORDERED TO BECOME EFFECTIVE IMMEDIATELY AS AN EMERGENCY ORDINANCE AND ORDERED TO BE PUBLISHED.

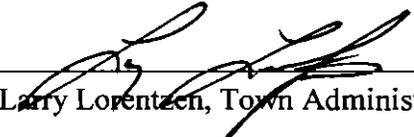
TOWN OF WELLINGTON

By: 
Travis Vieira, Mayor

ATTEST:


Larry Lorentzen, Town Administrator/Clerk

PUBLISHED BY TITLE IN THE COLORADOAN THIS 14 DAY OF October, 2013.


Larry Lorentzen, Town Administrator/Clerk