

SUBDIVISION IMPROVEMENTS AGREEMENT

LAZY KU SUBDIVISION, 2ND FILING

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LAZY KU SUBDIVISION, 2ND FILING

This agreement is made and entered into this ____ day of _____, 20 ____, by and between *Lazy KU Estates LLC*, whose address for the purpose of this agreement is **3116 S 72nd Street W, Billings, Montana 59106**, hereinafter referred to as “Subdivider,” and **YELLOWSTONE COUNTY, Montana**, hereinafter referred to as “County.”

WITNESSETH:

WHEREAS, at a regular meeting conducted on ____ day of _____, 20 ____, the Laurel City/County Board of Planning recommended conditional approval of a preliminary plat of *LAZY KU SUBDIVISION, 2ND FILING*; and

WHEREAS, at a regular meeting conducted on ____ day of _____, 20 ____, the Yellowstone County Board of County Commissioners conditionally approved a preliminary plat of *LAZY KU SUBDIVISION, 2ND FILING*; and

WHEREAS, a Subdivision Improvements Agreement is required by the County prior to the approval of the final plat.

WHEREAS, the provisions of this agreement shall be effective and applicable to *LAZY KU SUBDIVISION, 2ND FILING* upon the filing of the final plat thereof in the office of the Clerk and Recorder of Yellowstone County, Montana. The Subdivision shall comply with all requirements of the Laurel Subdivision Regulations, the rules, regulations, policies, and resolutions of Yellowstone County, and the laws and administrative rules of the State of Montana.

THEREFORE, THE PARTIES TO THIS AGREEMENT, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, do hereby agree as follows:

I. VARIANCES

Subdivider requests no variances.

II. CONDITIONS THAT RUN WITH THE LAND

- A. Lot owners should be aware that this subdivision is being built in close proximity to prime deer and antelope habitat and it is likely that homeowners will experience problems with damage to landscaped shrubs, flowers, and gardens. The Montana Fish, Wildlife, and Parks Department does not provide damage assistance unless there is damage to commercial crops and/or a threat to public health and safety.
- B. Lot owners should be aware that soil characteristics within the area of this subdivision, as described in the 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.

- C. No water rights have been transferred to the lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the Subdivider or subsequent owners.
- D. There is attached hereto a Waiver waiving the right to protest the creation of the special improvement district or districts which by this reference is expressly incorporated herein and made as much a part hereof as though fully and completely set forth herein at this point. The Waiver will be filed with the plat, shall run with the land, and shall constitute the guarantee by the Subdivider and property owner, or owners of the developments described herein. Said Waiver is effective upon filing and is not conditioned on the completion of the conditions set forth in this Agreement. The Subdivider and owner specifically agree that they are waiving valuable rights and do so voluntarily.
- E. Culverts and associated drainage swales shall not be filled in or altered by the subdivider or subsequent lot owners.
- F. When required by road improvements, all fences and irrigation ditches in the public right-of-way adjacent to this subdivision shall be removed or relocated outside of the public right-of-way and any relocation outside of the public right-of-way shall be subject to securing and recording easements.
- G. Future maintenance of all public (or common) improvements shall be done through one (1) or more RSID(s) created as part of the SIA for this subdivision.
- H. Lot owners or their agent will obtain an Access Permit from County Public Works prior to any construction on any lot within the subdivision. The application will include a site plan showing the desired location of the access and show that it meets the requirements outlined by the DEQ storm water requirements for the subdivision. Failure to do so will result in the lot owner or their agent removing what has been installed and locating the access in an approved location at the lot owners' expense.

III. TRANSPORTATION

The subdivider agrees to guarantee all improvements for a period of one (1) year from the date of final acceptance by Yellowstone County.

A. Streets

Haystack Lane, Granary Drive, Barbed Wire Drive, and the extension of Ronald Kramer Drive, shall be built to county paved road standards with a satisfactory subbase, base course, and asphalt surface. Haystack Lane, Granary Drive, Barbed Wire Drive, and the extension of Ronald Kramer Drive, shall be a 60' right-of-way. They will be paved to the end of the lots being developed. The design cross-section shall be a 24-foot asphalt width street with 2-foot-wide gravel shoulders and shoulder drainage swales. These portions will be dedicated county road.

The entire length of Haystack Lane, Granary Drive, Barbed Wire Drive, and the extension of Ronald Kramer Drive, will be maintained by expansion of the existing county road RSID 869M.

B. Traffic Control Devices

Street name and stop signs for streets within the subdivision, or located immediately adjacent thereto, shall be furnished and installed in accordance with the specifications of the Yellowstone County Public Works Departments.

C. Access

Primary access to the subdivision will be from Ronald Kramer Drive to 72nd Street West.

Secondary access to the subdivision will be from Farmhouse Lane to Kramer Way to 72nd Street West.

D. Billings Area Bikeways and Trail Master Plan (BABTMP)

There is a proposed Long-Range Trail identified on 72nd Street West. The applicant is not responsible for any additional road development for bike lanes.

IV. EMERGENCY SERVICE

A 30,000-gallon water storage tank/dry hydrant was installed on the northern side Ronald Kramer Drive along the southwest corner of Tract 1 of Certificate of Survey No. 3777. The dry hydrant is located within a dry hydrant easement and is maintained and serviced by the existing RSID 870M. The dry hydrant system was installed by the Subdivider and inspected and approved by the Laurel Volunteer Fire Department.

V. STORM DRAINAGE

All drainage improvements shall comply with the provisions of the Section 16.04.070, Laurel Subdivision Regulations, and a stormwater management plan shall be submitted to and approved by the Montana Department of Environmental Quality (MDEQ), or its designee.

Stormwater will be collected onsite using a combination of swales, culverts, and the natural slope of the land and delivered to onsite storm detention facilities. All stormwater facilities will have access easements to facilitate maintenance.

VI. UTILITIES

A. Water

Public water service is not available in the subdivision at this time. In accordance with Section 16.04.080 Laurel Subdivision Regulations, all proposed water systems must obtain approval by MDEQ, or its designee.

Individual wills be permitted for the lots. An approval letter from MDEQ will be submitted with the final plat. The maintenance and operation of the wells will be by each individual homeowner.

B. Septic System

Municipal public sewer service is not available in the subdivision at this time. In accordance with Section 16.04.080 Yellowstone County Subdivision Regulations, all proposed sanitary sewer systems must obtain approval by MDEQ, or its designee.

Individual septic systems will be permitted. An approval letter from MDEQ will be submitted with the final plat. The maintenance and operation of the individual systems will be facilitated by the individual lot owner.

C. Power, Telephone, Gas, and Cable Television

The private utilities shall be installed within the provided easements. 10-foot-wide utility easements have been shown on the plat adjacent to all streets within the subdivision per the request of the utility companies.

VII. PARKS/OPEN SPACE

A total of 2.20 acres of parkland is required for this subdivision. There was a parkland surplus of 0.93 acre within Lazy KU Subdivision that could be used towards future development. Therefore, 1.27 acres will be provided by park dedications on the subdivision. The parkland will be finished graded and seeded with native prairie grass mixture. RSID 871M will be expanded for the maintenance of the parkland.

VIII. IRRIGATION

All internal irrigation facilities will remain within the subdivision. No water rights will be transferred to the lot owners.

IX. WEED MANAGEMENT

All noxious weeds on the latest Yellowstone County Noxious Weed List shall be controlled on all properties in the subdivision.

- A Weed Management Plan must be filed and updated as needed for approval by the Yellowstone County Weed Department. Said weed management plan shall contain the noxious weeds being addressed and the plan for the control of those weeds. All associated cost for noxious weed control is the responsibility of the owner of record.
- A revegetation plan shall be submitted as part of the management plan. A seeding recommendation can be obtained from the Yellowstone County Weed Department pursuant to Section 7-22-2152, MCA. The Yellowstone County Weed Department reserves the right to revise these recommendations based on the required site inspection.

X. SOILS/GEOTECHNICAL STUDY

Lot owners should be aware that soil characteristics within the area of this subdivision, as described in 1972 Yellowstone County Soil Survey, indicate that there could be potential limitations for proposed construction on the lots, which may require a geotechnical survey prior to construction.

XI. FINANCIAL GUARANTEES

Except as otherwise provided, Subdivider shall install and construct said required improvements by private contracts secured by bonds, irrevocable letters of credit, sequential development, or any other method that may be acceptable to the Planning Board and Board of County Commissioners. All engineering and legal work in connection with such improvements shall be paid by the contracting parties pursuant to said special improvement district or private contract, and the improvements shall be designed by and constructed under the supervision of a professional engineer competent in civil engineering, licensed in the state of Montana. Upon completion of the improvements, the consulting Engineer shall file with the Public Works Department, a statement certifying that the improvements have been completed in accordance with approved, seal stamped, record drawings, along with all required post-construction certification per Section 4.6.C. of the Yellowstone County Subdivision Regulations.

(In the event that all required improvements are not installed and constructed prior to final plat approval, the Subdivider shall provide a monetary security guarantee in the amount of 125% of the estimated total cost by one (1) of the methods listed in Chapter 5 of the Yellowstone County Subdivision Regulations. If using a security, describe the method in this section)

XII. LEGAL PROVISIONS

- A. Subdivider agrees to guarantee all public improvements for a period of one year from the date of final acceptance by Yellowstone County.
- B. The owners of the properties involved in this proposed Subdivision by signature subscribed herein below agree, consent, and shall be bound by the provisions of this Agreement.
- C. The covenants, agreements, and all statements in this Agreement apply to and shall be binding on the heirs, personal representatives, successors and assigns of the respective parties.
- D. In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement or to give any notice required herein, then the prevailing party or the party giving notice shall be entitled to reasonable attorney fees and costs.
- E. Any amendments or modifications of this Agreement or any provisions herein shall be made in writing and executed in the same manner as this original document and shall after execution become a part of this Agreement.
- F. Subdivider shall comply with all applicable federal, state, and local statutes, ordinances, and administrative regulations during the performance and discharge of its obligations. Subdivider

acknowledges and agrees that nothing contained herein shall relieve or exempt it from such compliance.

- G. Subdivider agrees to create any required (or expansion of existing) RSID(s) for future maintenance of all public (or common) constructed improvements prior to final plat approval

DRAFT

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals on the date first above written.

“SUBDIVIDER”

Lazy KU Estates LLC

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this ____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared Cheryl Ann Kramer, known to me to be the Manager of *Lazy KU Estates LLC*, who executed the foregoing instrument and acknowledged to me that he/she executed the same.

Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

This agreement is hereby approved and accepted by Yellowstone County, this ____ day of _____, 20 ____.

“COUNTY”
COUNTY OF YELLOWSTONE MONTANA

County of Yellowstone
Board of County Commissioners

By: _____
Chairman

Commissioner

Commissioner

Attest: _____
County Clerk and Recorder

STATE OF MONTANA)
 : ss

County of Yellowstone)

On this ____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared _____, and _____, known to me to be the Board of County Commissioners and the County Clerk and Recorder, respectively, of Yellowstone County, Montana, whose names are subscribed to the foregoing instrument in such capacity and acknowledged to me that they executed the same on behalf of Yellowstone County, Montana.

Notary Public in and for the State of Montana
Printed Name: _____
Residing at: _____
My commission expires: _____

DRAFT

Waiver of Right to Protest

FOR VALUABLE CONSIDERATION, the undersigned, being the Subdivider and all of the owners of the hereinafter described real property, do hereby waive the right to protest the formation of one or more Rural Special Improvement Districts (RSID's), for a period of no more than twenty years from the recording of this waiver, which Yellowstone County may require.

This Waiver and Agreement is independent from all other agreements and is supported by sufficient independent consideration to which the undersigned are parties, and shall run with the land and shall be binding upon the undersigned, their successors and assigns, and the same shall be recorded in the office of the County Clerk and Recorder of Yellowstone County, Montana.

The real property hereinabove mentioned is more particularly described as follows:

LAZY KU SUBDIVISION, 2ND FILING

Signed and dated this ____ day of _____, 20____ .

Lazy KU Estates LLC

By: _____

Its: _____

STATE OF MONTANA)
 : ss
County of Yellowstone)

On this ____ day of _____, 20____, before me, a Notary Public in and for the State of Montana, personally appeared Cheryl Ann Kramer, known to me to be the Manager of *Lazy KU Estates LLC*, the person who executed the forgoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year hereinabove written.

Notary Public in and for the State of Montana
Printed name: _____
Residing in: _____
My commission expires: _____