

IMAGED

RESOLUTION #R- 83-2005

A RESOLUTION AMENDING RESOLUTION #R-35-2004 AND AUTHORIZING THE PROVISION OF WATER TAPS OUTSIDE OF THE LOVELAND CITY LIMITS TO HIDDEN VALLEY ESTATES III RLUP AND THE JAMES A. WILD CHILDREN'S TRUST RLUP PURSUANT TO LOVELAND MUNICIPAL CODE SECTION 13.04.080

WHEREAS, City Code Section 13.04.080 provides that no new water taps are permitted outside the City unless approved by the City Council; and

WHEREAS, Backbone Investments LLC is the owner of the property located outside the Loveland city limits in unincorporated Larimer County legally described in Exhibit "A," attached hereto and incorporated herein by reference ("Hidden Valley Estates III RLUP"); and

WHEREAS, on April 20, 2004 by Resolution #R-35-2004, Hidden Valley Estates III RLUP was granted one (1) metered water tap for the entrance feature to Hidden Valley Estates III RLUP and one (1) metered water tap per buildable lot requiring City water that is approved and platted for Hidden Valley Estates III RLUP, but in no event more than ten (10) metered water taps, which number includes the metered water tap for the entrance feature; and

WHEREAS, Backbone Investments LLC would like one (1) additional metered water tap to serve the stables and equestrian riding area within Hidden Valley Estates III RLUP known as Common Area Lot 3; and

WHEREAS, the James A. Wild Children's Trust is the owner of the property located outside the Loveland city limits in unincorporated Larimer County legally described in Exhibit "B," attached hereto and incorporated herein by reference ("James A. Wild Children's Trust RLUP"); and

WHEREAS, on April 20, 2004 by Resolution #R-35-2004, the James A. Wild Children's Trust RLUP was granted one (1) metered water tap per buildable lot requiring City water that is approved and platted for the James A. Wild Children's Trust RLUP, but in no event more than eight (8) metered water taps; and

WHEREAS, the James A. Wild Children's Trust would like two (2) additional metered water taps to serve two (2) additional buildable lots requiring City water that were approved and platted through the Larimer County RLUP process; and

WHEREAS, while the City Council would not normally authorize additional water taps for these properties, the Council is persuaded to do so for the reasons set forth in a letter dated September 1, 2005 from James D. Reidhead, the Director of the Larimer County Rural Land Use Center, a copy of which letter is attached as Exhibit "C" and incorporated herein by reference, and a letter dated September 8, 2005 from Lynn Hammond on behalf of Fred Wenninger, a copy of which letter is attached as Exhibit "D" and incorporated herein by reference.

CITY OF LOVELAND
500 E 3RD ST #230
LOVELAND, COLORADO 80537

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF LOVELAND, COLORADO:**

Section 1. That Resolution #R-35-2004 at Section 1.A is hereby amended and restated to read as follows:

- A. Before any metered water tap is installed within the Hidden Valley Estates III Property, the City and the owner of the Hidden Valley Estates III Property must enter into a water service agreement on such terms and conditions as are acceptable to the City Manager and in a form approved by the City Attorney, and which agreement shall provide, at a minimum, that the rates set by the City for such water service to the Hidden Valley Estates III Property shall be rates which cover all of the City's capital, operational, and maintenance costs as they may exist now or in the future to provide water service to the Hidden Valley Estates III Property, to maintain the water distribution system, and to replace the system in the future, and it shall be for one (1) metered water tap for the entrance feature to the Hidden Valley Estates III Property, one (1) metered water tap for the stables and equestrian riding area known as Common Area Lot 3, and one (1) metered water tap per buildable lot requiring City water that is approved and platted for the Hidden Valley Estates III Property through the Larimer County RLUP process, but in no event shall it be for more than eleven (11) metered water taps, which number shall include the metered water tap for the entrance feature and the metered water tap for the equestrian riding area and stables; and

Section 2. That Resolution #R-35-2004 at Section 1.C is hereby amended and restated to read as follows:

- C. Before any metered water tap is installed within the Wenninger Property, the City and the owner of the Wenninger Property must enter into a water service agreement on such terms and conditions as are acceptable to the City Manager and in a form approved by the City Attorney, and which agreement shall provide, at a minimum, that the rates set by the City for such water service to the Wenninger Property shall be rates which cover all of the City's capital, operational, and maintenance costs as they may exist now or in the future to provide water service to the Wenninger Property, to maintain the water distribution system, and to replace the system in the future, and it shall be for one (1) metered water tap per buildable lot requiring City water that is within the buildable area identified in Exhibit "C-1" and is approved and platted for the Wenninger Property through the Larimer County RLUP process, but in no event shall it be for more than six (6) metered water taps; and

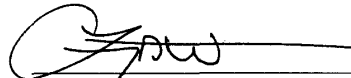
Section 3. That Resolution #R-35-2004 at Section 1.D is hereby amended and restated to read as follows:

- D. Before any metered water tap is installed within the James A. Wild Children's Trust Property, the City and the owner of the James A. Wild Children's Trust Property must enter into a water service agreement on such terms and conditions as are acceptable to the City Manager and in a form approved by the City Attorney, and which agreement shall provide, at a minimum, that the rates set by the City for such water service to the James A. Wild Children's Trust Property shall be rates which cover all of the City's capital, operational, and maintenance costs as they may exist now or in the future to provide water service to the James A. Wild Children's Trust Property, to maintain the water distribution system, and to replace the system in the future, and it shall be for one (1) metered water tap per buildable lot requiring City Water that is approved and platted for the James A. Wild Children's Trust Property through the Larimer County RLUP process, but in no event shall it be for more than ten (10) metered water taps; and

Section 4. That this Resolution shall be effective as of the date of its adoption.

Done this 18th of October, 2005.





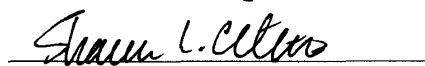
Larry D. Walsh, Mayor

ATTEST:



Donna Visconti
City Clerk

APPROVED AS TO FORM:



Shaun L. Collins
Assistant City Attorney

EXHIBIT A
HIDDEN VALLEY ESTATES III PROPERTY

Legal Description of a tract of land being a portion of Section 5, Township 5 North, Range 69 West of the 6th Principal Meridian, Larimer County, Colorado and considering the South line of the Southeast Quarter of said Section 5 to bear North 89°08'49" East and with all bearings contained herein relative thereto;

Beginning at the South One Quarter Corner of said Section 5; thence along the West line of the Southwest Quarter of the Southwest Quarter of said Section 5 North 02°15'52" East 1373.15 feet to the Southwest Corner of the Northwest Quarter of the Southwest Quarter of said Section 5; thence along the West line of said Northwest Quarter of the Southwest Quarter North 02°17'06" East 1371.93 feet to the Southwest Corner of the Southwest Quarter of the Northeast Quarter of said Section 5; thence along the West line of said Southwest Quarter of the Northeast Quarter North 02°17'02" East 1351.95 feet more or less to the Southeast Corner of the Northeast Quarter of the Northwest Quarter of said Section 5; thence along the South and West and North lines of said Northeast Quarter the following three courses and distances; South 89°31'01" West 1290.41 feet; thence North 01°21'14" East 1398.69 feet; thence South 89°34'40" East 1311.72 feet to the North Quarter Corner of said Section 5; thence along the North line of the Northeast Quarter of said Section 5 South 89°33'18" East 701.47 feet; thence departing said North line South 02°17'06" West 1367.10 feet; thence South 00°06'54" West 2200.21 feet; thence South 04°25'16" East 1490.18 feet to the Northwest Corner of Namaqua Hills Central First Filing (a Planned Unit Development); said point also being a point on the South line of the Southeast Quarter of said Section 5; thence departing said Namaqua Hills Central First Filing and along said South line South 89°08'49" West 1011.01 feet to the POINT OF BEGINNING.

The above described parcel contains 140.013 acres more or less.

EXHIBIT B
JAMES A. WILD CHILDREN'S TRUST PROPERTY

Trust Property
Legal Description

The Northwest ¼ of the SW ¼ of Section 5, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado; and

The Northeast ¼ of the SW ¼ of Section 5, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado; and

The Southeast ¼ of the SW ¼ of Section 5, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado; and

A portion of land located in the Southeast ¼ of Section 6, Township 5 North, Range 69 West of the 6th P.M., County of Larimer, State of Colorado being more particularly described as follows: beginning at the Northeast corner of the Southeast ¼ of said Section 6; thence North 88 29' West 1,125 feet; thence South 0 38' West 1,410.5 feet M/L to the northerly line of that certain parcel of land described at the Larimer County Clerk and Recorder's Office in Reception No. 87047962; thence South 89 30' 01" East 1125 feet M/L to the East line of said Section 6; thence North 0 36' East 1,410.5 feet along the east line of said Section 6 to the Point of Beginning.

EXHIBIT "C"



Rural Land Use Center

200 West Oak Street, Suite 3100
Post Office Box 1190
Fort Collins, Colorado 80522-1190
(970) 498-7686
FAX (970) 498-7716

September 1, 2005

Loveland Utilities Commission
200 North Wilson Avenue
Loveland, Colorado 80537

Re: Request for one additional domestic water tap and the re-allocation of two domestic water taps for Rural Land Use Process (RLUP) projects in the Hidden Valley area

Dear Loveland Utility Commission Members:

The purpose of this letter is to provide an explanation of the request to the City of Loveland for an additional domestic water tap and the re-allocation of two domestic water taps. The table below indicates the current status of the projects, all of which have received Preliminary Approval from the Board of County Commissioners (BOCC).

Current Status of Hidden Valley RLUP Projects and Water Tap Information

RLUP Project Name	Acres	Maximum # of taps allocated per parcel by City Council	# of Lots Approved by BOCC	Net Change Within Water System	Status
Hidden Valley Estates I	228	2	2*	---	Final Approval 7/3/02
Hidden Valley Estates II	194	12	12	---	Final Approval 12/10/04
Hidden Valley Estates III	158	10**	9	---	Final Approval 6/21/05
James A. Wild Trust	177	8	10	+2	Prelim Approval 1/25/05
(Greg) Wild Valley North	160	9	9	---	Prelim Approval 6/1/04
(Fred) Wenninger	105	8***	6	-2	Prelim Approval 9/21/04
Common equestrian facility	---	---	--	+1	Part of HVIII****
Totals	1022	49	48	+1	---

* Project originally approved for 13 residential lots. 194 acres, including 11 residential lots, have been purchased by City of Loveland and Larimer County as public open space; only two residential lots remain.

** Project has 9 residential sites; 1 additional tap was acquired for projects' entry water feature.

*** Taps were allocated by City Council on basis of acreage. Wenninger only brought 105 acres of his 158 acres through the RLUP. Only 6 taps (of the 8 allowed by acreage) are assigned to this property, leaving 2 taps "uncommitted".

****Planned for HVIII; private (non-commercial) equestrian facility solely for residents of RLUP projects in valley.

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Summary: Water Tap Allocation Request

Total # taps currently allocated by City Council		49 taps
Total # BOCC-approved residential lots	48 taps	
Tap for entry water feature	1 tap	
Tap for private horse facility	<u>1 tap</u>	
Total # taps requested	50 taps	
Net # additional taps needed within system		<u>1 tap</u> 50 taps

Why Re-allocate Two Water Taps?

The RLUP has the ability to move residential density from one non-contiguous parcel to another. In 2002 this procedure was used as part of Hidden Valley II to move one residential site owned by Larimer County into the project as part of the Larimer County Open Lands Program's negotiations to acquire access and a permanent Devil's Backbone trailhead and parking area in the valley.

The James A. Wild Trust members hope to use this same procedure to move two home sites to their land in the valley from a 35-acre parcel owned by them on the west side of the Backbone. This has created the need for the re-allocation of two taps. In turn, as part of the project negotiations, the Wild family committed to restrict all of the development in the project to their land east of the western 40 acres in the "receiving parcel"—please see the attached maps and aerial photograph. That will result in a valuable ¼ mile buffer between the County's public open space and the project's residential development. In addition, the creation of the 35-acre "sending parcel" provides other significant benefits. This important land:

- Will be protected from further development in perpetuity (along with the residual land—private open space—in the valley) with a permanent deed restriction, either a perpetual conservation easement or perpetual covenant;
- Is right next to the Devil's Backbone public land owned by the County; the two properties share a common boundary and creation of private protected land next to public protected land is always a good idea;
- Is located immediately south of the Backbone Meadows Subdivision (currently under construction with 36 residential units on 90 acres); it will be one of the last remaining private undeveloped parcels of its size adjacent to the Backbone public lands on the west;

Loveland Utilities Commission

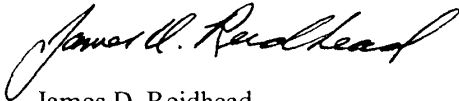
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- Provides significant wildlife habitat in its own right and serves as a valuable corridor connecting the public and private conserved lands in the Hidden Valley/Devil's Backbone area with the Big Thompson River corridor to the south; and
- Protects the foreground view of the Devil's Backbone as one travels east on US 34.

Thank you for consideration of this request. Your help has been crucial to the success of this challenging land-preservation effort. I plan to attend the September 21, 2005 Utilities Commission meeting to answer any questions you might have concerning the RLUP activities in the Hidden Valley/Devil's Backbone area.

Sincerely,



James D. Reidhead
Director

cc: Larimer County Board of Commissioners
Mr. Don Williams, Loveland City Manager
Ms. K-Lynn Cameron, Larimer County Open Lands Director
Mr. John Duval, Loveland City Attorney
Ms. Jeannine Haag, Larimer County Attorney
Mr. Brian Hayes, Loveland Open Space Manager
Mr. Frank Lancaster, Larimer County Manager
Backbone Investments, LLC
Mr. Fred Wenninger, RLUP landowner
Ms. Kitty Wild, RLUP landowner
Mr. Greg Wild, RLUP landowner
Ms. Natalie Dickinson, TST Engr.
Mr. Lynn Hammond, Mr. Wenninger's representative

EXHIBIT "D"

Sent By: HAMMOND LAW OFFICE

; 970 669 9380;

Sep-9-05 1:44;

LYNN A. HAMMOND
LAW OFFICES

BANK ONE BUILDING
200 EAST SEVENTH STREET, SUITE 418
LOVELAND, COLORADO 80537

PHONE: (970)667-1023

E-MAIL: LAHLAWYER@AOL.COM

FACSIMILE: (970)669-9380

September 8, 2005

Loveland City Council
Attn: Ms. Sharon Citino
500 East 3rd Street
Loveland, CO 80537

VIA: Facsimile
962 -2900

Dear Council:

This office represents Mr. and Mrs. Fred Wenninger who own property in Namaqua Hills, a portion of which is currently proceeding through the RLUP process.

At the request of Ms. Citino, this letter is to confirm that the Wenningers have agreed to relinquish two watertaps currently allocated to their property. They will then have six taps rather than eight.

If you have any questions, please feel free to give me a call.

Sincerely,



Lynn A. Hammond

LAH/bf