

RCPTN # 97000309 01/02/97 15:58:00 # PAGES - 9 FEE - \$46.00  
M RODENBERGER RECORDER, LARIMER COUNTY CO STATE DOC FEE - \$.00

ORDINANCE NO. 747

AN ORDINANCE APPROVING THE FICKEL FARM - P.U.D. FIRST FILING PLAT  
BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 24,  
TOWNSHIP 4 NORTH, RANGE 69 WEST OF THE 6TH P.M. TO THE TOWN OF  
BERTHOUD, COUNTY OF LARIMER, STATE OF COLORADO

Section 1.

WHEREAS, the Planning Commission and the Board of Trustees of the Town of Berthoud have resolved the issues surrounding the development of the P.U.D. being a portion of the Northwest Quarter of Section 24, Township 4 North, Range 69 West of the 6th P.M. to the Town of Berthoud, County of Larimer, State of Colorado.

Section 2.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER COUNTY, COLORADO:

The Board of Trustees hereby approves the Fickel Farm - P.U.D. First Filing, being described as:

A parcel of land located in the Northwest Quarter of Section 24, Township 4 North, Range 69 West of the 6th Principal Meridian, Larimer County, Colorado, being more particularly described as follows:

Beginning at the Northwest Corner of said Section 24 and considering the West line of the Northwest Quarter of said Section 24 as bearing South 01°00'14" East and with all bearings contained herein relative thereto; thence along said West line South 01° 00'14" East, 400.00 feet to the TRUE POINT OF BEGINNING;

thence North 88° 59'45" East, 262.01 feet; thence North 01 ° 08'51" West, 60.00 feet to the beginning of a tangent curve concave to the North having a central angle of 12°57'16" and a Radius of 570.00 feet, the long chord of which bears North 82°31'06" East, a distance of 128.60 feet, thence

easterly along the arc of said curve 128.88 feet to a point on a curve concave to the South having a central angle of 5°17'28" and a Radius of 731.63 feet, the long chord of which bears North 78°41'12" East, a distance of 67.54 feet, thence easterly along the arc of said curve 67.56 feet; thence departing said curve South 06°14'55" East 60.00 feet; thence South 08°42'05" East, 69.33 feet to the beginning of a curve concave to the West having a central angle of 10 18'34" and a Radius of 631.00 feet, the long chord of which bears South 06°09'31" East, a distance of 113.39 feet, thence southerly along the arc of said curve 113.54 feet; thence South 01°02'38" East, 638.03 feet; thence North 88°35'05" East 167.84 feet; thence South 01°24'55" East, 62.00 feet; thence South 01°00'11" East, 156.18 feet to a point on the South line of the North Half of the Northwest Quarter of said Section 24; thence along said South line South 88°35'05" West 676.30 feet to a point on the easterly right-of-way of First Street; thence along said easterly right-of-way of First Street North 01°00'14" West, 921.06 feet; to the TRUE POINT OF BEGINNING.

Said parcel is hereby platted into Lots 1 through 3, Block 1; Lots 1 through 8, Block 2; and, Lots 1 through 27, Block 3, as described on the Fickel Farm - P.U.D. First Filing Plat which is incorporated herein by reference. It is further determined the plat is to be recorded in the office of the Larimer County Clerk and Recorder.

### Section 3.

The Town of Berthoud hereby accepts dedication to the public of all streets and utility easements as described on said plat.

#### Section 4. Effective Date.

The Board of Trustees of the Town of Berthoud herewith finds, determines and designates that this Ordinance shall take effect and be in force thirty (30) days after publication.

This Ordinance was introduced, read and a public hearing set for August 27, 1996 by the Board of Trustees of the Town of Berthoud at its meeting held this 13th

3

day of August, 1996. After the public hearing, this Ordinance was read, passed and ordered published by the Board of Trustees at its meeting this 27th day of August, 1996.

TOWN OF BERTHOUD:

  
Richard D. Strachan - Mayor

ATTEST:

Mary K. Cowdin  
Mary K. Cowdin - Town Clerk

Published: 8-29-96

J

## SUBDIVISION AGREEMENT

THIS AGREEMENT is made and entered into by and between the TOWN OF BERTHOUD, a Colorado Municipal Corporation (Town), and the undersigned owner of the "Fickel Farm P.U.D., First Filing".

WHEREAS, the final plat of "Fickel Farm P.U.D. First Filing" has been submitted for approval to the Town of Berthoud Board of Trustees and the developers have submitted construction plans for the improvements to "Fickel Farm P.U.D. First Filing".

WHEREAS, the Town has considered the representations made by the developers as to their desire to develop the subdivision in phases and to commence construction of the improvements to "Fickel Farm P.U.D. First Filing".

NOW, THEREFORE, in consideration of the promises, the mutual covenants herein contained, and the approval, execution and acceptance of the subdivision plat by the Town of Berthoud entitled "Fickel Farm P.U.D. First Filing".

the parties agree as follows:

1. This agreement shall apply to the "Fickel Farm P.U.D. First Filing". A subdivision with a total of 53 new residential lots.

2. All improvements designated in the approved subdivision construction drawings attached hereto and incorporated herein by this reference and all improvements designated on any final plat, plan or schedule, submitted by the developer including any landscaping of "Fickel Farm P.U.D. First Filing" shall be constructed and completed by the developer according to this "Subdivision Agreement".

3. The Town and the developer mutually agree that said improvements are reasonable conditions and requirements to be imposed by the Town in connection with its approval, execution and acceptance of the final plat, and that such matters are necessary to protect, promote and enhance the public welfare.

4. All improvements and conditions of the final plat approval for construction or installation and all other matters herein agreed to be performed for the "Fickel Farm P.U.D. First Filing" are binding on the parties to this agreement, their assignees, heirs, devisees and successors. It is the intention of the parties that this subdivision agreement shall be recorded in the offices of the Larimer County Clerk and Recorder and it shall run with the land being developed namely "Fickel Farm P.U.D. First Filing".

5. All construction shall be performed in a good and workman like manner and in accordance with the approved construction drawings, and the applicable Town standards, rules and regulations governing such construction.

5

6. The developer agrees that no deviations to the approved construction drawings will be allowed or accepted by the Town without prior written consent of the Town.

7. The developer agrees to provide the necessary inspections and engineering certification indicating that the subdivision improvements are constructed in compliance with the approved construction drawings certified as to their accuracy by the engineer of record.

8. The developer agrees to notify the Town prior to the installation of any below ground improvements and that no below ground improvements will be covered until approval to do so has been given by the Town. If any construction deficiencies are discovered by the Town upon inspection of any subdivision improvements, the developer agrees that said deficiencies will be corrected in compliance with the approved construction drawings at the Town's discretion.

9. The developer agrees to participate in the Town's project to relocate the two (2) 1st St. irrigation ditches on the west side of 1st St. to the east side of 1st St. The relocation of the ditches would include the new vault which is a direct benefit to the developer. The allocation of the cost for this purpose is \$10,000.00 to be refunded if the ditches are not relocated. This fee is based on the fact that moving the ditches to the east would perform a drainage function and satisfy the drainage requirements for the developer.

10. Building permits will not be released for the "Fickel Farm P.U.D. First Filing" until all the subdivision improvements are completed or the developer agrees to fully comply with the Town Ordinance #529 which specifies the procedures and collateral requirements for early release of building permits. In addition, prior to the issuance of building permits, the developer shall provide the Town with written approval from the Berthoud Fire Protection District before any above ground combustible construction commences.

11. The developer agrees that upon completion of the subdivision improvements for the "Fickel Farm P.U.D. First Filing", they will comply with the Town's acceptance procedures for said improvements. The acceptance procedures are outlined in the Town's Development Code, Chapter 30.10, which specifies the collateral requirements, warranty period, and additional requirements the developer must meet for the Town to accept the subdivision improvements.

12. The developer will provide written certification from his engineer that the drainage as controlled in the subdivision will not increase the volume of water flows per minute over the historic flows nor will the quality of water be adversely affected. The developer's engineer will also certify to the Town the water flows expected in the event of 50, 100 and 500 year storms.

13. When the traffic at the intersection at State Highway 56, US Highway 287 and First Street exceeds 20% of current flows, the following traffic improvements will be constructed. A new intersection at State Highway 56 shall be constructed in accordance with the design approved by both the Colorado Department of Transportation and the Town of Berthoud. The Town will monitor the number of building permits issued for the Fickel Farm PUD, First Filing and the Berthoud Heights East Subdivision or any other development which would impact the intersection with the volume of traffic from their development. The Town will notify the proper developers when the 20% volume of traffic increases and will discontinue the issuance of any other building permits until the intersection is constructed and accepted by the Colorado department of Transportation and the Town of Berthoud. The cost for the intersection improvements will be allocated among the parties directly contributing to the increase traffic flows. Said allocated cost amongst the parties shall be determined by the Town.

14. The developer agrees to comply with Section 30-14, Landscape Regulations including Section 30-14-303 (D).

15. Parkland Dedication and Park Development satisfied with "Exhibit A".

16. The developer agrees to construct the portion of Welch Ave. from 1st St. East to Welch Ave. in the "Fickel Farm P.U.D. First Filing" a distance of 272.01 ft.

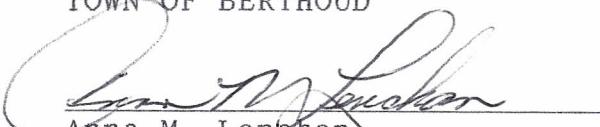
17. The "Fickel Farm P.U.D. First Filing" will be developed with a maximum of 15 units per year.

18. The developer agrees to purchase the required capacity for the 53 units in the Fickel Farm PUD, First Filing in the Town's 18" PVC sanitary sewer main. The cost for the capacity is \$4,304.61 to be paid prior to the issuance of Building Permits.

The Town will accept the improvements to the "Fickel Farm P.U.D. First Filing" after the inspection and approval by the Town Engineer and Board of Trustees.

If the developer fails to perform to the conditions of this agreement, the developer will be responsible for all reasonable attorney's fees and costs incurred. If the Town fails to perform to the conditions of this agreement, the Town will be responsible for all reasonable attorney's fees and costs incurred.

TOWN OF BERTHOUD

  
Anna M. Lenahan  
Town of Berthoud  
Administrator

8-26-96  
Date

STATE OF COLORADO }  
COUNTY OF LARIMER } s.

Acknowledged before me by Anna M. Lenahan, this 26th day of August, 1996.

R. B. Fickel, DDS  
Developer

Barbara M. Lenahan  
Notary

Date

my commission  
Expires  
7/30/98

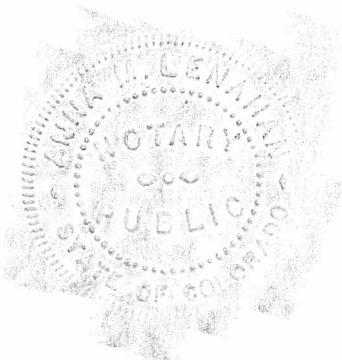
August 26, 1996

STATE OF COLORADO }  
COUNTY OF LARIMER }

Acknowledged before me by R. B. Fickel D.D.S  
This 26th day of August, 1996.

Anna M. Lenahan  
Notary

Commission expires 9-97



8  
"Exhibit A"

PARKLAND DEDICATION/PARK DEVELOPMENT  
AGREEMENT

THIS AGREEMENT is made and entered into by and between the TOWN OF BERTHOUD, a Colorado Municipal Corporation (Town), and the undersigned owner of the "Fickel Farm P.U.D. , First Filing" and "Berthoud Heights East Subdivision" (Developers) .

the parties agree as follows:

The developer (Mr. Bebo) of Berthoud Heights East (49+ acres) hereby agrees to dedicate lots 1-10, Block 6 and the developer (Mr. Fickel) of Fickel Farm P.U.D. First Filing hereby agrees to dedicate the 12 corresponding lots north of lots 1-10, Block 6 on Berthoud Heights East to the Town of Berthoud which shall satisfy the parkland dedication per Section 30-10-105 (C) for the Berthoud Heights East Subdivision (49+ acres) and the Fickel Farm III Annexation (53 acres). The developers are dedicating 4+ acres of land for parkland and agree to develop the parkland within 3 years. Although the construction phase for Berthoud Heights East is five (5) years and Fickel Farm PUD, First Filing is four (years), the developers have agreed to develop the park within three (3) years prior to the completion of either development. Both developers will donate \$50,000 each to the development with the Town contributing an additional \$50,000 for the three year period.

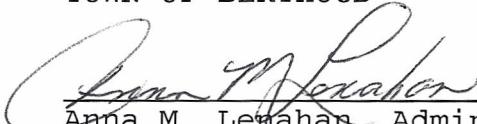
The Town hereby agrees to accept the above dedications of land for park purposes, and further agrees that said dedications shall fully and completely satisfy all requirements of the Berthoud Development Code concerning both the dedication of land for parks and the payment of fees in lieu of parkland dedication, as well as payment of fees to the Town for the construction and improvement of parks in the Town. Mr. Bebo will be refunded the park dedication and park development fees collected by the Town for the five (5) building permits issued to date and it is not the intent of the Town to collect any future park land dedication or park development fees for either Mr. Bebo or Mr. Fickel.

The developers shall execute and deliver to the Town proper deeds of dedication within 40 days after final adoption by the Town by approving this agreement as an election under paragraph 4 of the Addendum to Annexation Petition for the Mary V. Moore Annexation platted as the Berthoud Heights East PUD and recorded on March 20, 1996 at reception number 96019480, records of Larimer County. Paragraph 4 is hereby amended to remove "prior to issuance of building permits".

9/9  
The dedication and developed 4+ acres shall be constructed similar to the existing Fickel Park located on Mountain Avenue between 6th and 7th Street ie: trees, benches, picnic tables, drinking fountain and a tot playground which will be subject to prior written approval by the Town Administrator and the Recreation Director.

The developer of Fickel Farm PUD, First Filing will execute a power of attorney to the Town which will allow the Town to process a minor subdivision and rezoning of the dedicated parkland consisting of the 12 lots north of lots 1-10, Block 6, Berthoud Heights Subdivision shown on the Berthoud Heights East preliminary/final subdivision plat dated November 19, 1995. The Town will proceed to process the minor subdivision and rezoning. When completed, the developer will convey the parcel by deed to the Town of Berthoud.

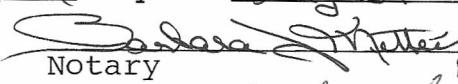
TOWN OF BERTHOUD

  
\_\_\_\_\_  
Anna M. Lemahan, Administrator

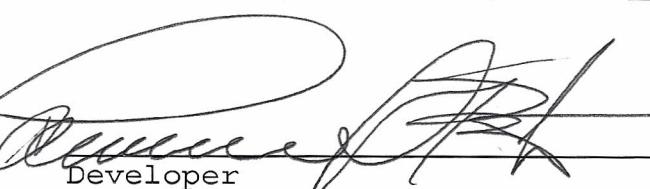
8-26-96  
\_\_\_\_\_  
Date

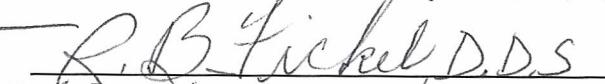
STATE OF COLORADO  
COUNTY OF LARIMER S.

Acknowledged before me by Anna M. Lemahan, this 26th day of August 1996

  
\_\_\_\_\_  
Sandra J. Kettner  
Notary

My Commission Expires 7/30/96

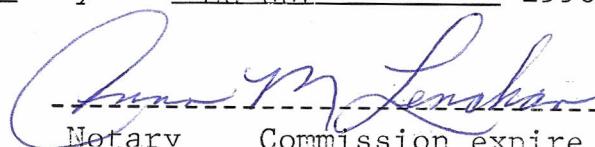
  
\_\_\_\_\_  
Developer  
Berthoud Heights East

  
\_\_\_\_\_  
Developer  
Fickel Farm P.U.D.

STATE OF COLORADO  
COUNTY OF LARIMER S.

Acknowledged before me by Lawrence Rebo R.B. Fickel D.D.S., this 26th day of August 1996



  
\_\_\_\_\_  
Notary  
Commission expires 9-97