Return To: City of Miles City Box 728 Miles City MT 59301

## **RESOLUTION NO. 4116**

A RESOLUTION ADOPTING FINDINGS OF FACT AND APPROVING THE AMENDED PLAT FOR THE PURPOSE OF BOUNDARY LINE RELOCATION OF LOTS 6-8 AND AMENDED LOT 9 IN LEGION ADDITION NO. 2 TO THE CITY OF MILES CITY, MONTANA.

**WHEREAS**, Squatter's Knob, LLC, and Eleven G Farms, LLC, have requested that the City of Miles City approve a boundary line relocation involving Lots 6-8 and Amended Lot 9 in Legion Addition No. 2 to the City of Miles City, Custer County, Montana;

AND WHEREAS, the City of Miles City is authorized to approve the relocation of common boundary lines for five or fewer lots within a platted subdivision pursuant to Section 76-3-207(1)(d), MCA.

NOW THEREFORE BE IT RESOLVED by the City Council of Miles City, Montana, as follows:

It does hereby adopt the Staff Report to City Council, File #BLA 2017-02, attached hereto as Exhibit "A" as findings of fact, and based on such findings of fact, approves the "AMENDED PLAT of Lots 6-8, C.O.S. #17919, Env. 29, and Amended Lot 9, C.O.S. #87959, Env. 275B, Legion Addition No. 2", said amended plat being attached hereto as Exhibit "B."

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A DULY CALLED MEETING THIS 28<sup>TH</sup> DAY OF NOVEMBER, 2017.

John Hollowell, Mayor

Lorrie Pearce, City Clerk

ATTEST:

## **Staff Report for City Council**

Meeting Date November 28, 2017

## Squatter's Knob/Eleven G Farms Boundary Line Adjustment File #BLA-2017-02 Lots 6-8, Amended Lot 9, Legion Addition No. 2 Subdivision

## **PROPOSAL**

The subject properties are Lots 6-8, Amended Lot 9, of the Legion Addition No. 2 Subdivision in Miles City, MT. The applicants, Squatter's Knob, LLC, PO Box 1231 & Eleven G Farms, LLC, 53 Balsam Circle, Miles City, MT, propose a boundary line adjustment to aggregate lots and adjust the boundaries to create three (3) new Parcels A, B, C, from Lots 6-9. A new office building is being constructed on Tract A. The addresses for the proposed four offices are 2702 through 2710 Main St. The stated purpose of this boundary line adjustment is sell the new Lot A. The properties will continue as commercial land use.

## **EXEMPTION(S)**

The proposed Amended Plat of *Lots 6-8*, *Amended Lot 9*, *Legion Addition No. 2 Subdivision* is exempt from Subdivision Review per MCA section 76-3-101(1)(d) & (f) and is subject to the survey requirements in MCA 76-3-401. The proposed amended plat is also exempt from review by the Montana Dept of Environmental Quality pursuant to ARM 17.36.605(2)(c).

- 76-3-207. Divisions or aggregations of land exempted from review but subject to survey requirements and zoning regulations exceptions fees for examination of division. (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions or aggregations of land other than subdivisions and are subject to applicable zoning regulations adopted under Title 76, Chapter 2:
- (d) for five or fewer lots within a platted subdivision, the relocation of common boundaries;
- (f) aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

## A.R.M. 17.36.605(2)(c) Exclusions

- (c) a parcel that will be affected by a proposed boundary line adjustment, if the parcel has existing facilities for water supply, wastewater disposal, storm drainage, or solid waste disposal that were not subject to review, and have not been reviewed, under Title 76, chapter 4, part 1, MCA, and if:
- (i) no facilities, other than those in existence prior to the boundary line adjustment, or those that were previously approved as replacements for the existing facilities, will be constructed on the parcel;
- (ii) existing facilities on the parcel complied with state and local laws and regulations, including permit requirements, which were applicable at the time of installation; and (iii) the local health officer determines that existing facilities are adequate for the existing use. As a condition of the exemption, the local health officer may require evidence that:
- (A) existing septic tanks have been pumped within the previous three years;
- (B) the parcel includes acreage or features sufficient to accommodate a replacement drainfield;
- (C) existing wells are adequate for the proposed uses; and

## **REVIEW & CONCLUSIONS**

Staff conducted this review according to the Miles City Code of Ordinances (MCCO) effective April 14, 2017.

The Amended Plat of Lots 6-8 and Amended Lot 9, Legion Addition No. 2 Subdivision does not create new tracts of record. Lots 6-8 and Amended Lot 9 are reconfigured as three lots: Parcel A at 38,122 sq. ft; Parcel B at 14,751 sq, ft; and Parcel C at 14,739 sq. ft.

A new commercial building is being constructed on Parcel A and will house four businesses. The remaining tracts will be sold in the future. The zoning will remain General Commercial. The property is bordered by General Commercial zones to the north, east and west. A Residential A zone is directly south of the property. Requirements of Chapter 24-53 (Zoning), Chapter 12 (Floodplain) and Chapter 5 (Building Codes) of the Miles City Code of Ordinances (MCCO) will apply to development on the subject tracts, along with any applicable Federal and State regulations. All parcels are out of the floodplain, LOMA Case #17-08-0475A. Municipal services are readily available. The newly created lots will have legal and physical access via Main and Bridge Streets. The subject parcels also have easements for a driveway and Access and Utilities.

This boundary line adjustment will not:

- o create additional lots or tracts of land
- o impact the ability of the government to provide local services
- o endanger public health, safety, and welfare
- o create or expand a non-conforming use
- o create an expansion or cost of services
- o increase the amount of roads currently being maintained by the City
- significantly increase emergency response times, traffic load, fire protection levels, schools and school routes, or landfill requirements
- o create any special or rural improvement districts that would obligate the local government either administratively or financially.

## RECOMMENDATION

Per MCA 76-3-207, the proposed amended plat is not a subdivision, is not subject to subdivision review and does not appear to be an attempt to evade subdivision review. It appears that the completed project will meet the intent of subdivision regulations stated in MCA 76-3-102. Custer County's Examining Land Surveyor has reviewed and approved the plat for compliance with MCA 76-3-401. Therefore, staff recommends approval of the amended plat as proposed.

## AMENDED PLAT

Jots 8-8, C.O.S. #17919, Env. 28, and Amended Lot 9, C.O.S. #87989, Env. 276B, Legion Addition No. 2 SEI/4NEI/4, Section 34, Township 8 North, Bange 47 East, P.M.M. City of Miles City, Custor County, Montana

MAIN STREET 80' wide R.O.W.

## LOT 12 Supply Inc. 10/01/25 3 Dec. No. 87258 MS7, Page 1207 P.O.B. PARCEL C When City Matter Sup (centers) P.O.B. PARCEL A AMENDED LOT 11 P.D.B. Easen wide R.O.W. PARCEL C 14,739 sq. ft. Total -2,250 sq. ft. easeme 12,489 sq. ft. Net 160099 38,122 sq. ft. Totol -4,233 sq. ft. eosement 33,889 sq. ft. Net WD Doc., No. ,89 No. 150099 BRIDGE STREET Appungg wau WD Doc. Access to Compy Colo Appuno # .... 20,00 P.O.B. PARCEL B. 101 St P.O.B. Access & Utility Eosement LOT 4A Decom Melons, inc (compres) LOT 5A-1 Deluze Motors, Inc. (owners) " SZWEBARK

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# Metes & Bounds Description

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Purpose of Survey

Parcel B

Montgomery S. Lesh Squatters Knob, LLC

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STATE of MONTANA STATE COUNTY of CUSTER

Access & Utility Easement

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AMENDED PLAT LEGION ADDITION No. 2
Lab 6-8 COS 217919 Env 29 and Amended Lab COS 267999 Env 2759

Squatters Kindo, LLC P.O. Bar 1231 Miles City, MT 59301

Dense G Forms, LLC 53 Balsom Circle Miles City, MT 59301

I hereby certify that all real property taxes and special assessments assessed and levied on the tand being subdivided have been poid. Custer County Treasurer %"x 18" Rabor w/ Yallow Plantic Cap Stamped HKM 7155LS Found

Queter County Clerk and Reporter by

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County Treasurer's Certification

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## **CUSTER COUNTY ARM/ELS APPROVAL**

The following described survey has been reviewed for conformance to ARM 24.183.1101 and 24.183.1104, mathematical closure, area computations, errors and omissions in drafting. The survey is approved for conformance to the above cited and is authorized by law and approved for recording or filing pursuant to 7-4-2617 MCA.

Document name: amended plat Legion Add 11-06-17.pdf

<u>Description of Document or Survey</u>: Boundary Relocation Survey, Amended Plat of Legion Addition No. 2, located in the SE¼NE¼ Section 34, Township 8 North, Range 47 East, P.M.M., Miles City, Custer County, Montana. The survey was commissioned by Squatters Knob, LLC and Eleven G Farms, LLC, and dated September 2017.

Note: This approval applies to ARM/ELS review only, the subdivision or exemption review is performed by the Miles City Planning Department.

Dan Stahly, P.L.S. # 16192 /

Custer County Contract Reviewer

Dan Stahly

Date: 11/08/2017



## Federal Emergency Management Agency

Washington, D.C. 20472

## LETTER OF MAP AMENDMENT DETERMINATION DOCUMENT (REMOVAL)

COMMUNITY AND MAP PANEL INFORMATION		LEGAL PROPERTY DESCRIPTION		
COMMUNITY	CITY OF MILES CITY, CUSTER COUNTY, MONTANA  COMMUNITY NO.: 300014	Lots 6 through 8, and Amended Lot 9, Legion Addition No. 2, as shown on the Amended Plat recorded as Document No. 87959, in Envelope No. 275B, in the Office of the Clerk and Recorder, Custer County, Montana		
AFFECTED MAP PANEL	NUMBER: 30017C0662D  DATE: 7/22/2010			
LOODING COCKEL TOHOOL KITCK OF LIT OR		APPROXIMATE LATITUDE & LONGITUDE OF PROPERTY:46.407894, -105.826250 SOURCE OF LAT & LONG: LOMA LOGIC DATUM: NAD 83		

### DETERMINATION

LOT	BLOCK/ SECTION	SUBDIVISION	STREET	OUTCOME WHAT IS REMOVED FROM THE SFHA	FLOOD ZONE	1% ANNUAL CHANCE FLOOD ELEVATION (NAVD 88)	LOWEST ADJACENT GRADE ELEVATION (NAVD 88)	LOWEST LOT ELEVATION (NAVD 88)
6-9	Control	Legion Addition No. 2	44.44	Property	X (unshaded)	2360.6 feet	Selection (Selection)	2360.8 feet

Special Flood Hazard Area (SFHA) - The SFHA is an area that would be inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood).

This document provides the Federal Emergency Management Agency's determination regarding a request for a Letter of Map Amendment for the property described above. Using the information submitted and the effective National Flood Insurance Program (NFIP) map, we have determined that the property(ies) is/are not located in the SFHA, an area inundated by the flood having a 1-percent chance of being equaled or exceeded in any given year (base flood). This document amends the effective NFIP map to remove the subject property from the SFHA located on the effective NFIP map; therefore, the Federal mandatory flood insurance requirement does not apply. However, the lender has the option to continue the flood insurance requirement to protect its financial risk on the loan. A Preferred Risk Policy (PRP) is available for buildings located outside the SFHA. Information about the PRP and how one can apply is enclosed.

This determination is based on the flood data presently available. The enclosed documents provide additional information regarding this determination. If you have any questions about this document, please contact the FEMA Map Assistance Center toll free at (877) 336-2627 (877-FEMA MAP) or by letter addressed to the Federal Emergency Management Agency, LOMC Clearinghouse, 847 South Pickett Street, Alexandria, VA 22304-4605.

. (23)

Luis V. Rodriguez, P.E., Director Engineering and Modeling Division Federal Insurance and Mitigation Administration



## SUBDIVISION EXEMPTION CLAIM APPLICATION

Miles City Community Services & Planning 17 South 8<sup>th</sup> Street, PO Box 910 Miles City, MT 59301

Date Received:	NOV	0.2	2017	
	(for	official	use only)	

Attach a check payable to the City of Miles City for \$200.00 and submit the application materials (Original, plus 2 copies) to the City of Miles City Community Services and Planning Department, 17 S. 8<sup>th</sup> Street, Miles City, MT, 59301. 1. Property owner(s): (If more than 2, please attach additional sheets) a. Name: \_\_Squatters Knob, LLC\_\_\_\_\_ Occupation: Address: P.O. Box 1231\_\_\_\_\_ Phone: (406) 853-1523 Email: montylesh@gmail.com City, State, Zip: Miles City, MT 59301 b. Name: Eleven G Farms, LLC Occupation: Address: 53 Balsam Circle Phone: 406-853 6060 Email: daveg@midrivers.com\_\_\_\_ City, State, Zip: Miles City, MT 59301 2. Surveyor/Representative: Name: \_Quinn Wright \_\_\_\_\_ Firm: \_DOWL \_\_\_\_\_ Address: \_713 Pleasants St\_\_\_\_\_ Phone: 406-234-6666 City, State, Zip: Miles City, MT 59301 Email: qwright@dowl.com 3. Parcel Description(s) of Existing Tract(s): (If more than 2, please attach additional a. Address: \_Main ST 2702 MAIN thry 2710 MAIN (Kdc) (11/2/17) sheets) Tax ID Number: 000RMS4606 Geocode: 14-1740-34-1-13-05-0000 Section: 34 Township: 8 N Range: 47E Other legal description: Lot 6, 7, 8 & Amended Lot 9, Legion Addition No. 2 Zoning District: commercial Minimum Lot Size: 14,739 sq ft How and when the parcel was created (example: Subdivision: X Addition, 10/3/92): Legion Addition No. 2 ENV. 029-B 1965

A	mended Plat ENV. 275-B 1991
b.	Address:
	x ID Number: Geocode:
Se	ection: Township: Range:
0	ther legal description:
Zc	oning District: Minimum Lot Size:
Н	ow and when the parcel was created (example: Subdivision: X Addition, 10/3/92):
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c.	Address:
	x ID Number:
	ction: Township: Range:
	her legal description:
	ning District: Minimum Lot Size:
	ow and when the existing parcel was created (example: Subdivision: X Addition, 10/3/92):
	Proposed Exemption(s):
pr	is application is used for proposals to relocate common boundaries between adjoining operties, and/or the aggregation of lots, or miscellaneous exemptions (MCA 76-3 Please licate which exemptions apply to this proposal by checking the appropriate box(es):
	A division made outside of platted subdivisions for the purpose of relocating common boundary line(s) between adjoining properties. [76-3-207(1)(a), MCA]
X	For five or fewer lots within a platted subdivision, the relocation of common boundaries. [76-3-207(1)(d), MCA]
	A division made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas. [76-3-207(1)(e), MCA]
X	Aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas. [76-3-207(1)(f), MCA]

	A division of land that is created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of this chapter [76-3-201(1)(h), MCA]
	Other (please describe)
	Reasons/justification for use of the exemption: to create 3 parcels out of 4
of	Intentions for uses of the property (List or discuss the property owners' intentions for the use each resulting parcel. For example, will the parcel(s) be used for agriculture, commercial, sidences, etc.?):
	_All property will be used a commercial sites
en tra	Intentions for disposition (For example, is the intent to correct a building or fence croachment, to bring the property into compliance with zoning requirements, to prepare acts for sale, etc.?):  _ to prepare Parcel A for sale
5.	Required attachments:
арі	bmit the original, signed application, along with two additional copies of the completed plication and the information listed below. Copies of recorded deeds documenting present ownership of affected parcels.
b. (	Copies of all deeds, contracts, restrictions, and covenants related to this property recorded or tered into within the past year.
c. S gro pro any -d. -e. (	Site plan (or draft certificate of survey or subdivision/amended plat) showing the approximate oss and net lot sizes (in acreage or square feet), proposed property lines, and all existing and opposed structures. The site plan should also identify property line setbacks, parking spaces, and y other information necessary to demonstrate compliance with the zoning code.  Documentation of approved variances from zoning requirements related to the affected parcels. Copies of existing and proposed deed restrictions or covenants, if any.  All documentation in support of the sanitation exemption(s), if applicable.

g. Copies of any existing permits for the development on the property (building permits, floodplain permits, etc.), as applicable. Bldq permit# 7345 (kdc-11/2/17)

## 6. Acknowledgments:

I/We, the undersigned landowner(s) and exemption claimant(s) understand that the State of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the transactions are an attempt to evade the Montana Subdivision and Platting Act or local subdivision regulations.

I/We affirm that this exemption claim is not an attempt to evade the Montana Subdivision and Platting Act or the Miles City Subdivision Regulations.

I/We recognize that I/We may be subject to penalties if my actions are deemed to be an effort to evade subdivision review, as set forth in Montana law:

- > 76-3-301(3), MCA: If transfers not in accordance with the Montana Subdivision and Platting Act are made, the City Attorney shall commence action to enjoin further sales or transfers and complete compliance with all provision of the Montana Subdivision and Platting Act. The cost of such action shall be imposed against the party not prevailing.
- ➤ Violations: Any person who violates any provision of the Montana Subdivision and Platting Act or any local regulations adopted pursuant thereto shall be guilty of a misdemeanor and punishable by a fine of not less than \$100 or more than \$500 or by imprisonment in a county jail for not more than 3 months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of this chapter or any local regulation adopted pursuant thereto shall be deemed a separate and distinct offense.
- > I/We also recognize that making false statements on this form could subject me to criminal prosecution for False Swearing (per MCA 45-7-202) and Perjury (per MCA 45-7-201).
- ➤ I/We also recognize that per 45-7-203(1), MCA (Unsworn falsification to authorities), A person commits an offense under 45-7-203 if, with the purpose to mislead a public servant in performing an official function, the person:
  - (a) makes any written false statement that the person does not believe to be true;
  - (b) purposely creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements from being misleading;
  - (c) submits or invites reliance on any writing that the person knows to be forged, altered, or otherwise lacking in authenticity; or
  - (d) submits or invites reliance on any sample, specimen, map, boundary mark, or other object that the person knows to be false.

object that the person knows to be false.	
7. Signatures:	
I/We, as Claimant(s), has/have read the foregoing Exemption C my/our statements and information are true and correct to the Property owner's/Claimant's signature  Property owner's/Claimant's signature	• •