

Keen, Shelley

From: Keen, Shelley
Sent: Friday, February 09, 2018 3:27 PM
To: 'James Speck'
Cc: Thiel, Sandra
Subject: RE: Heatherlands

Jim,

I will place your email in the water right files, but I see no reason to adjust the draft amendment for 37-8831. For the circumstance you are describing – one lot and one stub-out – the evidence does not point to two domestic uses. IDWR's criteria for licensing a domestic use when the home has not yet been constructed have been consistent for a long time.

Shelley

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Friday, February 09, 2018 3:18 PM
To: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>
Cc: Thiel, Sandra <Sandra.Thiel@idwr.idaho.gov>; Charles G. Brockway (charles.g.brockway@brockwayeng.com) <charles.g.brockway@brockwayeng.com>; Laura Gvozdaz (sunco1007@cox-internet.com) <sunco1007@cox-internet.com>
Subject: RE: Heatherlands

Shelley,

As we told Sandy, ALL of the subdivision lots, including ALL of the TH lots, have ONLY ONE stub-out. For the TH lots this remains true whether or not the lot has been further subdivided into two TH lots or not, and whether or not one or more homes are built on those lots. When a TH lot is developed, it is the obligation of the owner to provide the two service lines from the single stub-out to each home as they are built. There is no practical reason to install the service lines until a home is going in. This is, of course, the same for the SFR lots. So designating a TH lot has legal significance in that it allows double the density on such lots. It doesn't make sense to require 2 stub-outs to those lots when one is physically sufficient to provide water to the future two homes.

Jim

From: Keen, Shelley [mailto:Shelley.Keen@idwr.idaho.gov]
Sent: Friday, February 9, 2018 2:08 PM
To: James Speck
Cc: Thiel, Sandra
Subject: RE: Heatherlands

Jim,

Merely labeling the lots as potential townhouse lots is not sufficient for IDWR to employ the stub-out practice. IDWR's policy requires a service line to each lot. In other words, when no home has been constructed yet, IDWR's practice has been to recognize domestic use when the lot has been platted and the stub-out has been constructed. Where the lot has not been split, there is only one stub-out, and there is one home or none, the facts support only one domestic use.

Shelley

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Sent: Friday, February 09, 2018 2:08 PM
To: 'James Speck'
Cc: Thiel, Sandra
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Shelley

From: James Speck [mailto:jim@speckandaanestad.com]
Sent: Friday, February 09, 2018 1:41 PM
To: Keen, Shelley <Shelley.Keen@idwr.idaho.gov>
Cc: Thiel, Sandra <Sandra.Thiel@idwr.idaho.gov>; Charles G. Brockway <charles.g.brockway@brockwayeng.com>; Laura Gvozdas <sunco1007@cox-internet.com>
Subject: Re: Heatherlands

Shelley,

I'm out of the office today but just received this. The townhome lots do NOT have to be split to have 2 units on them. A duplex or two separate homes can be built on those lots by a single owner who would live in one and rent the other. The lot split is necessary ONLY if the owner wants to sell one of the units. Therefore, it is just as "inevitable" that two units will be built on these lots as it is for a single family home to be built on the vacant SFR lots.

Jim

Sent from Jim's iPad

From: Keen, Shelley <shelley.keen@idwr.idaho.gov>
Sent: Friday, February 9, 2018 1:28 PM
Subject: Heatherlands
To: James Speck <jim@speckandaanestad.com>
Cc: Thiel, Sandra <sandra.thiel@idwr.idaho.gov>

Jim,

I've attached the draft applications for amendment for Permits 37-8220, 37-8686, and 37-8831.

The draft for 37-8220 covers domestic use in 116 homes. In addition, the draft was modified to recognize the irrigation of the 2.5-acre common area (Lot 118). The total authorized irrigation is now 38.5 acres. The conditions of approval have also been modified to reflect the updated irrigation place of use.

The draft for 37-8831 has been modified in response to your January 22, 2018, email stating that there is "only one stub out for each of the townhome lots, including those already split into two sub-lots." Consistent with its longstanding practice, IDWR will recognize domestic use on lots with stub-outs from the main water distribution line, as long as the stub-outs existed at the time proof of beneficial use was submitted. IDWR employs the stub-out practice when the construction of a home on the lot appears inevitable in due course. However, it would be inconsistent with the stub-out practice to recognize domestic use for two townhouses on lots that have not yet been split and which have only one stub-out. On such lots, it has not been established that the development of two home is inevitable.

Permit 37-8831 was originally for domestic use in 14 townhouse lots to be created by splitting existing Heatherlands lots. According to your email, the eight townhouse lots that have not yet been formally split and have only one stub-out are 2, 3, and 38 of Block 2; 20 and 21 of Block 3; and 109, 113, and 114 of Block 8; Heatherlands. Because the stub-out allowance is not appropriate for these eight lots, the draft amendment for Permit 37-8831 is for the six townhouses constructed on the following split lots: subplot 2 for each of Peaceful Vista, Cobia, Fort Silverado, Mariposa, and Shaun, and HBS 115B. The annual volume on the draft amendment for 37-8831 was adjusted to 3.6 AF, the quantity appropriate for in-house use for six homes.

Please look over the draft amendments and let me know if you have questions. To submit the applications for amendment to IDWR, your client can sign them and return them with the filing fee of \$100 each. If IDWR has not heard from you regarding the amendments by February 23, 2018, a formal notifications will be sent in the mail.

Regards,

Shelley

Shelley Keen
Water Rights Section Manager
Idaho Department of Water Resources
Shelley.Keen@idwr.idaho.gov
208-287-4947