



Ravalli County Planning Department
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OG-13-11-259

RECEIVED

November 5, 2013

Hon. Jeffrey H. Langton
District Judge, Dept. No. 1
Twenty-First Judicial District
205 Bedford St., Suite A
Hamilton, MT 59840

NOV 05 2013

Ravalli County Commissioners

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Subject: Court-Ordered Split, Cause No. DV-13-367

Dear Judge Langton:

Our office has been provided with a copy of the Petition to Partition Real Property, with regard to the above-referenced case. The petition includes an attached Amended Subdivision Plat depicting a proposed Court-Ordered division of real property presently titled in the names of Debbie Thrall and Dean and Ramona Vance (Property Tax Identification #404810). The Ravalli County Subdivision Regulations apply to divisions of land in this area, unless a statutory exemption applies.

The Planning Department appreciates the opportunity to present written comments on this proposed division of land on behalf of the governing body of Ravalli County. An exemption to this partition exists under §76-3-201(1)(a), MCA, which exempts divisions of land created by order of any court of record, provided that the method of disposition is not adopted for the purpose of evading subdivision review.

After review of the petition and supporting documentation, it is the opinion of the Planning Department that the requested division is not proposed for the purpose of evading subdivision review. The petitioner has requested sole ownership of a portion of the property through completion of the now-expired Boundary Line Relocation approval granted by the Planning Department on April 2, 2009 (File #SEA-09-15), or, if a boundary relocation cannot be made, a partition of the property into two separate lots.

1. It is the preference of the Planning Department that the originally approved Boundary Line Relocation be completed, rather than a partition of the subject property into two lots, which would normally require an approved subdivision application.
2. Written confirmation should be obtained from the Ravalli County Environmental Health Department (RCEHD) that each lot meets or exceeds local and State Department of Environmental Quality (MDEQ) standards for wastewater treatment and potable water (wells).
3. Current and future property owners should be made aware that further development of the properties may require, where appropriate, access permits from the Ravalli County Road and Bridge Department, water and wastewater permits from RCEHD and/or MDEQ, or the following potential applications from the Planning Department: Buildings for Lease/Rent, Subdivision Exemption Application, or Subdivision Review. The Planning Department's research has confirmed that the property is not located within a Voluntary Zoning District, is not intersected by floodplain boundaries, and covenants or deed restrictions are not recorded on the property.
4. Current and future property owners should also be made aware that this letter does not constitute a substantive review of the proposal, such as when evaluating a subdivision application. Despite the provisions addressed in Item #3 above, the lots altered or created through any Court Order process may not:
 - possess legal or physical access;
 - be eligible for a County road access permit;
 - be able to utilize previous private access easements;
 - be eligible for County well or wastewater treatment (septic system) permits;
 - have access to utilities;
 - contain a usable building site; or
 - have beneficial economic use or value whatsoever.
5. Water rights, if any, should be transferred and used on the parcels in order to help protect area water users while guaranteeing access to water on each tract of land. A master irrigation plan addressing water distribution among the two lots should be filed with the AP, if needed. Allocation of water should be a part of this master irrigation agreement. Any irrigation ditches located on the property should be shown on the AP with a 20-foot easement, as measured from the ditch center, for maintenance purposes.
6. The Townsend's Big-eared Bat has been identified as a species of concern within the same PLSS Section as the proposed partition. The property owners should contact Martin Miller of the Montana Natural Heritage Program at (406) 444-3290 for additional information related to species of concern which may be located on or near the property.

Conflict of Interest Statement: Terry Nelson is the Ravalli County Planning Department Administrator, a position he has held since 2011, and is also the surveyor of record for this project since the submission of the Boundary Line Relocation application to Planning in March 2009. As a County employee and Department Head, Mr. Nelson has made no attempt to influence Planning Staff's review of the proposed court action, nor Staff's comment letter set forth above.

Should you have questions, please contact me at your convenience.

Sincerely,



Kevin Waller
Planner

Cc: David Markette, Markette and Chouinard, PC, 601 S. 1st St., Hamilton, MT 59840
SEA File 2009-15
Board of County Commissioners
Clerk and Recorder
County Attorney's Office