

BITTERROOT ENGINEERING AND DESIGN, INC.

1180 Eastside Highway, Corvallis, MT 59828

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March 22, 2014

RECEIVED

MAR 24 2014

Ravalli County Commissioners
215 South 4th Street
Hamilton, MT 59840

Ravalli County Commissioners

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Subject: AP Lots 6&7, Block 2, Hamilton Heights, Ravalli County, MT.

Dear Commissioners,

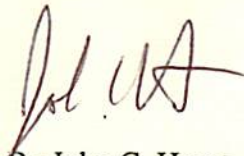
Please consider this a written appeal to the Planning Department's material determination dated March 19, 2014. According to Section 9-5-A, the BCC may consider whether the proposed amendment is material at a public meeting.

I have included our original request along with a copy of the material determination from the Planning Department.

Please notify of the time and location of the meeting so that my client can be present.

Please give me a call if you have any questions.

Sincerely,
BITTERROOT ENGINEERING AND DESIGN, INC.



By John C. Horat, PE

AP Lot 6&7, Hamilton Heights, Block 2

3/18/14

<u>Item</u>	<u>Approved Fee</u>	<u>Proposed Fee</u>	<u>City of Hamilton Comparable</u>
Fire	\$ 900	\$ 900	\$ 438
Sheriff/Emer. Services	\$ 500	\$ 100	\$ 155
Traffic/Roads	\$ 1,500	\$ 1,500	\$ 2,165
Schools	\$ 1,000	\$ 200	\$ 0
Local Services	\$ 250	\$ 0	\$ 0
Agriculture	<u>\$ 250</u>	<u>\$ 0</u>	<u>\$ 0</u>
Total	\$ 4,400	\$ 2,700	\$ 2,758

Approved Fees = 6 new lots @ \$4,400 = \$26,400

Proposed Fees = 6 new lots @ \$2,700 = \$16,200



Planning Department
215 South 4th Street, Suite F
Hamilton, MT 59840
Phone 406-375-6530
Fax 406-375-6531
tnelson@rc.mt.gov

OG-14-03-49

March 19, 2014

Bitterroot Engineering and Design, Inc.
1180 Eastside Highway
Corvallis, MT 598728

RE: Misty Vale Dairy Lots 6&7 Blk 2, Hamilton Heights AP (#2007-13)

Dear Mr. Horat,

On March 18th, you submitted to us a request for a change to your Preliminary Plat Approval of December 21, 2009. You have received extensions to the preliminary plat approval which currently has an expiration of August 8th, 2016. The request is to look at the effects of the subdivision on the Sheriff/Emergency Services, Schools, Local Services, and Agriculture and the conditioned mitigation fees from the Preliminary Plat Decision.

The process for a change to the PPD is outlined in Section 9-3 of the Ravalli County Subdivision Regulations (RCSR) as follows:

9-3. AMENDED APPLICATIONS - AFTER BCC DECISION, BEFORE FINAL PLAT APPROVAL

- A. Application Amendment(s). If the **applicant** proposes to change the **preliminary plat application** following the decision of the **BCC** to approve, conditionally approve, or deny the **preliminary plat application** but before the **final plat application** approval, the **applicant** shall submit the amendment(s) to the **Planning Department** for review.
- B. Review Period. Within fifteen (15) working days of receiving the amendment(s), the **Planning Department** shall determine whether the amendment(s) to the **preliminary plat application** are non-material or material pursuant to Section 9-4, below.
- C. Non-material Determination. If the **Planning Department** determines that the amendment(s) are non-material, the **Planning Department** shall ensure that the amendment(s) are incorporated into the **final plat application** that is forwarded to the **BCC** for approval.
- D. Material Determination. If the **Planning Department** determines that the amendment(s) are material, depending on the scope of the amendment(s), the **Planning Department** shall notify the **applicant** that proceeding with the proposed amendments will either:
 1. Reject the amendment(s) and require the **applicant** to submit the **final plat application** in accordance with the **PPD**; or

2. Require the **applicant** to return to element or sufficiency review as detailed in Chapter 2 of these regulations, and require the **applicant** to pay fifty percent (50%) of the required review fee; or
3. Require the **applicant** to start the **subdivision** review process over at the pre-**application** meeting as detailed in Chapter 2 of these regulations, and require the **applicant** to pay new review fees in whole.

9-4. MATERIAL AMENDMENT(S)

A. The following amendment(s), although not an exhaustive list, may be considered material:

1. Configuration or number of **lots**;
2. **Roadway** layout;
3. Water and/or wastewater treatment system proposals;
4. Configuration of **parkland** or open spaces;
5. **Easement** provisions;
6. Designated access; or
7. Change to conditions of approval.

9-5. APPEALS

- A. Appeal Submittal. An **applicant** whose **preliminary plat application** has been deemed materially changed by the **Planning Department** may **appeal** the **Planning Department's** determination to the **BCC** by submitting a written notice within ten (10) working days of the date of the **Planning Department's** determination. The **BCC** shall consider whether the proposed amendments are material at a public meeting. The **applicant** may request a public meeting before the **BCC**, and may submit additional information prior to the **BCC** meeting or hearing.
- B. Review Period. If a decision to approve, conditionally approve, or deny the **subdivision** has not yet been rendered by the **BCC**, the applicable thirty-five (35), sixty (60), or eighty (80) working day review period will continue to be suspended until the **BCC** renders a decision on the **appeal**. A decision on the **appeal** will be made within thirty (30) working days of receipt of the written notice from the **applicant**, unless a public hearing is requested.
- C. Non-Material Determination. If the **BCC** determines that the amendment(s) are non-material, the **BCC** shall either:
1. Schedule the appropriate public meeting or hearing to continue with review of the amended **application**. The applicable thirty-five (35), sixty (60), or eighty (80) working day review period remains suspended until the **BCC** holds the public meeting or hearing; or
 2. Ensure that the amendment(s) are incorporated into the **final plat application** prior to **BCC** approval.
- D. Material Determination. If the **BCC** affirms the **Planning Department's** determination that the amendment(s) are material, the **BCC** shall notify the **applicant** that proceeding with the proposed amendments will require the **applicant** to either:
1. Submit the **final plat application** in accordance with the **PPD**; or

2. Require the **applicant** to return to element or sufficiency review as detailed in Chapter 2 of these regulations, and require the **applicant** to pay fifty percent (50%) of the required review fee; or
 3. Require the **applicant** to start the **subdivision** review process over at the pre-**application** meeting as detailed in Chapter 2 of these regulations, and require the **applicant** to pay new review fees in whole.
- E. Review Period Suspension. By appealing the decision of the **Planning Department**, the **applicant** agrees to a suspension of the applicable thirty-five (35), sixty (60), or eighty (80) working day review period during consideration of the appeal.

Our staff looked at your proposed changes to determine whether they were *material or not material*. Our determination was that since these were agreed upon by the Board of County Commissioners and the Applicant after looking at the individual criteria, including comment letters from some of the affected agencies, that a change to the PPD would be material. Further, the conditioned mitigation fees are \$10,200 more than what is currently being proposed.

We then looked at the RCSR concerning fees for an amended application. Our subdivision regulations are such that **"the Planning Department may require the subdivider to begin the subdivision review process again, starting with the pre-application meeting, and require payment of a new application fee."**

We have determined that since no physical changes have been proposed that the application, as reviewed, is still sufficient and no further information is required to proceed with your proposed changes, however, you are able to submit additional supporting information if you would like.

I have also included a copy of the adopted fee schedule for the county (adopted May 31, 2012) and highlighted the portion that deals with Section 9-3. There is no provision in the fee schedule for changing the fee based on individual circumstances. Further, the Planning Department will be required to prepare a new staff report, notify affected agencies for comments, notify adjoining land owners, hold a commissioner hearing, and prepare final documents from the decision of the County Commissioners. The fee schedule was arrived at by averaging the time and costs associated with amended applications. As shown on the fee schedule, for the proposed material modification, the total review fee for a new 7 lot subdivision would be \$1900. The fee for this material modification is half of the review fee, or \$950. Please submit the \$950 for our review, or if you do not agree with our determination, under 9-5, you may appeal the Planning Department's decision to the Board of County Commissioners within 10 working days.

Once we receive the application fee, the Planning Department will schedule a public meeting at which the BCC will review your proposed modification to the PPD.

If you have any questions, please do not hesitate to call me at 375-6530.

Sincerely,



Terry Nelson, Planning Administrator

Cc: Stacey Auch 714 US Highway 93 N Hamilton, MT 59840
Subdivision File