

May 12, 2017

Dear Ravalli County Commissioners: Ray Hawk, Greg Chilcott, Chris Hoffman, Jeff Burrows, and Doug Schallenberger,

I would like to provide public comment to the May 9, 2017 discussion of the Complaint for Declaratory Judgement regarding Lot 14A located in the Stevensville West Residential Subdivision. I was in the commissioner's office on Monday (5/8/17) with questions regarding the Declaration and I am surprised that Commissioners Ray Hawk or Doug Schallenberger did not inform me of the meeting for discussion on this very topic or the opportunity to provide public comment at that time.

Listed below are the some of the concerns the other residents and I of Stevensville West Residential subdivision have:

1. The address identified on the complaint is 1557 Houk Way, this is an invalid address and I have verified this with Ravalli County GIS. The correct address for the property is 3912 Houk Way and the legal approach for the property is from Houk Way. This is of major concern to the impact of Houk Way. There is no legal access off Stevi Cut Off Road to provide access to 3912 Houk Way, as the subject property is land locked by River Park Commercial Village Subdivision to the south, which means that legal access to the subject property has to be via Houk Way, which is a residential private access. The change of use to the private road easement we feel would be an overburdening of the residential access that was originally reviewed and approved back in 1978, as recorded with the Ravalli County Clerk & Recorder.
2. The easement on the subject property does not extend through River Park Commercial Village Subdivision to the Stevi Cut Off Road through any recorded easements on the adjoining properties. The dirt track access was made by people cutting through the subdivision as a short cut to the Day Care Center and to avoid traffic during construction of 93. It is my understanding when the HOA paid for the barricades, that the owner of Lot 14A donated monies to help pay for and place the barricades, as it assisted to block illegal traffic crossing his property. In reading the complaint, Ray Hawk was one of the signers of the easement and that the easement itself was not for access, but rather for a commercial sign and commercial sign maintenance. There is no road to abandon for the simple fact that an access easement never legally existed across the property.
3. I am concerned as to how this property was originally subdivided based on the fact that the original 1978 subdivision was for residential use, as this is how it was reviewed and approved by the governing body, and that the original Covenants recorded in 1978, Book 149, Page 984, Section 1 Building Type: "It is intended that all buildings be constructed for permanent residence." The original Covenants Section 5 Miscellaneous deals with specific commercial development that is absolutely prohibited. Since the subdivision was platted as a residential subdivision and it's my understanding any changes to the subdivision would require a re-review of the subdivision and a rewrite of Certificate of Subdivision Approval by the Department of Environmental Quality for the lot in question to be converted from a residential lot to a commercial lot.

It appears that Mr. Hawk assumed that the lot in question could be commercial since the adjoining lot to the east was manufacturing rocking chairs as he stated the adjoining property was commercial when in fact the property he was comparing it to was not Commercial, but contained a residence and a home-occupation business, which is permissible under State Law. This is verified by the Montana Cadastral system which identifies the lot east of the subject property (Lot 14A) as residential. (The fact that someone is building rocking chairs in their garage does not warrant a commercial use.)

4. The statement to "allow for the use of the property to continue as status quo", by Jason William I take issue with. There has been no obvious business conducted on the subject property in a continuous basis for the last ten years, as I have resided at 4042 Houk Way and to my understanding eight years prior to that when Ray Hawk sold the building. It's my understanding that Mr Hawk held auctions on the subject property once a year and that was the extent of his commercial business. The original structure was built in 1982, and is listed by the state CAMA as a warehouse, and the second was erected in 1991 and is listed as an unfinished commercial garage type structure. The use of these buildings since I bought my property has been as a private storage facility, with no commercial activity, no posted business hours, and no commercial/business traffic in the subdivision. The fact that this property is now going from essentially a warehouse storage or accessory shop to a full blown commercial operation with 6 plus individual offices for commercial business staff, is a definite change of use. Hence this is why the new owner has made application (December 2016) to the State Building Code (Department of Labor and Industry) for the remodel of the structures, as this facilitates a change of use for commercial purposes to the existing buildings.
  
5. Mr. Wilson requested a meeting with the homeowners to change the covenants back in May 2016, this change would essentially allow for commercial use within the subdivision. It is believed that by changing the covenants, this would allow Mr. Wilson to obtain financing and purchase the property. At the meeting there were homeowners that signed the affidavit to allow for the commercial use, however, in exchange for their signatures Mr. Wilson proposed that the use would be minimal, materials would be stored in the warehouse, and that there would only be one receptionist office, and no job trailers parked on site. However, this is not what he is currently doing on the property, and we are now in conflict and the broken promises are not sitting well with the homeowners that had originally signed. Mr. Wilson obtained a building permit from the state in December 2016 and has started work prior to serving the homeowners the Complaint for Declaratory Judgement or waiting to hear the outcome of the judgement from the court.

This dramatic change of use from a pole barn used as a warehouse to an office building with individual offices and using the site to store lumber, job trailers, fork lifts, and other items on the property concerns the other property owners as this effects our property values and changes the nature and character of our residential subdivision.

Due to the fact that some of the changes that have occurred in our residential subdivision prior to State and County oversight, and the subdivision being built out there was no one to dispute these previous changes that were being made to the residential property.

We now have the opportunity to look into the matter and take action to protect our residential subdivision from further commercial changes. It is very clear what the covenants state and the banking firm acknowledged and recognized our strict residential covenants that have forced Mr. Wilson to approach the residence of Stevensville West residential subdivision for approval to modify the covenants to allow for commercial use.

I would like to see all come to an agreement in which all parties could benefit. However, the broken promises of Mr. Wilson and this is a dramatic change to the character, use, increased demands on our road and residential subdivision needs to be brought into compliance. The covenants need to be changed and followed, the covenants need to benefit all within the residential subdivision, the DEQ approval needs to be updated to include a COSA re-write and increased commercial use on the previously install septic, the private access easement (Houk Way) needs to be renegotiated for increased commercial use, the physical access (Houk Way) needs to be brought up to commercial access standards as stipulated in the Ravalli County Subdivision Regulations.

Thank you,

A handwritten signature in cursive script that reads "Carol Barrie".

Carol Barrie  
4042 Houk Way  
Stevensville, MT 59870  
406-529-9908





