



REQUEST FOR COMMISSION ACTION

OG-19-06-142

BCC Public Meeting: Monday, June 24, 2019 at 9:00 AM
Subject: Preliminary Plat Approval Period Extension Request #2

I. Action Requested

This is a request from Marne Martin and Melanie Martin Goodnight, submitted by Edward Adkins of Real Estate Services of Montana, to grant a three-year extension of the preliminary plat approval period for phases 2 through 5 of the One Horse Estates, 77-Lot Major Subdivision and Variance approval.

II. Applicable Regulations

Ravalli County Subdivision Regulations Section 3-13(B) gives the Board of County Commissioners (BCC) the authority to grant an extension to the preliminary plat approval period as follows:

3-13. FINAL PLAT APPROVAL PERIOD

A. Approval Period. If the BCC approves or conditionally approves a preliminary plat application, that approval shall be in force for twenty-four (24) months from the date of the PPD unless a preliminary phasing plan and schedule has been approved as part of the preliminary plat approval (See Section 3-16).

B. Extension Request. The BCC may, at its discretion and at the written request of the applicant, extend its approval of the PPD. The written request from the applicant shall detail all the actions the applicant has taken to complete the requirements and meet the conditions of preliminary plat approval as listed in the PPD.

1. Submittal. The request for an extension of the preliminary plat approval period must be submitted to the Planning Department at least thirty (30) working-days prior to the expiration of the PPD. The Planning Department will evaluate the request and provide a written recommendation to the BCC.

2. Review. The BCC shall evaluate the Planning Department's recommendations and the request for extension to determine whether the applicant has started the subdivision, and has been working in good faith to complete the subdivision. After their review, the BCC may approve or deny the request for extension.

Additionally, Montana Code Annotated provides as follows:

76-3-610. Effect of approval of application and preliminary plat. (1) Upon approving or conditionally approving an application and preliminary plat, the governing body shall provide the subdivider with a dated and signed statement of approval. This approval must be in force for not more than 3 calendar years or less than 1 calendar year. At the end of this period the governing body may, at the request of the subdivider, extend its approval for a mutually agreed-upon period

of time. Any mutually agreed-upon extension must be in writing and dated and signed by the members of the governing body and the subdivider or subdivider's agent. The governing body may issue more than one extension.

(2) Except as provided in 76-3-507, after the application and preliminary plat are approved, the governing body and its subdivisions may not impose any additional conditions as a prerequisite to final plat approval if the approval is obtained within the original or extended approval period as provided in subsection (1).

III. Background

- The One Horse Estates Subdivision and Variance request were conditionally approved by the BCC on November 6, 2007.
- The Variance approval allowed the subdivision plat to be filed in 5 phases over a period of 10 years.
- The Preliminary Plat Decision was mailed to the subdivider on March 14, 2008. A phasing plan was submitted November 19, 2009, as allowed by the Planning Department via letter dated August 28, 2009.
- On December 17, 2015, the Ravalli County Board of Commissioners approved a three-year extension.
- The **original** phasing plan was as follows:

PHASING PLAN	PHASING SCHEDULE
Phase 1 (Lots 69-77 and Parkland)	March 14, 2016
Phase 2 (Lots 8, 20-42, 54-57)	September 14, 2016
Phase 3 (Lots 9-19)	March 14, 2017
Phase 4 (Lots 49-53, 58-68)	September 14, 2017
Phase 5 (Lots 1-7, 43-48)	March 14, 2018

- On December 17, 2015, the BCC approved a **second extension phasing plan**, as follows:

PHASING PLAN	PHASING SCHEDULE
<i>Phase 1 (Lots 69-77 and Parkland)</i>	<i>March 14, 2019 – HAS BEEN COMPLETED AND RECORDED (12/16/16)</i>
Phase 2 (Lots 8, 20-42, 54-57)	September 14, 2019
Phase 3 (Lots 9-19)	March 13, 2020
Phase 4 (Lots 49-53, 58-68)	September 14, 2020
Phase 5 (Lots 1-7, 43-48)	March 12, 2021

- Mr. Adkins cites the death of Richard Martin; that Mr. Martin's daughters are not developers and his daughters' have been unsuccessful in selling the remaining four phases of the property.
- Mr. Adkins also cites that the remaining phases (2 through 5) shall require a centralized sewer system. The proposed system had previous MDEQ approval (2010) but has since expired. The MDEQ application was re-submitted in July of 2018 and after meeting additional MDEQ requirements, MDEQ ultimately approved the proposed system on May 16, 2019.

- If the BCC were to approve this extension request#2, utilizing a three-year extension that the BCC has applied to recent proposals, the preliminary plat approval period will expire as follows:
 - ~~Phase 1: March 14, 2019/~~
 - Phase 2: September 13, 2022
 - Phase 3: March 13, 2023
 - Phase 4: September 14, 2023
 - Phase 5: March 12, 2024
- **Conflict of Interest Statement:** According to Ravalli County Planning Department Administrator Terry Nelson, he had worked on this subdivision project under Dennis Applebury of Applebury Survey, prior to Nelson's employment with the County. As a County employee, Mr. Nelson has made no attempt to influence Planning Staff's recommendation on the proposal.

IV. Planning Staff Recommendation

The Planning Department has reviewed the request, and recommends that the BCC grant a three-year extension, to be consistent with previous extension approvals, to the preliminary plat approval period for phases 2 through 5 of the One Horse Estates Major Subdivision.

Attachments: Extension Request, Reduced Preliminary Plat, Vicinity Map
Staff: Chris Taggart
Date: Monday, June 24, 2019 at 9:00 AM
Cc: Marne Martin, Melanie Martin, Edward Adkins of Real estate Services of Montana, Terry Nelson of Applebury Survey, Ravalli County Attorney's Office, Subdivision File, Outgoing Mail File

We hereby

Approve

Deny

a three-year extension of time for the

One Horse Acres Major Subdivision's Preliminary Plat Approval Period, to now expire as follows:

Phase 2: September 13, 2022

Phase 3: March 13, 2023

Phase 4: September 14, 2023

Phase 5: March 12, 2024

DATE OF BCC ACTION: JUNE 24, 2019

BOARD OF COUNTY COMMISSIONERS

Jeff Burrows, Chairman



Greg Chilcott, Member



Chris Hoffman, Member

30 workdays prior

Plat 2 = 8/1/22

3 = 1/27/23

4 8/2/23

5 1/29/24

Ravalli County Board of County Commissioners

215 S. 4th Street, Suite A

Hamilton, Montana 59840

RECEIVED

JUN 03 2019

1C-19-06-165
Ravalli County Planning Dept

May 16th, 2019

RE: Request for Extension for One Horse Estates subdivision

Dear Commissioners,

This letter is to request an extension to the Preliminary Plat Decision for the One Horse Estates subdivision. The subdivision was approved in November of 2007 and included a variance for 5 phases over 10 years. The approval letter was issued by the Planning Department on March 14th, 2008 and in subsequent correspondence with the Planning Department, the phasing plan was approved as follows:

Phase 1: March 14th, 2016; Phase 2: September 14th, 2016; Phase 1: March 14th, 2017; Phase 2: September 14th, 2017; Phase 1: March 14th, 2018

In 2015 an extension request was granted for an addition 3 years to each phase resulting in the following deadlines;

Phase 1: March 14th, 2019; Phase 2: September 14th, 2019; Phase 1: March 14th, 2020; Phase 2: September 14th, 2020; Phase 1: March 14th, 2021

Phase 1 was completed and filed December 16th, 2016.

We are hereby requesting an additional extension for the final 4 phases. We would like the county precedent extension of 3 years.

To provide some history on this subdivision and what has been accomplished:

The original applicant, Richard Martin, has since passed away and his daughters, Marne Martin and Melanie Martin Goodnight are now the owners of the property. The Martin sisters, not being developers, tried to sell the property during the economic downturn and were only successful in selling Phase 1 to a developer. As mentioned above, that phase has been filed. The sisters have now partnered to

finish the final 4 phases with the undersigned developer. The final 4 phases require a centralized sewer system and as such required a more intensive review and approval from MDEQ. The system had previous DEQ approval from around 2010, but had expired. The application was re-submitted in July of 2018 anticipating a fairly easy approval based on the previous approval. That was not the case. The DEQ approval required several additional requirements including new designs, drilling and monitoring test wells, and several other items. Every effort was made to expedite the approval last year, but it was finally approved May 16th, 2019. A lot of time, effort and expense has been spent to acquire this approval. It now will require installation of the sewer system, as well as the road system and other improvements to file the next phase. With a deadline of September of this year, the timeframe would be very difficult to meet.

While not required, we would also like to address the subdivision criteria.

Criteria 1. Effects on Agriculture

This subdivision has been used for pasture. The north portion (Phase 1) has now been taken out of pasture and houses are being built. The property is not prime farmland or farmland of statewide importance. If anything, the effects on agriculture are less than the minimal amount they were when originally reviewed.

Criteria 2. Effects on Agricultural Water Facilities.

There have been no changes in the Agricultural Water Facilities since this subdivision was preliminarily approved. The conditions in the approval will protect agricultural water users.

Criteria 3. Effects on Local Services.

The interior roads will be built to full paved county standards. Also, the mitigation fees which are required on this subdivision far exceed the current averages for mitigation. The services have not changed, so that is a bonus for the County. No conditions have changed in the area which would warrant additional conditions.

Criteria 4. Effects on the Natural Environment.

There are no changes since the preliminary approval. One of the Natural Environment issues of the previous review was the proximity to One Horse Creek which Phase 1 encroached on. These final 4 phases do not come into proximity to One Horse Creek, so this extension has less impact on Natural Environment than the original approval.



Criteria 5. Effects on Wildlife and Wildlife Habitat. (Now 5 & 6)

As above, the proximity to the riparian area along One Horse Creek was mentioned as an effect. A condition required setbacks in Phase 1. There are also setbacks along the existing irrigation ditch on the South side of Phase 1. There have been no changes and the conditions will mitigate any effects.

Criteria 6 Effects on Public Health and Safety (Now 7)

There have been no changes in the area to change the effects on public health and safety. As indicated in Criteria 3, the requirements on mitigation fees were much greater than today. There was also a requirement on wells which went far beyond any DEQ requirements that was forced upon the applicant.

We therefore request an extension for an additional 3 years to each of the final 4 phases.

Also, Terry Nelson of Applebury Survey, Inc. was the original surveyor and is still involved with this project. This fits within the original "conflict of interest" agreement which allows him to continue with any project he had started prior to employment with the County. As such, this review should not be done through the Planning Department.

Sincerely,

A handwritten signature in blue ink, appearing to be "Eric A. C.", written over a horizontal line.

Real Estate Services of Montana, As Authorized Agent for:

Marne Martin and Melanie Martin Goodnight

Real Estate Services of MT, LLC

109 N. 4th Street, Suite 202
Hamilton, MT 59840

Opportunity Bank of Montana
711 S. 1st St., Hamilton, MT 59840

93-7080/2920

5-16-19

PAY TO THE
ORDER OF

RAVALLIE COUNTY

\$ 200.00

TWO HUNDRED AND NO/100

DOLLARS

MEMO Request for Extension for One Horse
Estates Subdivision

[Signature]
AUTHORIZED SIGNATURE

⑈001389⑈ ⑆292070806⑆ 0147001593⑈

RECEIPT		DATE <u>6/3/19</u>	No. <u>494931</u>
RECEIVED FROM <u>Edward Adkins/Real Estate Serv.</u>		\$ <u>200.00</u>	
<u>two hundred dollars</u>		DOLLARS	
<input type="radio"/> FOR RENT <input type="radio"/> FOR <u>Real Estate Serv. of MT</u>		<input type="radio"/> CASH <input type="radio"/> CHECK <input type="radio"/> MONEY ORDER <input type="radio"/> CREDIT CARD	
ACCOUNT		FROM	TO
PAYMENT		<u>One Horse Estates</u>	
BAL. DUE		BY	<u>MDL</u>

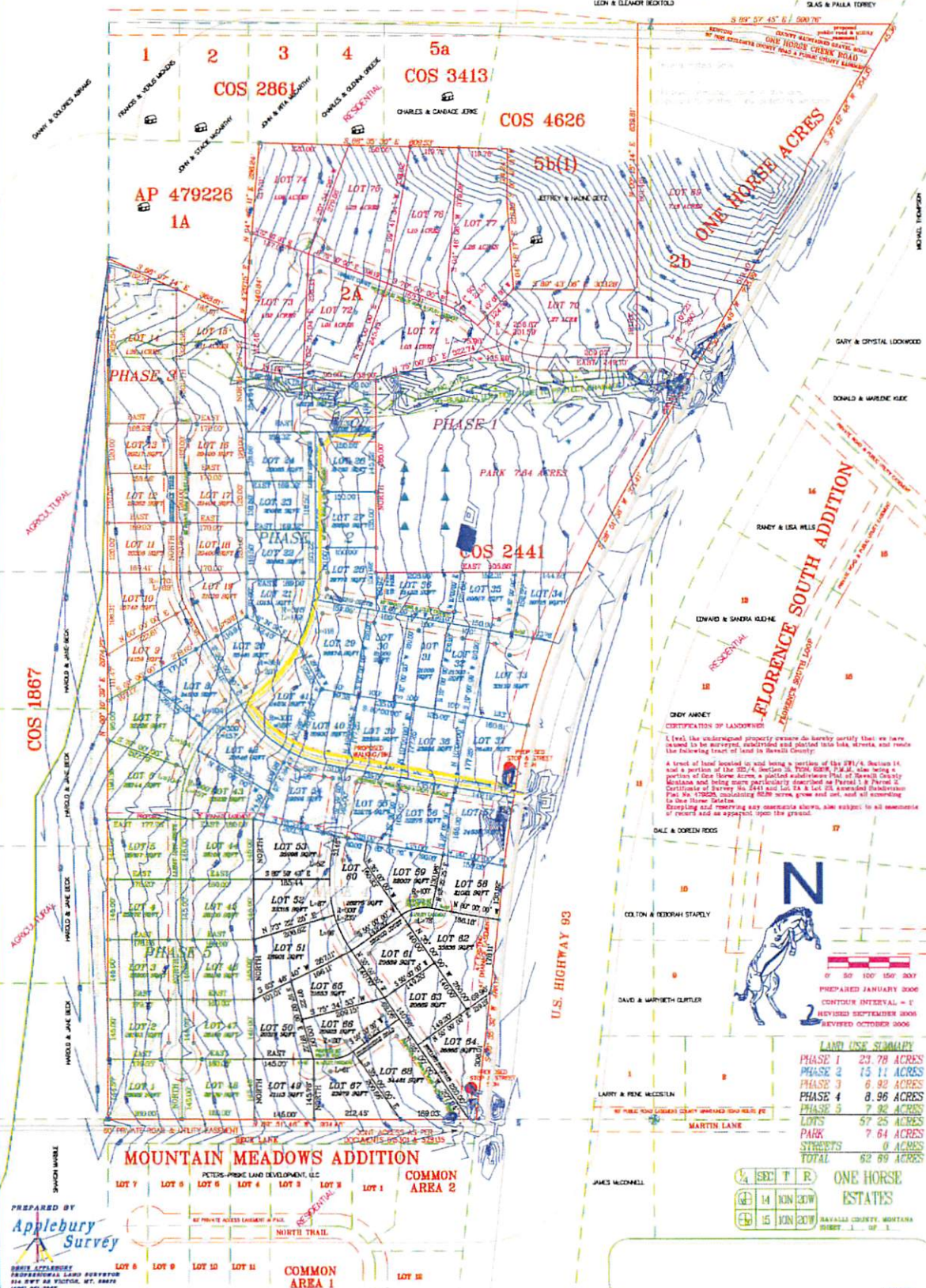
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T-46800/46802

Security features. Details on back
FD

PRELIMINARY PLAT OF ONE HORSE ESTATES

OWNERS: ONE HORSE ACRES SUBDIVISION, LLC

A PORTION OF THE SW¹/₄ SECTION 14, AND OF THE SW¹/₄ SECTION 15, T10N, R20W, P.M.M. RAVALLI COUNTY, MONTANA



STATEMENT OF LANDOWNER
 I, the undersigned property owner, do hereby certify that we have caused to be surveyed, subdivided and platted into lots, streets and roads the following tract of land in Ravalli County:

A tract of land bounded in and being a portion of the SW¹/₄ Section 14 and a portion of the SW¹/₄ Section 15, T10N, R20W, P.M.M., also being a portion of One Horse Acres, a platted subdivision in Ravalli County, Montana and being more particularly described as Parcel 1 & Parcel 2, Certificate of Survey No. 4441 and Lot 1 & Lot 2, recorded in Book 147, Page 17,250, including 80.00 acres, grow and set, and all according to the show plat.

Surveying and recording any encumbrance shown, are subject to all encumbrances of record and as apparent upon the ground.

DALE & DOREEN REEDS



LAND USE SUMMARY

PHASE 1	23.78 ACRES
PHASE 2	15.11 ACRES
PHASE 3	6.92 ACRES
PHASE 4	8.96 ACRES
PHASE 5	7.92 ACRES
LOTS	57.25 ACRES
PARK	7.64 ACRES
STREETS	0 ACRES
TOTAL	62.89 ACRES

PREPARED BY
Applebury Survey
 BRUCE APPLEBURY
 PROFESSIONAL LAND SURVEYOR
 204 S.W. 4th ST., YUKON, MT. 59454
 (406) 961-2947

SECTION ONE HORSE ESTATES
 RAVALLI COUNTY, MONTANA
 SHEET 1 - OF 1

One Horse Estates

