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Ravalli County Commissioners

Planning Department
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OG-07-12-1244

December 17, 2007

Lawrence D. Johnson
Attorney at Law
345 West Main St. – PO Box 500
Hamilton, MT 59840

Re:Fowler and Harvey Court Ordered Split, Cause No.: DV 07-352

Dear Mr. Johnson,

My office has been provided with a preliminary Certificate of Survey (COS) depicting a proposed Court-Ordered division of the Fowler and Harvey property, as well as the court ordered partition filed July 17, 2007. Ravalli County greatly appreciates your willingness to include the Planning Department in this review opportunity.

The property is currently zoned under the interim zoning regulations adopted through ballot initiative which requires a residential density of one dwelling unit per two acres for subdivisions. It is not located in a voluntary zoning district. The Ravalli County Subdivision Regulations are applicable in the area. An exemption to the regulations is being requested under Section 4-4-2 (Qualified Exemptions – Order of a Court) by the current property owners.

The Planning Department has determined that the proposed division does not appear to be for the purpose of evading the subdivision regulations or the MSPA. The Planning Department can generally support the proposed land division and the following comments are offered for the Court's consideration:

1. Written confirmation, from the Environmental Health Department, that each lot meets or exceeds local and State Department of Environmental Quality (DEQ) standards for wastewater treatment and potable water (wells) should be obtained. You may also wish to consider conditioning your approval on the property owner(s) obtaining DEQ approval, which is consistent with SB 290; a law passed in 2005 amending 76-3-604 MCA.

2. Further development of the properties should include, when appropriate, access permits from the road department, additional structures requiring wastewater treatment facilities exemption application, subdivision exemption application, floodplain analysis, and/or subdivision review.

3. The subject property has a high potential to be at risk during wildfire incidents, which can adversely affect public health and safety as well as local services (emergency services providers).

4. Water rights and irrigation practices are routinely subject to intense public debate in Ravalli County's subdivision hearings. 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 COS, if needed. Allocation of water should be a part of this master irrigation agreement. All irrigations ditches located on the property, if any, should be shown on the COS with a 10-foot easement (5-foot on either side of the ditch) for maintenance purposes.

5. The Planning Department requests a processing fee of $200.00 to help cover the costs involved in the review and recommendations regarding this proposal. My office is grateful for the assistance of the property owners to help defray the costs to county taxpayers for the staff time and materials that were required for the project. Your inclusion of this fee in a Court-Ordered split will provide my office with the ability to continue to review these types of proposals to help insure the reasonable health, safety, and welfare of all county residents.

Again, thank you for the opportunity to review this proposed Court-ordered division of land. If you have any questions, please contact me at your convenience.

Sincerely,

Karen Hughes, Planning Director

Cc: County Attorney
Clerk and Recorder
Board of County Commissioners