

## **March 6 Meeting Minutes(Published):**

10:45 AM Director Brown presented Dykema Boundary Relocation, Amended Plat of the Darlinton Minor Subdivision and Amended Plat of the Rahn Minor Subdivision.

Director Brown stated this is to relocate boundaries between adjacent properties and to create a 60-foot-wide access easement. Director Brown stated this property is located in of portion of Section 32, a portion of Section 33, Township 2 North, Range I East and a part of Section 4 and Section 5 of Township 2 North and Range 1 East off of Price Road in the southern end of Broadwater County. Director Brown read into record the affidavit for Exemption Request from SKS Land Co. / Dykema Land Co./ Bowery's. Commissioner Folkvord commented. Director Brown commented. Commissioner Randolph commented. Director Brown commented. Deputy County Attorney Minor commented.

Ken Dykema swearing in. Commissioner Folkvord commented. Ken Dykema commented. Commissioner Folkvord commented. Deputy County Attorney Minor commented.

Commissioner moved to request more information regarding Price Road on Amended Plat of Darlinton Minor Subdivision and Amended Plat of Rahn Minor Subdivision along with any additional pertinent information. Commissioner Richtmyer seconded and carried. Director Brown commented.

## **March 6 Audio Notes and Response:**

Tract E: Agricultural Tract Sanitary Restrictions Apply

Amended Tract F: Agricultural Tract/Covenant Sanitary Restrictions Apply, can't develop  
Implications of an Ag tract

- The purpose of the division of the land cannot be to evade subdivision review;
- The land to be divided must be outside of a platted subdivision;
- The land divided must comply with survey requirements in State law;
- The land divided must comply with applicable zoning;
- The agricultural covenant must run with the land; and
- The land must be used exclusively for agricultural purposes.

Ag Tract is not being Lost: gained and traded

No additional Tracts are being created

Change in use: none or converting from Subdivision to Agriculture

SE 60' Access Easement: going from Subdivision to Agriculture Covenant. Was Agriculture until 2005. Provides safe access to Pasture Land (Tract E) for Lance DeHaan( Leasing from Dykema Land Company under contract until February 2030)

County Easements and Accesses to Price Road, will they be affected? No, it runs with the land and forever bound. All land transfers have been and are subject to right-of-ways and easements as shown, existing, or of record. – Stated on Plat

## **Intent of Relocation:**

- give Rahn Minor(Bowerys) Access to their septic drainfield
- make the Trailer property more affordable to sell. Going from about 32 acres to 1.35 acres.
  - approved by DEQ 02/05/2024
  - still governed by original CCRs
- 60' private access easement provides safe access to Pasture Land (Tract E) for Lance DeHaan( Leasing from Dykema Land Company under contract until February 2030)
- straighten out property line for future use
  - Ken straightened a boundary line in 2020 along Tract 2 And Darlington Minor. He has not developed either of those tracts.

Ken has actively used the land along Price Road for Agriculture Purposes for over 50 years and wishes to continue the promotion and support of Agriculture use along that property and his other agricultural property within Broadwater County.

Ken is the Declarant/Developer for The Village at Elk Ridge. He has no desire to develop his Agriculture Land while he has an entire subdivision to develop.

Nothing within this proposal was done to evade the MSPA.

## **Historical Narrative:**

**Price Road Easements and Accesses:** *shows historical agreements continue to run with the land*

- September 2007 County Road Easement between Broadwater County and Steve Cavanaugh.

60 ft wide permanent road easement, 30 ft on each side of the centerline from west right-of-way line of US 287 and NE corner of Tract C(now Darlington Subdivision) extending to the NW corner of Darlington Subdivision.

To have and to hold all of the above-described property unto Broadwater County and to its successors and assigns as long as the same is used for road purposes.

- September 2011 Access Control between State of Montana Department of Transportation and Norm Darlington

The right of reasonable access to and from Tract E.

It is expressly intended and agreed that these covenants, burdens, and restrictions shall run with the land and shall forever bind the Granter, his heirs, successors, and assigns.

- November 2011 Access Control between State of Montana Department of Transportation and Dykema Land Company, LLC

The right of reasonable access to and from Tract 2.

It is expressly intended and agreed that these covenants, burdens, and restrictions shall run with the land and shall forever bind the Granter, his heirs, successors, and assigns.

- March 2014 Grant of Access and Utility Easement between Steve Cavanaugh and Norman Darlinton

A 60.00 feet wide Access and Utility Easement being located in part of the Third Amended Tract I of the Darlinton Minor Subdivision. *Not marked on plat being presented but can be found on record in Book 155 Pages 507 & 508.*

This GRANT of right and authority shall run with the said property and be binding on the GRANTOR, its successors, all subsequent owners and any parties having right, title, or interest in the said property.

### **Agricultural Tracts F & E:**

- April 2014 Warranty Deed Norman Darlinton unto Dykema Land Company, LLC.

Tract D (now D & E) and Tract B (now B, F, & G)

Subject to: All reservations and restrictions in patents from the US or the State of MT; existing easements, encroachments and rights of way or record and those which would be disclosed by an examination of the property.

- June 2020 Creation of Agricultural Tracts by Dykema Land Company

Creates Tract G and F from Tract B. Creates Tract E from Tract D. Purpose was to separate pasture lands.

Served by and subject to right-of-ways and easements as shown, existing, or of record.

### **Darlinton Minor Subdivision:**

- July 1999 Certificate of Subdivision Plat Approved by DEQ and CCRS recorded. Declarant and Developer are Bernard and Ann Jones.
- April 2005 Warranty Deed Bernard and Ann Jones unto Steve Cavanaugh Limited Partnership

Amended Tract 1 of Darlinton Minor Subdivision. Without Price Road Tract (Tract B)

- September 2005 Relocation of Common Boundary

Norm Darlinton transfers Tract B(Price Road) to Darlinton Minor Subdivision Amended Tract 1 owned by Steve Cavanaugh. Tract B is an addition to and not intended to be a separate tract of Darlinton Subdivision.

Served by and subject to right-of-ways and easements as shown, existing, or of record.

Creates Second Amended Tract 1 of Darlinton Minor Subdivision.

- March 2007 Transfer of Property

Norm transfers Tract C(described to facilitate transfer of ownership) to Second Amended Tract 1 Darlinton Minor Subdivision owned by Steve Cavanaugh. Tract C is an addition to and not intended to be a separate tract of Darlinton Subdivision.

Served by and subject to right-of-ways and easements as shown, existing, or of record.

Increases Subdivision and Reduces Lands of Norm Darlinton. Creates Third Amended Tract 1 of Darlinton Minor Subdivision.

- August 2007 Quit Claim Deed

Norman Darlinton unto Steve Cavanaugh Limited Partnership Third Amended Tract 1 of Darlinton Minor Subdivision.

- October 2016 Non-Merger Quitclaim Deed in lieu of Foreclosure Cavanaugh Limited Partnership unto Bank of the Rockies

Third Amended Tract 1 of Darlinton Minor Subdivision

Together with any and all fixtures, tenements, hereditaments, easements, rights, privileges and appurtenances there unto belong or used in connection therewith, and the reversion, remainders, rents, issues and profits thereof.

- October 2018 Warranty Deed Bank of the Rockies unto SKS Land Company, LLC

Third Amended Tract 1 of Darlinton Minor Subdivision

To have and to hold unto the Grantee, its successors and assigns forever, subject only to the following: all declarations, restrictions, covenants, agreements, conditions, reservations, claims, rights, interests or claims, and other matters or of record. All existing easements, rights-of-way and restrictions apparent or of record. Etc...

- June 2020 Quit Claim Deed SKS Land Company unto SKS Land Company

3rd Amended Tract 1 of the Darlington Minor Subdivision(SKS)relocating (squaring) shared boundary line with Tract 2(DLC). Increases improved rural residential and reduces subdivision.

Relocation creates Fourth Amended Tract 1 of the Darlington Minor Subdivision and Amended Tract 2.

Served by and subject to right-of-ways and easements as shown, existing, or of record.

### **Rahn Minor Subdivision**

- February 1998 Rahn Minor Subdivision Plat

Dennis and Iren Rahn declare 30 acres to Tract 1 and 20 acres to Tract 2 as an Agricultural Tract

- December 1998 Quit Claim Deed Dennis and Irene Rahn unto Thomas and Rennee Staker

Rahn Minor 1 & 2

- May 2005 Warranty Deed Thomas Staker unto Steven Cavanaugh

Rahn Minor 1 & 2

- February 2016 Quit Claim Deed Steven Cavanaugh unto Wells Fargo Bank

Rahn Minor 1 & 2

- August 2017 Warranty Deed Wells Fargo Bank unto Wally Bowery

Rahn Minor 1 & 2

- June 2019 Warranty Deed Wally bowery unto Landon Bowery

Rahn Minor 1

## **Relevant MCAs**

**MCA 76-3-103** (9) "Minor subdivision" means a subdivision that creates five or fewer lots from a tract of record.

**76-3-207. Divisions or aggregations of land exempted from review but subject to survey requirements and zoning regulations -- exceptions -- fees for examination of division.** (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying requirements of **76-3-401** for divisions or aggregations of land other than subdivisions and are subject to applicable zoning regulations adopted under Title 76, chapter 2: (d) for five or fewer lots within a platted subdivision, the relocation of common boundaries;

(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(2) Notwithstanding the provisions of subsection (1):

(a) within a platted subdivision filed with the county clerk and recorder, a division, redesign, or rearrangement of lots that results in an increase in the number of lots or that redesigns or rearranges six or more lots must be reviewed and approved by the governing body before an amended plat may be filed with the county clerk and recorder;

(b) (i) a division within a platted subdivision is exempt from additional subdivision reviews and is subject to applicable zoning regulations adopted under Title 76, chapter 2, unless the method of disposition is adopted for the purpose of evading this chapter, if the division:

(A) is within a subdivision that has been approved by a local governing body;

(B) creates parcels of a size allowed within the subdivision; and

**76-25-402. Exemptions to subdivision review.** (m) the relocation of common boundary lines between or aggregations of adjoining properties that does not result in an increase in the number of lots;