

Broadwater County Attorney

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January 14, 2022

TO: Mark Fasting
Allied Engineering Services, Inc.
32 Discovery Drive
Bozeman, MT 59718

CC: Colleen Coyle and Errol Galt

Regarding: Horse Creek Hills Major Subdivision

Dear Mr. Fasting,

Upon review of this file for the Horse Creek Hills Major Subdivision and of the November 30, 2021 Planning Board Meeting it is apparent that new information has been provided to the County that was not reviewed at a Public Hearing. Two Public Hearings have been held in this matter, one on September 29, 2021 and another on October 27, 2021. The matter was set for a Planning Board meeting on November 30, 2021. The day before the November 30th Planning Board Meeting new documents were emailed to myself and Nichole Brown. Those documents were also provided to the Planning Board at the meeting on November 30, 2021. However, the November 30, 2021 Planning Board Meeting was not a Public Hearing as required under § 76-3-605, MCA.

The documents that are of concern are the Phasing Plan, Cultural Study and changes to the application. In addition, the County has yet to see the approved weed plan and the changes that were made to that in the process of getting it approved by the Weed Board. We understand there is a meeting with the Weed Board on January 18th but it is also our understanding that the Weed Plan has changed since it was submitted with the application and as a result will be a new document. In addition, the application for the Department of Environmental Quality was not included in the materials provided to the Planning Board and has not been reviewed at a public meeting.


Under Montana Code Annotated § 76-3-615 if new information is provided during the subdivision review process, the governing body must determine whether that new information was provided to the governing body or its agent or agency in a Public Hearing. If the new information has not been provided at a Public Hearing the Commission will need to determine whether that information is irrelevant or not credible or if the information may have an impact on the findings and conclusions that the governing body will rely on in making their determinations.

As a result, it is going to be my recommendation to the Commission that they follow the requirements of § 76-3-615(3). If the Commission determines that the new information is either

irrelevant or not credible they can move forward to review the subdivision but cannot base their decision on the new information. If the Commission determines that the new information may have an impact on the findings and conclusions then they must send the Subdivision back to the Planning Board for an additional hearing to review only the new documents. Nothing additional could be discussed or considered.

I understand that you do not want this subdivision to go back to the Planning Board again. However, it is important that all the requirements of the statute be met and that we appropriately handle the open meeting laws.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jania Hatfield". The signature is stylized and cursive.

Jania Hatfield
Deputy County Attorney