

Lesa Bennett

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**BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 2372-A**

WHEREAS, the Board of County Commissioners adopted Resolution No. 2197 on November 16, 2007, to create the Ricketts Road Voluntary Zoning District; and

WHEREAS, only one protest regarding the formation of the Ricketts Road Voluntary Zoning District was received by the County; and

WHEREAS, the Planning and Zoning Commission adopted Resolution No. 08-03 on July 16, 2008, recommending that the Board of County Commissioners adopt the Ricketts Road Voluntary Zoning District Standards; and

WHEREAS, the Board of County Commissioners provided legal advertisement and conducted a public meeting regarding the proposed development pattern and district standards for the Ricketts Road Voluntary Zoning District on December 23, 2008, and received public comment on the proposal; and

WHEREAS, after consideration of the development pattern and district standards, the findings and conclusions of the staff report, staff's recommended amendments to the district standards and the Planning and Zoning Commission's recommendation, the Board of County Commissioners makes the findings below.

1. The Ricketts Road Voluntary Zoning District standards reduce the potential impacts of development on public health and safety;
2. The proposed district standards, as amended, will help maintain a consistent development pattern within the Ricketts Road Voluntary Zoning District and the surrounding area that is beneficial to the current physical and economic development of the area;
3. Ravalli County does not have an adopted Growth Policy; and
4. The district standards will have minimal effects on agricultural activities.

NOW THEREFORE BE IT RESOLVED, that the Board of County Commissioners hereby establishes the Ricketts Road Voluntary Zoning District Standards as shown in Exhibit A.

Passed and adopted this 23rd day of December 2008.

BOARD OF COUNTY COMMISSIONERS

Carlotta Grandstaff

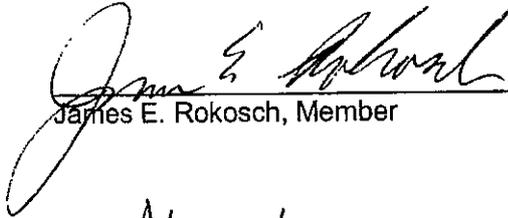
Carlotta Grandstaff, Chair

Greg Chilcott

Greg Chilcott, Member

Return: Commissioners


Kathleen Driscoll, Member


James E. Rokosch, Member

- Absent -
Alan Thompson, Member

Attest:

Regina Plettenberg, Clerk and Recorder



Attachments:

Exhibit A Ricketts Road Voluntary Zoning District Standards

**RICKETTS ROAD
VOLUNTARY ZONING DISTRICT
EXHIBIT "A"**

This is a request to establish the Ricketts Road Voluntary Zoning District (the "District") and describes the uses that can occur within said district and establishes certain standards and requirements (the "Regulations").

Authority: This District is enacted pursuant to and consistent with the requirements and authority of Sections 76-2-101 through -117, MCA.

Purpose of the District: It is the intent of the residents of the District to preserve the rural residential character of the neighborhood while accommodating appropriate development and growth. The residents specifically wish to prevent the development of a retail district within the area encompassed by this zoning district. The residents wish to keep the integrity of the district and assure rural and semi-rural development of land and the continued use of agricultural activities.

Severability: The provisions of these Regulations are severable. If any provision or portion thereof is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining provisions, all of which shall remain in full force and effect.

Compliance with Applicable Law: Properties in the District shall be subject to all applicable current and future state and county laws and regulations including, but not limited to the following:

- Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
- Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
- Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
- Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
- Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)

Property Within the District: The following properties shall be within the District:

The Ricketts Road Voluntary Zoning District is located in the S ½ of Section 23, the NW ¼ of Section 25 and the E ½ of Section 26, Township 6 N, Range 21 W, P.M., M. and is described as beginning on the southeaster corner of Tract B as shown on Certificate of Survey #3550 which is a point on the north line of West Bridge Road and the center of the Bitterroot River, thence west along the north line of West Bridge Road to the east-west center line of Section 26, thence west along said center line to the southwest corner of parcel A as shown on Certificate of Survey #2560, thence north along the west line of said Parcel A to the south line of Tract B-1 as shown on Certificate of Survey #590016, thence west along the south line of said Tract B-1 and Tract A-1 as shown on Certificate of Survey #590016, thence north along the north-south center line of Section 26 to the North ½ Corner of Section 26, thence west along the line between Sections 23 and 26 30.00' to the southwest corner of Tract A as shown on Certificate of Survey #2933, thence northerly and easterly along the western and

northern sides thereof to the northeast corner, thence south along the east side of Tract A S 2° W , 26.83', to the line between Sections 23 and 26, thence east along the section line to the northeast corner of Section 26, thence east along the north line of Section 25 to the west line of the City of Hamilton's ownership which is the center of the Bitterroot River, thence southerly along the center of the Bitterroot River to the point of beginning.

Development Pattern: The following development pattern provisions apply to the District:

1) **SUBDIVISION:** Except for non-conforming lots existing at the time of adoption of these Regulations, no lot shall be created in the District having an area less than five (5) acres.

2) **LAND USE:**

A. Residential or Agricultural Use Only. The land within the District shall be used only for residential and agricultural use, and for "Home Occupations." Community residential facilities and day-care homes are residential uses only under the standards enumerated in Sections 76-2-401 through -412, MCA (as those statutes may be amended).

B. Home Occupations. Home Occupations are allowed within the District as defined herein. "Home Occupations" must be clearly incidental and subordinate to the primary use of the dwelling or accessory building for residential and agricultural purposes. In addition, Home Occupations must conform to each of the following conditions:

1. They shall be carried on by a resident(s) of the dwelling unit.
2. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one exterior sign that conforms to these Regulations.
3. There shall be no exterior storage of materials for Home Occupations except within permanent structures.
4. No traffic may be generated by a Home Occupation in volumes greater than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of the home occupation shall be provided off the street.
5. No vehicles, except those normally used as passenger vehicles or personal recreational vehicles as allowed by these Regulations, will be used for the Home Occupation unless stored or parked within a permanent structure.
6. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced sufficient to change the residential or agricultural character of the district.

The following is a non-exclusive list of activities that are not Home Occupations and that are specifically excluded from the District:

1. Feed lot operations.
2. Dairy operations of more than three (3) animals.
3. Commercial kennels.
4. Junkyards or any automotive type businesses.
5. Bulk chemical, fertilizer, or grain storage, or fuel storage and transfer facilities.
6. Recreational vehicle storage (except storage of occupant's recreational vehicles).
7. Recreational vehicle parks for non-occupants.
8. Trailer parks.
9. Storage warehouses (including "mini storage" facilities).
10. Car lots (new or used).
11. Gravel pits.

3) **BUILDING TYPE:**

A. Primary Residences. All structures or buildings constructed for permanent residence purposes shall be single family dwellings.

B. Ancillary Residences. Provided that all applicable Ravalli County regulations (including, but not limited to Subdivision and Environmental Health regulations) have been followed, mother-in-law units, detached guest cottages, detached offices and garages, employee or caretaker quarters are allowed, provided that such quarters are permanent in nature, and are built on a permanent foundation of concrete or concrete block.

C. Non-residential Structures. Erection and use of structures incidental to permitted uses such as barns, storage sheds, stables, workshops, private garages and the like, may be constructed provided that they are not to be used primarily by individuals other than the owner or tenant of the premises or their employees or guests.

D. Building Height. Height of all buildings is restricted to two above ground levels. "Above ground" shall be measured from the downhill side of a building on a sloped lot, and includes both levels of a house with a "daylight basement."

4) **SIGNS:**

A. Permanent Signs. A permanent sign for a Home Occupation or other purposes may not be larger than four (4) square feet and may be permanently painted or attached to dwellings and accessory buildings, or be freestanding.

B. Temporary Signs. Temporary real estate, political campaign, and construction signs not exceeding twelve (12) square feet may be erected. Said signs must be removed within ten (10) days following termination of the activity for which they were intended.

C. Illumination. Signs shall not be flashing or utilize intermittent illumination. No sign shall be placed so as to obstruct traffic visibility.

5) **TEMPORARY STRUCTURES:** Regardless of whether they conform to Section 3 (Building Type), single wide and double wide mobile homes are not permitted, except for temporary (not to exceed two (2) years) residential purposes. Recreational vehicles may be stored on premises in the district.

6) **LIGHTING:** Mercury vapor lights are prohibited in the District. All outdoor lighting shall be directed downward or otherwise be situated to minimize light pollution

7) **WASTE DISPOSAL.** All residences must remove and dispose of garbage in a manner and place other than in or upon said lots (compost piles are exempt).

8) **ACCUMULATIONS** No inoperable automobiles, or parts thereof, shall be permitted to remain on properties in the District, unless housed inside a permanent building.

9) **FENCES.** No chain link fencing shall be permitted within 40 feet of roadways or property borders in the District.

Non Conforming Rights:

1) Size: A parcel of land existing of record with the County Clerk and Recorder on the effective date of these Regulations, which by its size does not comply with the provisions, is hereby deemed a legally existing parcel.

2) Structures: Where a lawfully existing structure (including fencing and signage) existing at the time of these Regulations is made non-conforming by the provisions of these Regulations, said structure may remain in place under the following conditions:

A. The non-conforming structure may not be physically enlarged. Any structure may, however, be altered to bring it into conformity.

B. The non-conforming structure may not be relocated to another location within the land parcel or the district.

C. Should a non-conforming structure be damaged or destroyed, it may be reconstructed, provided that such reconstruction is completed within one year of the date of destruction or damage.

3) Uses: Where a lawfully existing use of property (including businesses) is made non-conforming by the provisions of these Regulations, said use may be continued indefinitely under the following conditions:

A. The non-conforming use may not be operationally expanded or enlarged.

B. The non-conforming use or structure may not be relocated to another location within the land parcel or the district.

C. If the non-conforming use ceases for any reason for a period of one year or more, any subsequent use of land or structure must be made to conform to these Regulations.

D. Should a structure containing a non-conforming use be damaged or destroyed, it may be reconstructed for the same non-conforming use provided that such reconstruction is completed within one year.

Variances:

1) Procedures for Variance Requests

A. Applications for a variance to the Board of County Commissioners (BCC) may be submitted in writing by any person by filing an Application for Variance with the Ravalli County Planning Department. Fees shall be assessed according to the fee schedule adopted by the BCC, in effect at the time of application.

B. The Application for Variance must identify the applicant; identify the property at issue; identify the owner of the property and explain the relationship between the applicant and owner (if different); describe the factual background and particulars of the variance requested; set forth the specific reasons for requesting the variance; and explain how the applicant believes the variance criteria set forth herein are satisfied. Applications for variances shall be reviewed by staff for completeness, and shall be returned to the applicant without further processing if determined not to meet the requirements of this section.

C. The Ravalli County Planning Department shall forward the request to the Planning and Zoning Commission (PZC) and fix a reasonable time for the PZC to hold a properly noticed public hearing.

D. The Ravalli County Planning Department shall publish two (2) notices, one (1) week apart in a newspaper of general County circulation, the first of which shall appear at least fifteen (15) calendar days prior to the public hearing. The notice shall contain a brief description of the variance request; the location of the property; the date, time and place of the public hearing; and the statement that the application is on file for public inspection at the Planning Department.

E. The Ravalli County Planning Department shall draft written notification of the variance request and require the applicant to mail such notification using U.S. certified mail to the property owners within the District according to the following procedures:

1. Mailing lists shall include all persons listed in the most current available data in County records who own the subject property(s) and other property(s) in the Ricketts Road Voluntary Zoning District.
2. The mailing shall be postmarked at least fifteen (15) days prior to the public hearing.
3. The notice shall contain a brief description of the nature of the application; the time, place and date of the public hearing; and the phone number and address of the Planning Department.

F. At the hearing, any party may appear in person or be represented by an agent or attorney.

G. The PZC may only recommend approval of a variance request if it makes positive findings on all of the following criteria:

1. that granting the variance will not be contrary to the public interest or injurious to the neighborhood; and
2. that, owing to special conditions, a literal enforcement of the provisions of these Regulations will result in unnecessary hardship if the variance is not granted; and
3. that the spirit of the Regulations shall be observed and substantial justice done; and
4. that the variance granted is the minimum deviation that will make possible the reasonable use of the land, building or structure; and
5. that the special conditions and circumstances do not result from the action of the applicant or prior owners of the parcel at issue.

2) Requirements for Granting a Variance

A. The PZC shall forward its recommendation to the BCC. The BCC shall schedule a public meeting at which they shall make a final decision on the request. In making its decision to approve or deny the requested variance, the BCC shall review and consider the PZC's recommendation and base its decision on findings of fact and conclusions of law using the same criteria as the PZC.

B. Neither the permitted nor nonconforming use of other lands, structures or buildings in the jurisdiction shall be grounds for the issuance of a variance.

C. "Hardship" refers to circumstances peculiar to the particular property. Financial or economic difficulties or consequences of actions by the property owner are not "hardships" for variance purposes.

Amendments:

1) Landowner Initiated: When not in conflict with any Ravalli County Growth Policy or zoning in effect at the time of proposed amendment, sixty (60) percent of the affected freeholders in the District may submit a signed petition to change the District, or the development pattern of the District, to the Planning Department. The Planning Department shall request verification of the petition signatures by the Clerk & Recorder, and refer the petition to the PZC. The Ravalli County Planning Department shall draft written notification of the variance request and require the applicant to post notice in at least three public places within the District, and to mail such notification using U.S. certified mail to all property owners within the District. In a public hearing with the opportunity for public comment not less than 15 days after the later of posted or mailed notice, the PZC shall, by majority vote of the entire PZC either recommend acceptance or rejection of the petition in a properly noticed public hearing, and shall forward its recommendation to the Board of County Commissioners. If freeholders representing fifty (50) percent of titled property ownership in the District protest any change to the District or to the development pattern of the District within 30 days of the date the PZC makes its recommendation, the petition shall be rejected. After the 30-day protest period has passed, the BCC shall either accept or reject the petition according to its procedures.

2) County Initiated:

A. The PZC may recommend the amendment of the Regulations and standards, when done in compliance with any Ravalli County Growth Policy or zoning in effect at the time of proposed amendment. Prior to making any recommendation, the PZC must post notice in at least three public places within the District, and to mail such notification using U.S. certified mail to all property owners within the District and must hold a public hearing with the opportunity for public comment not less than 15 days after the later of posted or mailed notice. The PZC shall, by majority vote of the entire PZC either recommend acceptance or rejection of any proposed amendment. If the amendment passes, the Planning and Zoning Commission shall forward its recommendation to the Board of County Commissioners, which shall either accept or reject the proposed amendment according to its procedures.

B. The PZC shall not amend the District boundaries on the County's initiative.

Dissolution: The District may be dissolved by following the procedures for creation of a planning and zoning district described in Section 76-2-101, MCA (as may be amended).

Enforcement:

- 1) County Enforcement. The County shall enforce the provisions of this District.
- 2) Effect of Non-enforcement. Failure to immediately enforce any of these provisions shall not in any event be construed or held to be a waiver thereof or consent to any further or succeeding breach or violation.