



Flathead County

Planning & Zoning

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MEMO

To: Flathead County Planning Board and Board of Commissioners

From: Alex Hogle, Planner II

Date: April 25, 2012

RE: Voluntary abandonment of FPPUD-12-01 Eagle Rock R-2 PUD

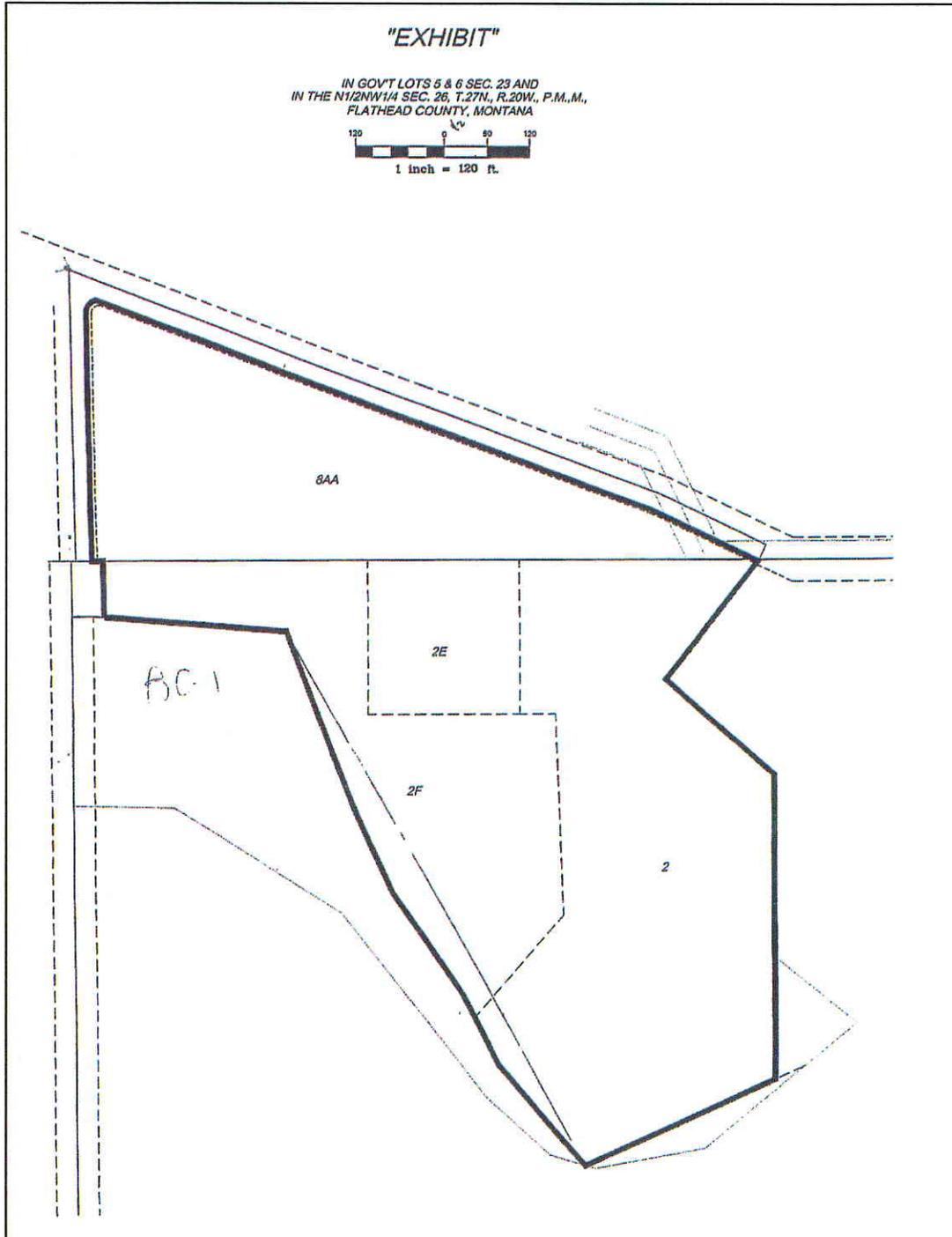
A request has been made by Michael Brooks, with technical assistance from Sands surveying to abandon the Eagle Rock R-2 Planned Unit Development (PUD) in conjunction with the preliminary plat review of proposed Eagle Rock 2 Subdivision (FPP-12-01). The Flathead County Planning Board will conduct a review of the proposal on May 9, 2012 in the 2nd Floor Conference Room of the Earl Bennett Building, located at 1035 1st Ave West in Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. In accordance with Montana law, the Commissioners will hold a public hearing on the proposed PUD abandonment at a date and time yet to be determined.

Located within the Bigfork Zoning District, the Eagle Rock R-2 PUD is an overlay district encompassing 17.67 acres adjacent to Holt Drive in the Eagle Bend vicinity near Bigfork. Approved on October 31, 2005 by Resolution No. 1893, the PUD contains the Eagle Rock subdivision which is currently owned solely by Michael Brooks, and the underlying zoning is *R-2 One Family Limited Residential* and *RC-1 Residential Cluster*. While the PUD was originally adopted in order to “allow for flexibility in the design of the proposed 17-lot subdivision”, the 17-lot Eagle Rock Subdivision did not actually implement any design deviations from the underlying zoning in regard to density or adherence to applicable bulk and dimensional requirements. The PUD did allow the internal roads to be established with 50-foot easements instead of 60-foot easements. As stated in the submitted request, the applicant is requesting the removal of the PUD overlay because 1) the PUD does not depart from the underlying zoning classification, and 2) the existing subdivision and the proposed amended subdivision (Eagle Rock 2) comply with the applicable standards of the underlying zoning.

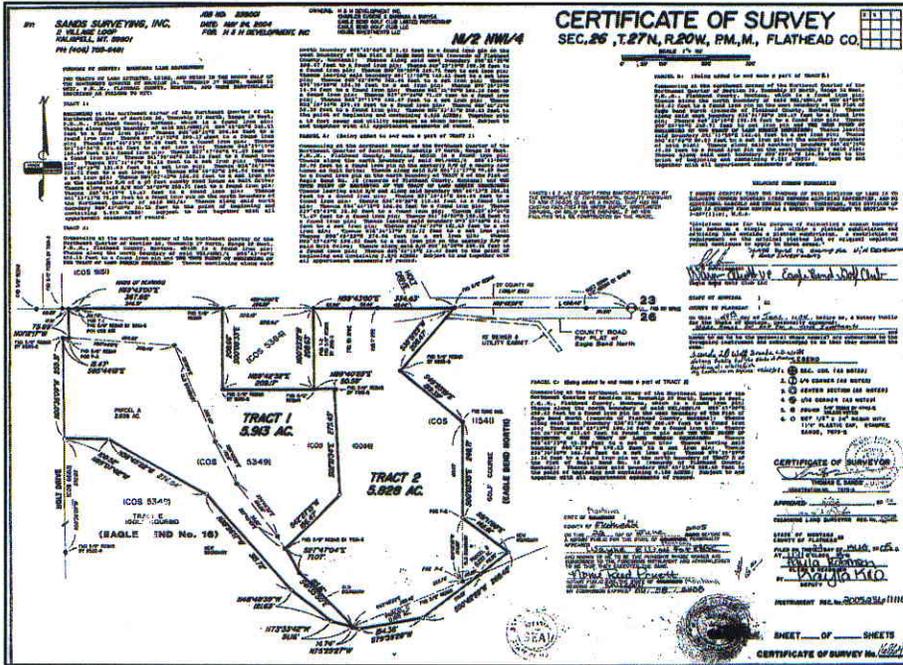
Pursuant to Section 3.31.020(6) of the Flathead County Zoning Regulations (FCZR) “Upon the abandonment of a development authorized under this section, the project area shall revert back to the underlying use district that was in place prior to the approval of the Planned Unit Development.” For the purpose of clarifying the accurate classification of the underlying, the following sequence of events is pertinent:

- The subject property was zoned RC-1 Residential Cluster on September 27, 1993 via Resolution No. 956A

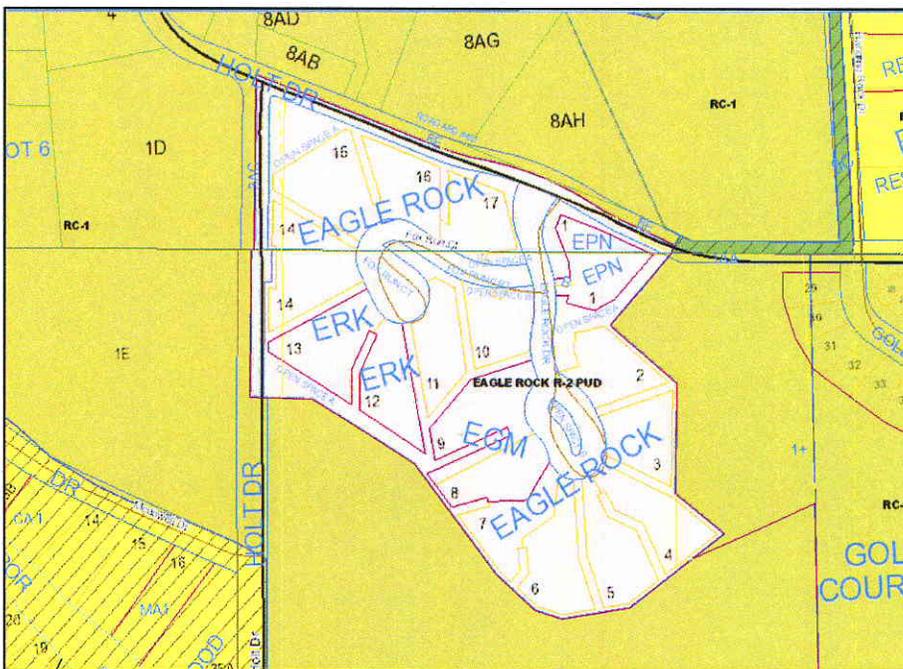
- A zone change from RC-1 Residential Cluster to R-2 One Family Limited Residential was adopted on June 28, 2005 via Resolution No. 956BM. The zone change affected only a portion of property which was subsequently approved as Eagle Rock R-2 PUD and Eagle Rock Subdivision, as indicated in the following Exhibit from Resolution No. 956BM.



- A boundary line adjustment filed as COS 16864 on August 24, 2005 added approximately 3.5 acres to the property which subsequently underwent review for the Eagle Rock R-2 PUD and Eagle Rock Subdivision, as indicated below. The 'added' area was not included in the prior R-2 zone change and thus retained its zoning as RC-1 Residential Cluster.



- The Eagle Rock R-2 PUD was adopted on October 31, 2005 by Resolution No. 1893, as indicated below. The PUD currently overlays the 17.63 acres of property which was subsequently subdivided as Eagle Rock Subdivision. Upon PUD abandonment, zoning on portions of Lots 4-9 and 12-14 and Open Space A, as shown below, would revert to the underlying RC-1 Residential Cluster and the remaining area would revert to the underlying R-2 One Family Limited Residential zoning.



Section 3.31 FCZR contains provisions for the establishment of a PUD and provisions regarding abandonment or expiration of a PUD due to non-compliance with an approved PUD plan. However, Section 3.31 FCZR does not include provisions which clearly establish a mechanism to voluntarily abandon an approved PUD in the event it is undesirable for the landowner to complete or maintain the PUD, as is the case with the current request for voluntary PUD abandonment. The Flathead County Attorney's Office has provided guidance regarding voluntary abandonment of a PUD which essentially entails reversal of the PUD adoption process through legal notice, public review and recommendation by the Flathead County Planning Board, and a public hearing and abandonment of the PUD through Resolution by the Flathead County Board of Commissioners. In the review of the current request, a typical standard staff report reviewing the criteria established for adopting a PUD has not been prepared because the request is atypical and the PUD criteria is not applicable for reverting back to the underlying zoning.

Legal notice of the proposed abandonment of Eagle Rock R-2 PUD was physically posted on site on April 12, 2012 and sent to adjacent landowners on April 16, 2012. Legal notice of the Planning Board consideration of the proposed PUD abandonment was published in the April 22, 2012 edition of the Daily Interlake. Following the Planning Board meeting on May 9, 2012, legal public notice of the Board of Commissioners public hearing on the proposed PUD abandonment will be published in the Daily Interlake according to statutory requirements found in Section 76-2-205 MCA and according to Section 2.08 of the Flathead County Zoning Regulations.

Actions by the Flathead County Planning Board and Board of Commissioners will be documented in subsequent addendums to file # FPPUD-12-01.