



Flathead County
Planning & Zoning
1035 1st Ave W, Kalispell, MT 59901
Telephone 406.751.8200 Fax 406.751.8210



APPLICATION FOR A VARIANCE

Submit this application, all required information, and appropriate fee (see current fee schedule) to the Planning & Zoning office at the address listed above.

FEE ATTACHED \$500.00

Before completing this application please read instructions on page 4.

1. OWNER:

Name: Robert and Sophia Wells
Address: 99 Sage Lane Phone: (406) 212-2764
City/State/Zip: Kalispell, MT 59901
Email:
robert799@bresnan.net

INTEREST IN PROPERTY: Property Owners

2. APPLICANT: *(If different from above)*

Name: Same
Address: _____ Phone: _____
City/State/Zip: _____

3. TECHNICAL/PROFESSIONAL ASSISTANCE: *(If applicable)*

Name: Sands Surveying, Inc.
Address: 2 Village Loop Phone: (406) 755-6481
City/State/Zip: Kalispell MT 59901
Email: eric@sandssurveying.com

4. LOCATION OF PROPERTY FOR WHICH VARIANCE IS SOUGHT:

Physical Address: 27 Hidden Lane, Kalispell, MT 59901

5. ZONING DISTRICT: Evergreen *Willow Glen* **ZONING DESIGNATION:** R-1

6. DATE PROPERTY ACQUIRED: October, 2008

7. LEGAL DESCRIPTION:

Subdivision *(if applicable)* _____ Lot/Tract(s) Tract 8D

Assessor # 0276306 Section 9 Township 28 Range 21

8. **REQUEST FOR A VARIANCE FROM THE PROVISIONS OF** *(State Section, Part, and Paragraph of the Zoning Regulations):* Section 7.12.030 Definitions, Lot Area

9. **THIS IS A REQUEST FOR A VARIANCE IN RELATION TO THE PROVISIONS OF THE REGULATIONS** *(check one below):*

Area X _____ Yard _____ Height _____
Coverage _____ Parking _____ Other _____

10. **STATE SPECIFICALLY THE CHANGE(S) PROPOSED AND THE REASON(S) SUCH CHANGE(S) ARE NECESSARY** *(use additional sheet if necessary):*

The applicant requests this variance to allow the applicants to use the gross acreage in order to split 2.190 acres of land into a 1.000 acre tract and a 1.190 acre tract. The property is zone R-1 which established a minimum of one acre for a new tract. However, the definition of Lot Area (7.12.030) requires the use of net acreage (excludes easement) in the R-1 zoning classification. The definition allows use of gross acreage for property zoned SAG-5 and larger.

In the case of the Wells property, they have a corner lot with two private road easements totaling 22,275.6 square feet. The applicants request the use of the gross acreage in order to meet the one acre minimum lot size required by the district.

11. **EXPLAIN HOW YOUR CASE CONFORMS TO EACH OF THE FOLLOWING REQUIREMENTS** *(be complete, use additional sheet if necessary):*

A. Strict compliance with the provisions of these regulations will limit the reasonable use of the property, and deprive the applicant of rights enjoyed by other properties similarly situated in the same district.

The applicant can use the property for a single residential use, however, many of the neighboring properties have multiple residential uses on single tracts and there are multiple one acre tracts in the neighborhood. Although strict compliance of the regulations does not restrict all reasonable use, granting the variance certainly wouldn't be out of character with the neighborhood.

B. The hardship is the result of lot size, shape, topography, or other circumstance over which the applicant has no control.

The hardship is a result of multiple road easements partially and wholly being taken from this corner tract of land. The Flathead County Zoning Regulation define R-1 Suburban Residential as: "A district to provide estate-type development. These areas would normally be located in rural areas away from concentrated urban development, typically not served by water or sewer services, or in areas where it is desirable to permit only low-density development (e.g. extreme topography, areas adjacent to floodplains, airport runway alignment extensions)." By allowing the use of gross acreage to apply to this parcel will in turn allow the owners to split of the property while maintaining the overall intent of the zoning district. _____

C. The hardship is peculiar to the property.

The hardship is peculiar to the property in that this is a corner lot that has a twenty foot road and utility easement taken out of one side and a 60-foot road and utility easement taken out of another side. _____

D. The hardship was not created by the applicant.

The applicant did not grant the easements but bought the property with them attached. However, it is common for persons not familiar with "Planning" terminology and practices to think that zoning densities pertain to gross acreages and not consider net acreages. In fact the Flathead County Zoning Regulations do consider the use of gross acreages for properties zoned with five acre minimum lot size.

E. The hardship is not economic (*where a reasonable or viable alternative exists*).

The hardship is not economic. The applicants have two adult children they wish to gift each a parcel of land, which would allow them to live close to their parents. Granting the variance and allowing the applicants to use gross acreage rather than net will allow the applicants to give each child a parcel. _____

F. Granting the variance will not adversely affect the neighboring properties or the public.

Granting the variance will not adversely affect the neighboring properties or the public. The property is zoned R-1 and many of the properties in the neighborhood have been split to the minimum one acre density. In addition, there are many properties in the neighborhood with multiple "grandfathered" units on single tracts of land, some of which exceed the prescribed density. _____

G. The variance requested is the minimum variance, which will alleviate the hardship.

Allowing the applicants to use gross acreage is the minimum variance need to accommodate the splitting of the property.

H. Granting the variance will not confer a special privilege that is denied other similar properties in the same district.

Within the Anderson Lane Neighborhood, there are no other corner lots containing two to three acres that do not already have two residential units through either lots splits or "grandfathering". The variance request does not grant a special privilege to these applicants that their neighbors would be denied.

12. ATTACH A PLOT PLAN OR DRAWING.

I hereby certify under penalty of perjury and the laws of the State of Montana that the information submitted herein, on all other submitted forms, documents, plans or any other information submitted as part of this application, to be true, complete, and accurate to the best of my knowledge. Should any information or representation submitted in connection with this application be incorrect or untrue, I understand that any approval based thereon may be rescinded or other appropriate action taken. The signing of this application signifies approval for FCPZ staff to be present on the property for routine monitoring and inspection during the approval and development process.

Robert Walk

Owner/Applicant Signature

4-22-11

Date

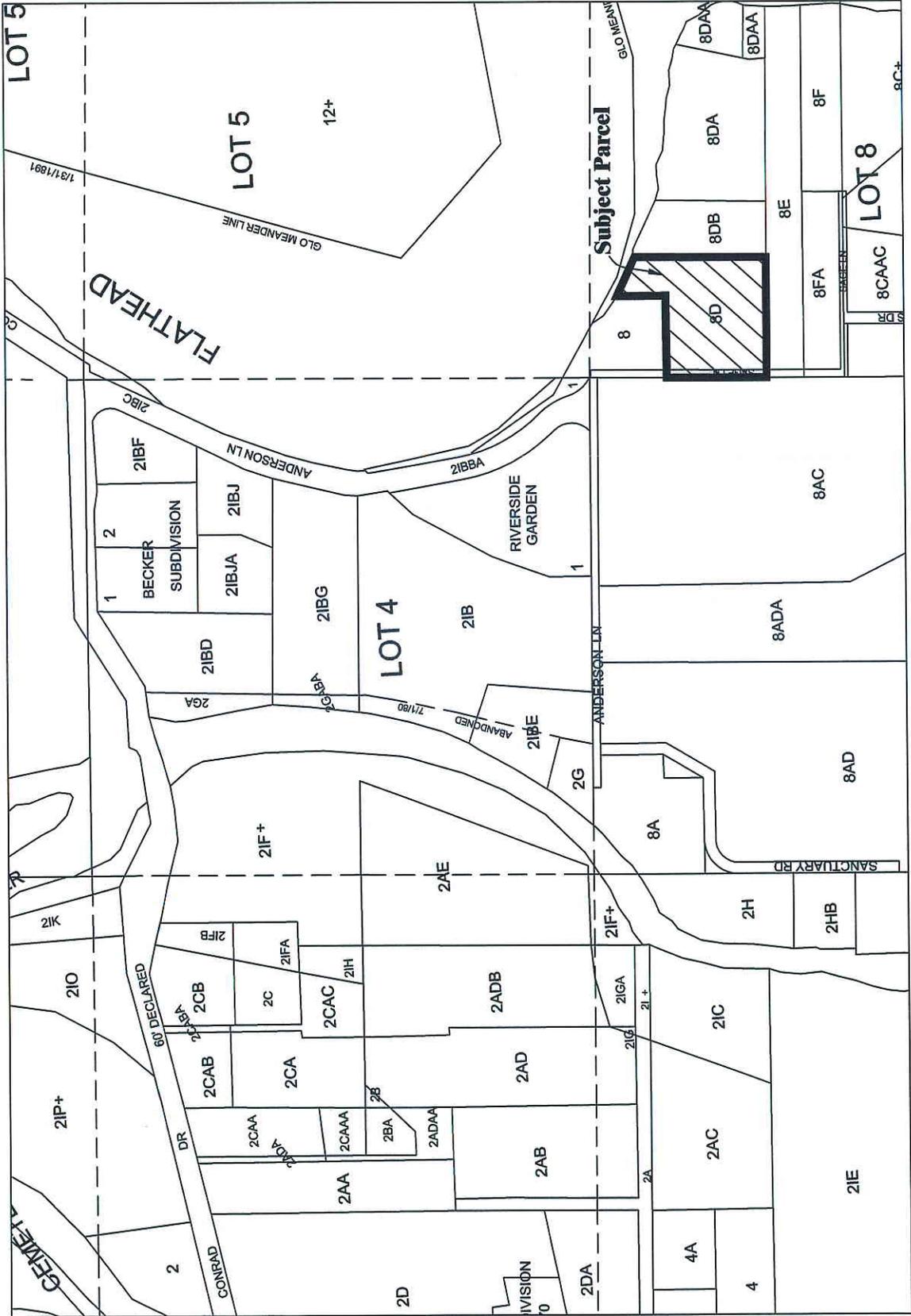
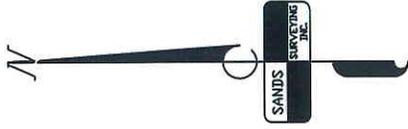
INSTRUCTIONS FOR VARIANCE APPLICATION

1. ANSWER ALL QUESTIONS. Answers should be clear and contain all the necessary information.
2. In answering Question 7, refer to the classification system in the Zoning Regulations and explain in detail the specific standards from which the applicant is seeking relief.

3. In answering Question 9, be specific and complete. In this and all other questions, if additional space is needed you may use additional paper, and list which section number you are continuing.
4. Answer Question 10, A-H completely and fully.
5. A copy of the plot plan or site plan must be submitted with each application (*Please include 6 copies if you submit a size larger than 11x17*).
6. A **Certified** Adjoining Property Owners List must be submitted with the application (*see forms below*). The list will be sent directly to the Planning & Zoning office, unless you request otherwise. This list is valid for a period of 6 months from date generated. You may also get a certified adjoining landowners list from a title company if you choose.
7. A fee per the FCPZ schedule of fees for a variance application must be submitted with this application to cover the cost of necessary investigation, publication, mailing and processing procedures.

APR 27 2011

Vicinity Map: Wells Variance



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