

November 16, 2016

Zoning Board of Adjustments  
Cascade County, Montana

RE: Cypress Creek Renewables request for an Unclassified Use Permit on parcel 2186180

Dear Sirs:

My name is Dave Campbell & I am a licensed real estate broker in the state of Montana. I am definitely not in favor of the proposal for the following reasons:

This proposal, in my opinion should never have gotten as far as the Zoning Board of Adjustments. It should have been handled at a higher level. Zoning, by its very nature is set up to provide protection for, & prevent conflicts, for all the various classes of zoning, including industrial, commercial and residential areas. I quote from section 1.1.6 of the Cascade County Zoning Code. It says: "The purpose of the Zoning code is to protect residential, commercial and industrial areas alike from harmful encroachment by incompatible uses and to insure that land allocated to a class of uses shall not be usurped by incompatible uses." Section 1.1.5 of this same section says: "To zone all properties with a view to conserving the VALUE OF BUILDINGS and encouraging the most appropriate use of land throughout Cascade county." In my opinion as a licensed real estate broker working in Cascade county since 1974, the installation of a solar farm in the proposed area will definitely, negatively impact the home values in this district. Every other local realtor who testified in the previous hearing testified to that fact. So who are we going to believe, an appraiser from out of state with a vested interest, or the licensed real estate professionals who have sold these properties for years in Cascade county. The people of Cascade county deserve better. We need to insist that the zoning code be upheld to the standards that were established and identified in section 1.1.6 of the code and live up to the intent of the code, to provide protection for all the classes of zoning. The people who bought or built homes in the subject area have a right to believe that their SR-1 zoning classification will be upheld as originally written, subject to the intent of section 1.1.6 and not handled under section 18 which was added in 2016, apparently to accommodate Cypress Creek Renewables request for a Solar Farm. Section 1.2.2 of the zoning code covers what should happen when there is a conflict in zoning. It says: "whenever the requirements of these regulations are at variance with itself or the requirements of any other lawfully adopted rules, regulations or resolutions, the most restrictive, or that imposing the higher standards shall govern." In this case it should be the SR-1 zoning classification as originally intended. Section 18 of the zoning code deals with Unclassified Use Permits and has several considerations that should be considered when deciding whether to issue such a permit. Section 18.5 lists a number of considerations that are to be taken into account when considering an Unclassified Use Permit. Section 18.5 (2) says: If the proposed development is a public necessity or WILL NOT substantially impact the value of adjoining property.", it may be considered for a Special Use Permit. Obviously, in this case there is no public necessity, and a solar farm will substantially affect the property values of the personal residences. 18.5(2) has three other considerations which apparently have been ignored. Section 18.5 (2) a says to

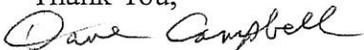
consider the relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved. I submit that there is no way to resolve this conflict other than to deny the Special Use Permit. Section 18.5 (2) b. says, consider whether the proposed development is so necessary that the public health, safety, and general welfare of the community or county as a whole as to justify it regardless of its impact on the value of adjoining property. We know that is not the case here. We don't need power that is several times more expensive than what is being produced by Northwestern Energy now. There is no public necessity for this solar farm. Lastly, section 18.5 (3) says: ,the proposed development will be in harmony with area in which it is located. Look around this room and see all the property owners who are protesting this solar farm and one can see that there is no HARMONY. Harmony means most of the affected property owners agree. If that were the case here there would not be all of this contention and discord. This solar farm is a bad idea and has no place in SR-1 zoning. Even, as I stated earlier, this proposal for a Special Use Permit should have been denied at a higher level, it is still not too late to kill this proposal right here at the Zoning Board of Adjustments level. That is exactly what I and the numerous other protesters are asking you to do. Vote NO! For most of these people the equity in their homes is there one big asset that they spend their whole lives building. Cascade county cannot, in good conscience take a big part of that asset away from them just to satisfy the Cypress Creek Renewables investors. To do so would be a real injustice.

We do not need the power as, Northwestern Energy already produces more power in Cascade county than is needed. If the proposal passes, Northwestern Energy will be required to purchase the power produced by the solar project at a considerably higher rate than they can sell it for. We all know that when Northwestern Energy's cost of operation go up they go to the Public service Commission & ask for a rate increase. If the increase is granted, we the rate payers will pay the cost. It is not a good deal for Cascade county or Montana. It's only a good deal for Cypress Creek Renewables.

After reading the cascade county zoning code carefully it is very evident that the heart of the intent of zoning is to protect each classification from encroaching on the other. Another good example of this is section 17.1, discussing the Flood Road Overly District,( it has similar rural residential zoning ). The intent of 17.1 is & I quote is: " The intent of the regulations within the district is to maintain an open and rural residential and agricultural character of the area and facilitate development that is CONSISTENT and COMPATIBLE WITH THE EXISTING PATTERN OF GROWTH. Solar farms do not belong in rural residential zoning. They are commercial by nature.

In summary, there is no good reason to issue this permit at the expense of Cascade county taxpayers, power users and homeowners. The county's first priority is, and should be, to look after the citizens of Cascade county and treat them fairly under the zoning laws. AGAIN, PLEASE VOTE NO!!

Thank You,



Dave Campbell, Real Estate Broker

1034 17<sup>th</sup> Ave SW

Great Falls, Montana, 59404

**SECTION 1. PURPOSE**

**1.1** These regulations are adopted for the purpose of promoting, improving and protecting the public health, safety, comfort, convenience and the general welfare of the people and property owners within Cascade County exclusive of incorporated cities and towns. The fulfillment of this purpose is to be accomplished by seeking the following objectives:

- 1.1.1 To provide for compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;
- 1.1.2 To ensure proper living and working conditions and to prevent the development of blight and slums;
- 1.1.3 To establish adequate standards for the provision of light, air, and open spaces;
- 1.1.4 To facilitate the provision of adequate transportation, and of other requirements and services such as water, sewerage, schools, open space, and parks;
- 1.1.5 To zone all properties with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout Cascade County;
- 1.1.6 To protect residential, business, commercial, and industrial areas alike from harmful encroachment by incompatible uses and to ensure that land allocated to a class of uses shall not be usurped by inappropriate uses;
- 1.1.7 To avoid the inappropriate development of lands and provide for reduction of flood damage;
- 1.1.8 To fix reasonable zoning standards to which buildings and structures shall conform;
- 1.1.9 To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed herein;
- 1.1.10 To foster a more rational pattern of relationship between residential, business, and industrial uses for the mutual benefit of all;
- 1.1.11 To isolate or control the location of unavoidable nuisance producing uses;
- 1.1.12 To define the powers and duties of the administrative and enforcement officers and bodies; and
- 1.1.13 To prescribe penalties for any violation of the provisions of this ordinance, or of any amendment thereto.

The standards and requirements contained in these regulations and the district mapping reflected on the Zoning Map referenced in Section 4 herein, are intended to implement the Cascade County Zoning Regulations of the Board of County Commissioners of Cascade County, Montana.

## **1.2 Interpretation, Conflict with Other Laws**

**1.2.1** In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements, adopted for the promotion of public health, safety or the general welfare.

**1.2.2** Whenever the requirements of these regulations are at variance with itself or the requirements of other lawfully adopted rules, regulations, or resolutions, the most restrictive, or that imposing the higher standards shall govern.

**1.2.3** If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment will only affect only the part held invalid.

Whenever the Board of County Commissioners of Cascade County and the Cascade County Planning Board are called upon to consider the adoption of a new zoning district or the amendment to an existing zoning district, zoning district regulations, or zoning district map, the Commissioners and Planning Board shall be guided by the following statutory provision:

### **Montana Code Annotated § 76-2-203 (2015). Criteria and guidelines for zoning regulations.**

- (1) Zoning regulations must be:
  - (a) made in accordance with the growth policy and
  - (b) designed to:
    - (i) secure safety from fire, and other dangers;
    - (ii) promote public health, public safety, and general welfare; and
    - (iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
- (2) In the adoption of zoning regulations, the Board of County Commissioners shall consider:
  - (a) reasonable provision of adequate light and air;
  - (b) the effect on motorized and non-motorized transportation systems;
  - (c) compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;

(12) Public Safety Facility.

(13) Public Uses.

## **18.2 PUBLIC NOTIFICATION**

A public hearing shall be required for all Unclassified Use permit applications heard by the Cascade County Zoning Board of Adjustment. Notice shall be provided for as set by MCA 7-1-2121. The notice shall be published in a newspaper of general circulation in Cascade County, twice with at least six (6) days separating each publication.

The owner of the property, their agent, and all adjacent land owners for which an Unclassified Use permit is sought shall be notified of the hearing by certified mail. At the public hearing, the Zoning Board of Adjustment will hear testimony from proponents and opponents of the Unclassified Use permit application. After the public hearing is closed, the Zoning Board of Adjustment may approve, deny, approve with conditions, or table for further consideration until the next Zoning Board of Adjustment meeting, the Unclassified Use permit.

## **18.3 EXPIRATION**

The Zoning Board Of Adjustment approval of the Unclassified Use Permit shall be valid for only one particular use and shall expire one year after the date of the approval, if construction or the use has not started. The Zoning Administrator may grant a one time only six (6) month extension on the Zoning Board Of Adjustment approval.

The Unclassified Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

## **18.4 EXISTING VIOLATIONS**

No permit shall be issued for an unclassified use where there is an existing violation of these regulations or any other existing violations of Cascade County, State, or Federal Regulations or laws or for delinquent county taxes.

## **18.5 STANDARDS APPLICABLE TO ALL UNCLASSIFIED USES**

Before the Board of Adjustment can approve any Unclassified Use Permit, it must first reach each of the following conclusions: (Conditions may be required that the Zoning Board of Adjustment determines, if implemented will mitigate potential conflicts in order to reach these conclusions.)

- (1) The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and approaches.
- b. Provision of services and utilities, including sewer, water, electrical, telecommunications, garbage collections, and fire protection.
- c. Soil erosion, sedimentation, and stormwater run-off
- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

(2) The proposed development is a public necessity, or will not substantially impact the value of adjoining property.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

(3) The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
- (4) The proposed development will be consistent with the Cascade County Growth Policy.

## **SECTION 17 FLOOD ROAD OVERLAY DISTRICT (FOD)**

On January 25, 2000, a citizen initiated zoning district, the Flood Road Zoning District, was proposed by residents in the Woodland Estates area and subsequently adopted by the Board of Cascade County Commissioners. In 2005, Cascade County adopted countywide zoning exclusive of the incorporated communities of Belt, Cascade, Great Falls and Neihart and of the Flood Road Zoning District. Thus, the Flood Road Zoning District regulations are not included in the Cascade County Zoning Regulations and have not been amended or updated since adoption in 2000. Overtime, this has created inconsistencies between how administration of the Flood Road Zoning District is processed as compared to the rest of the County.

Of the eleven (11) zone districts adopted as part of the countywide zoning, the zone district that is most comparable in terms of lot size and permitted uses is the Suburban Residential Two (SR-2) zone district. This zone district now abuts the Flood Road Zoning District on two sides.

In the spring of 2012 as part of the update of the Cascade County Zoning Regulations, County staff sent letters to all property owners in the Flood Road Zoning District asking for comments to three options; 1) maintain the Flood Road Zoning District as is; 2) incorporate the Flood Road Zoning District as an overlay with an underlying zoning of SR-2, which would keep the existing standards intact; or 3) rezone to SR-2, eliminating the Flood Road Zoning District entirely. The residents overwhelmingly wished to retain the permitted and prohibited uses but with easier administration of the regulations, therefore, this overlay district, with SR-2 zoning.

### **17.1 INTENT**

The intent of regulations within the District is to maintain the open and rural residential and agricultural character of the area and facilitate development that is consistent and compatible with the existing pattern of growth.

### **17.2 PERMITTED USES**

- (1) Agriculture and pasturing/raising of livestock.
- (2) Selling or subdividing property (within existing subdivision laws or as specified herein)
- (3) Residential uses: two (2) acre minimum lot size.
- (4) Private landing strip.
- (5) Home Occupation and accessory buildings.
- (6) Pasturing or boarding of livestock for fee.
- (7) Rural fire station.

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#6

## Shelby places new zoning restrictions on solar farms

### Tuesday

Posted Feb 3, 2015 at 12:01 AM

Updated Feb 3, 2015 at 5:39 PM

By Casey White

Solar farms 10 acres or larger will no longer be allowed to apply for special use permits in rural and residential districts in Shelby after Monday's city council meeting.

Council voted to amend the city's Unified Development Ordinance that previously allowed level three solar farms, which are 10 acres or larger, to be permitted in R20 (residential) and Rural Residential (RR) zones as a special use. According to Shelby Planning Director Walt Sharer, solar farms won't necessarily be eliminated from land currently zoned for rural and residential uses.

"If there were an applicant that found a property that they wanted to use for a level 3 solar farm, they would have to rezone that property to the four other different types of zoning districts that allow that which are GB (General Business), GB2 (General Business, no billboards), light industrial and general industrial," Sharer said.

### Special use cases for solar farms

The decision to no longer allow solar farms as a special use came about after council heard several cases for proposed solar farms. During deliberation on the special use cases for solar farms, council was required to determine whether the facilities would be built based on four findings of fact.

Council could only consider whether the proposed project would or would not harm the public's safety, would or would not hurt the value of adjacent property, would or would not be in harmony with the area in which it is located and if it was or was not in conformity with the comprehensive land use plan that is adopted by city council.

In prior cases, residents who lived near the proposed solar farms argued about the negative affects the solar farms would have on their homes.

Dennis Stitzel, a developer and resident of Pebble Creek who was against a previous solar farm proposal near his neighborhood, told council different residents would continue to have the same issues if the ordinance wasn't changed.

"If you don't do this you're going to continue to have concerned citizens come before you and you have to make decisions based on the location of these solar farms," Stitzel said.

Stitzel said he is not opposed to solar energy, but would rather see solar farms placed in areas that are not close to residential properties.

Schletter representative: 'Trust is shaken'

Stacie Davis of Schletter Inc., a company that develops and produces solar mounting systems in Shelby, spoke to council about her worries involving the ordinance change. As Schletter chose to locate in Shelby's Foothills Commerce Center, Davis felt the company and the city built a strong relationship.

"What I'm hoping to share with you is the trust that Schletter extends to the community and how that trust is presently being shaken by this proposed revision to the R20 ordinance," Davis said.

Since the proposed amendment would add restrictions on the location of solar farms within the city, Davis worried that it would prevent growth at Schletter.

"We hope to employ even more but our ability to do so may be greatly hindered if we're unable to practice our trade in our very own home town," Davis said.

City open to solar farms in allowed districts

Before council voted in favor of the amendment, Councilman Dennis Bailey spoke to Davis about why he was in favor of the amendment. He said he believes that solar companies were being set up for failure in residential areas when they could instead focus their money and efforts in other zoning districts in the city.

“It sets up people for failure to tell them it’s an allowable use in R20 and when we use the findings of fact we continually have to say it will harm the value and it’s not in harmony. It then hurts a potential customer of yours that could have located in a place where those findings of fact would not have to be answered,” Bailey said.

Councilman Ben Kitrell said allowing the special use for solar farms has made the process “very unwieldy,” which he hopes will be fixed by the new amendment. He said the city is wide open to solar farms in the allowed districts .

#### Residents speak out against solar farm proposal

Prior to city council’s decision to no longer allow level three solar farms in residential areas, they heard a case for a proposed 24 acre solar farm in the R20 zone located at 1129 County Home Road.

Residents in nearby neighborhood filled the chamber to tell council why they believed the project would have a negative effect on their homes. Jo Ann Shilling appealed to the finding of facts the council had to consider, saying the solar farm would negatively impact the value of her home.

“I realize property values will decrease in spite of what we have and will be told. In reality, we know not one person or family will go on to buy property that is close to a 20 acre solar farm because of the visual pollution,” Shilling said.

Other residents like Mitchell Flontek argued that the property would not be in harmony with the surrounding environment. Flontek said he purchased his home because of the beauty in the surrounding area, which would be ruined by a solar farm behind his house.

Several residents cited how close the existing solar farm on Earl Road was to the house and new proposed land for the new farm. They told council that it was not fair to build yet another solar farm so close to their homes.

### Solar company representatives defend project

Jonathan Baker and Ben Combs of Heliosage, the company applying for the special use, addressed council to discuss why they believed the solar farm would not have a negative impact. Both Heliosage representatives said they would be willing to move the solar farm in order to make it less visible from the surrounding homes.

When Baker addressed the council, he talked about hiring an appraiser who researched the effects of solar farms on the property value of homes in similar markets.

“His process was to find solar farms that were in North Carolina and look at historical sales of homes before, during and after to see if there had been a material impact on price of homes, and there had been none,” Baker said.

### Council denies special use permit

After the public hearing, council discussed whether the solar farm met the four findings of fact needed to be approved. Councilman Dicky Amaya said he wasn't sure the appraiser's studies were valuable because they did not pertain to Shelby specifically.

Bailey said he appreciated that the appraiser showed property value in comparable cities were not necessarily injured by solar farms. His worry was that the appraiser did not visit the proposed site and nearby homes to consider how the view of the solar farm would affect value.

“When you're considering the value of a property and you don't consider view, I don't think you can give a full appraisal. So I wouldn't consider the information complete enough to give full weight,” Bailey said.

After the discussion, council denied the resolution and did not permit the solar farm to be located at 1129 County Home Road, citing the solar farm would injure property value and would not be in harmony with the surrounding area.

Casey White can be reached at 704-669-3339, [cwhite@shelbystar.com](mailto:cwhite@shelbystar.com) or on Twitter at [@cwhite\\_star](https://twitter.com/cwhite_star).



# Cascade County Location/Conformance Permit Application

#4  
RECEIVED NOV 16 2018

Cascade County Public Works Department  
Planning Division  
121 4<sup>th</sup> St No, STE 2H/I, Great Falls MT 59401  
Phone: 406-454-6905 Fax: 406-454-6919

**Site Plan Requirements On Back**

**\$50.00 Non Refundable Application Fee - OR -**  
**\$200.00 Non Refundable Application Fee (work started prior to issuance of a permit)**  
Payment: Check (#) 4668 Cash Amt:\$ 50

Dan  
**OFFICE USE ONLY**

Date Application Received: 7-28-16 Floodplain Permit (Attached): (Y / N / N/A)  
 Application No.: 196 Variance Approval (Attached): (Y / N / N/A)  
 Approved Permit No.: \_\_\_\_\_ County Approach Permit (Attached): (Y / N / N/A)  
 Health Dept. Approval (Attached): (Y / N / N/A)  
 Addressing Approval (Attached): (Y / N / N/A)  
 Red Yellow Green (Development Coordination Map) \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 Approved by (Staff): \_\_\_\_\_  
 Date of Final Approval: \_\_\_\_\_

Applicant/Agent: Ray & Diane Volk Mailing Address: 301 Big Bend Ln

Home Phone: 406-761-4043 Work Phone: 761-4260 Cell Phone: \_\_\_\_\_

Owner(s) if different from applicant: \_\_\_\_\_ Mailing Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Property Address: #11 Dick Rd Sec 27 T 20N R 3E

Lot(s) \_\_\_\_\_ Blk \_\_\_\_\_ Geo Code: 3015-27-4-01-01 Parcel # 2476210

Use Permit Issued For: Residence & Pers Shop Current Zoning: S R1

- Type of Improvement:
- |  |  |   |  |
|--|--|---|--|
| <input type="checkbox"/> Mobile Home                 | <input type="checkbox"/> Recreational Vehicles | <input checked="" type="checkbox"/> Shop/Shed | <input type="checkbox"/> Industrial      |
| <input type="checkbox"/> Manufactured Home           | <input type="checkbox"/> Multiple Family       | <input type="checkbox"/> Office               | <input type="checkbox"/> Home Occupation |
| <input checked="" type="checkbox"/> Stick Built Home | <input type="checkbox"/> Garage                | <input type="checkbox"/> Retail               | <input type="checkbox"/> Public          |
| <input type="checkbox"/> Other Residential           | <input type="checkbox"/> Other Non-residential | <input type="checkbox"/> Barn                 | <input type="checkbox"/> Commercial      |

Square Feet of Proposed Structure/Addition: 6750 sq ft Total Land Area Acres: 13.82  
Type of Water Supply: Cistern Type of Sewage Disposal: Septic & Drain Field

**INSTRUCTIONS:**  
The Permit Application Form shall be submitted to the Cascade County Planning Office for review. The applicant shall obtain all required permits/forms:

- If your property is in a regulated floodplain, a Floodplain Permit must be obtained first from the Planning Office.
- If an approach to the property is from a county road, an Approach Permit is needed from the County Road Division.
- If your property needs an address assigned to it, we will obtain one for you from the Mapping/Addressing Office.
- All projects that disturb an acre or more are required to have a "General Permit for Storm Water Discharges Associated with Construction Activity" from the MT Department of Environmental Quality (<http://www.deq.mt.gov/wqinfo/mpdes/stormwaterconstruction.mcp>).

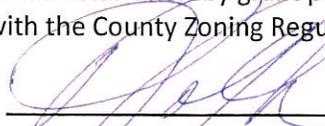
**SITE PLAN REQUIREMENTS: (PERMITS WILL NOT BE ISSUED WITHOUT AN ACCURATE SITE PLAN)**

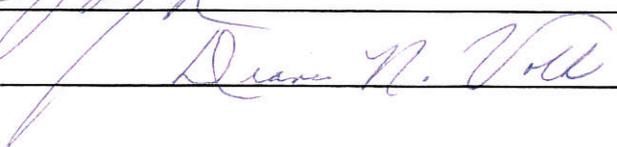
Provide a complete site plan at a suitable scale (1" = 40', 1" = 100', etc) which includes the following, as applicable:

**Required      Obtained**

- |                                     |                          |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 1. <b>The location of existing structures, boundaries, drainfields and utilities; include size, dimensions and current uses</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 2. <b>Location of proposed structures, alterations and utilities and the size, dimensions and uses thereof</b>  |
| <input type="checkbox"/>            | <input type="checkbox"/> | 3.    Existing land use(s) on adjacent property   |
| <input type="checkbox"/>            | <input type="checkbox"/> | 4.    Disturbing one (1) acre or more; if yes, attach DEQ General Discharge permit  |
| <input type="checkbox"/>            | <input type="checkbox"/> | 5.    Location, size, dimensions and number of off-street parking spaces, including on-site vehicular driveways and type of surface improvements (if applicable)          |
| <input type="checkbox"/>            | <input type="checkbox"/> | 6.    Location and type of existing and proposed landscaping or buffering (if applicable)   |
| <input type="checkbox"/>            | <input type="checkbox"/> | 7.    Location, type and height of existing and proposed fencing and/or screening (if applicable)   |
| <input type="checkbox"/>            | <input type="checkbox"/> | 8.    Location, type and height of sight-obscuring improvement surrounding areas of storage for raw materials, finished products, machinery and equipment (if applicable) |
| <input type="checkbox"/>            | <input type="checkbox"/> | 9.    Industrial Affidavit (if applicable)  |

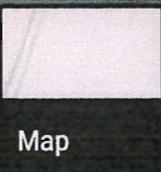
**ATTEST:** I hereby certify that the information given herein is true and correct to the best of my knowledge. There are no restrictions placed upon my property which would prohibit the issuance of this permit. If there are any restrictions, then this permit shall become null and void. I hereby grant permission to any Cascade County Zoning Official to enter my property to inspect for compliance with the County Zoning Regulations in relation to this application.

**Signature of Applicant:**  **Date:** 7-25-16

**Signature of Property Owner:**  **Date:** 7-25-16



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20 m

Lite Mode

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Terms

Choose Parcel Search Criteria:

By Owner

By Geocode

Geocode:

02-3015-27-4-01-01-0000

SEARCH

Choose Owner Name...

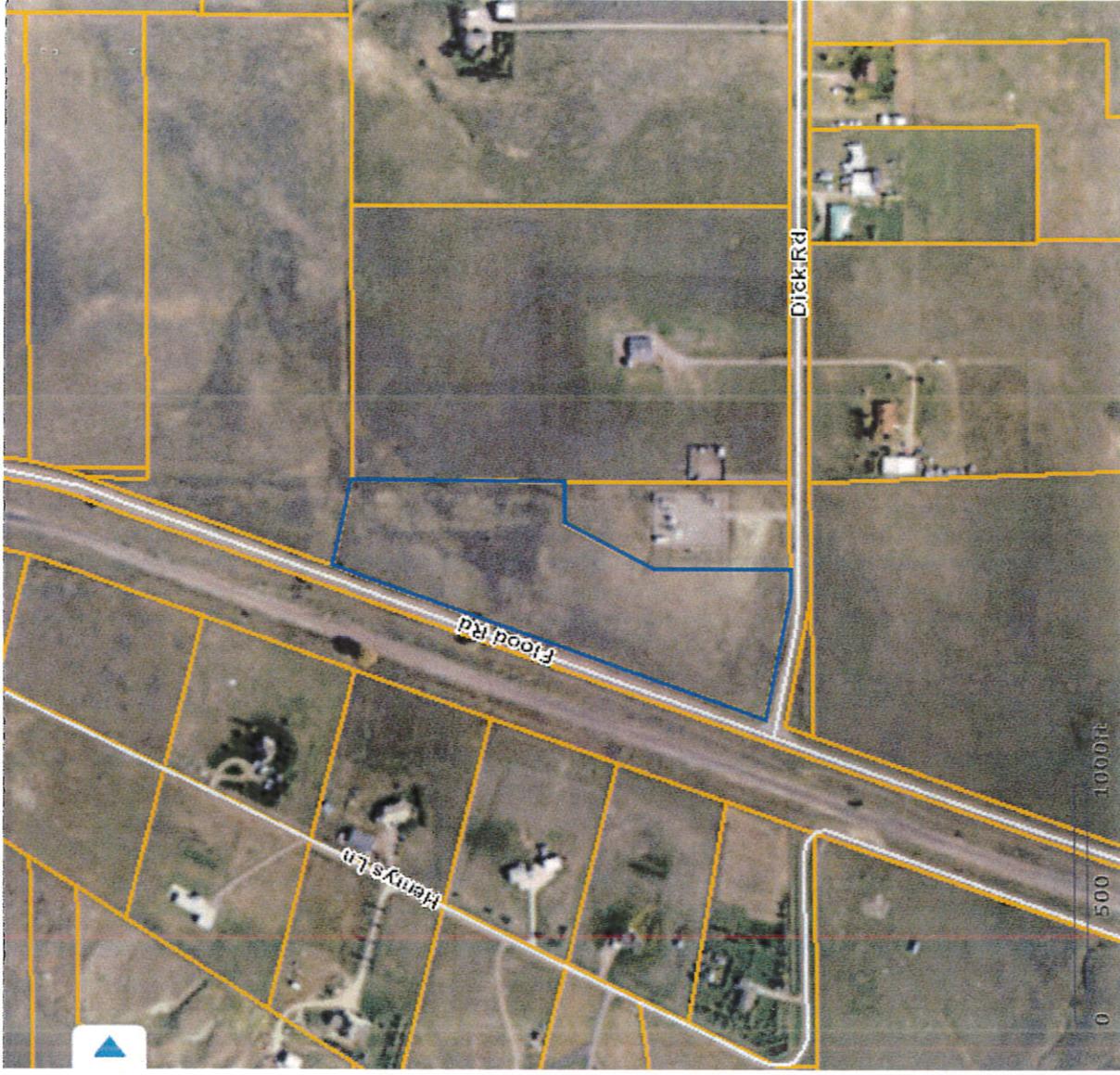
[FLOOD ROAD BUSINESS TRUST](#)

By Assessment

By Certificate of Survey

By Address

By Subdivision



X

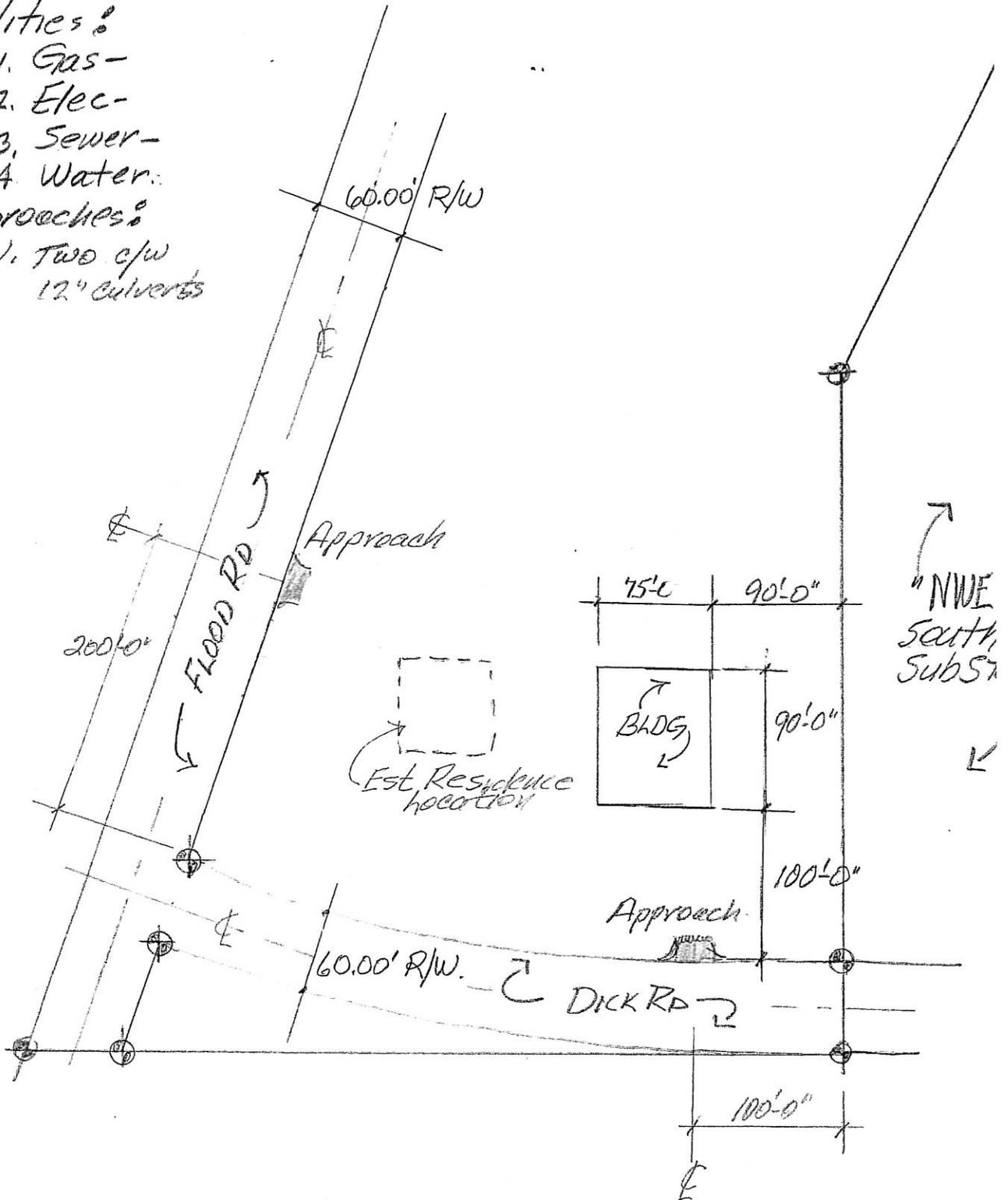
Note: Refer To Site Survey  
 By Hemen Hand Surveying.  
 dtd 3/29/66

Utilities:

1. Gas-
2. Elec-
3. Sewer-
4. Water:

Approaches:

1. Two c/w  
 12" culverts



- VOLK -  
 Site Plan  
 scale 1" = 100'-0"  
 7-27-16

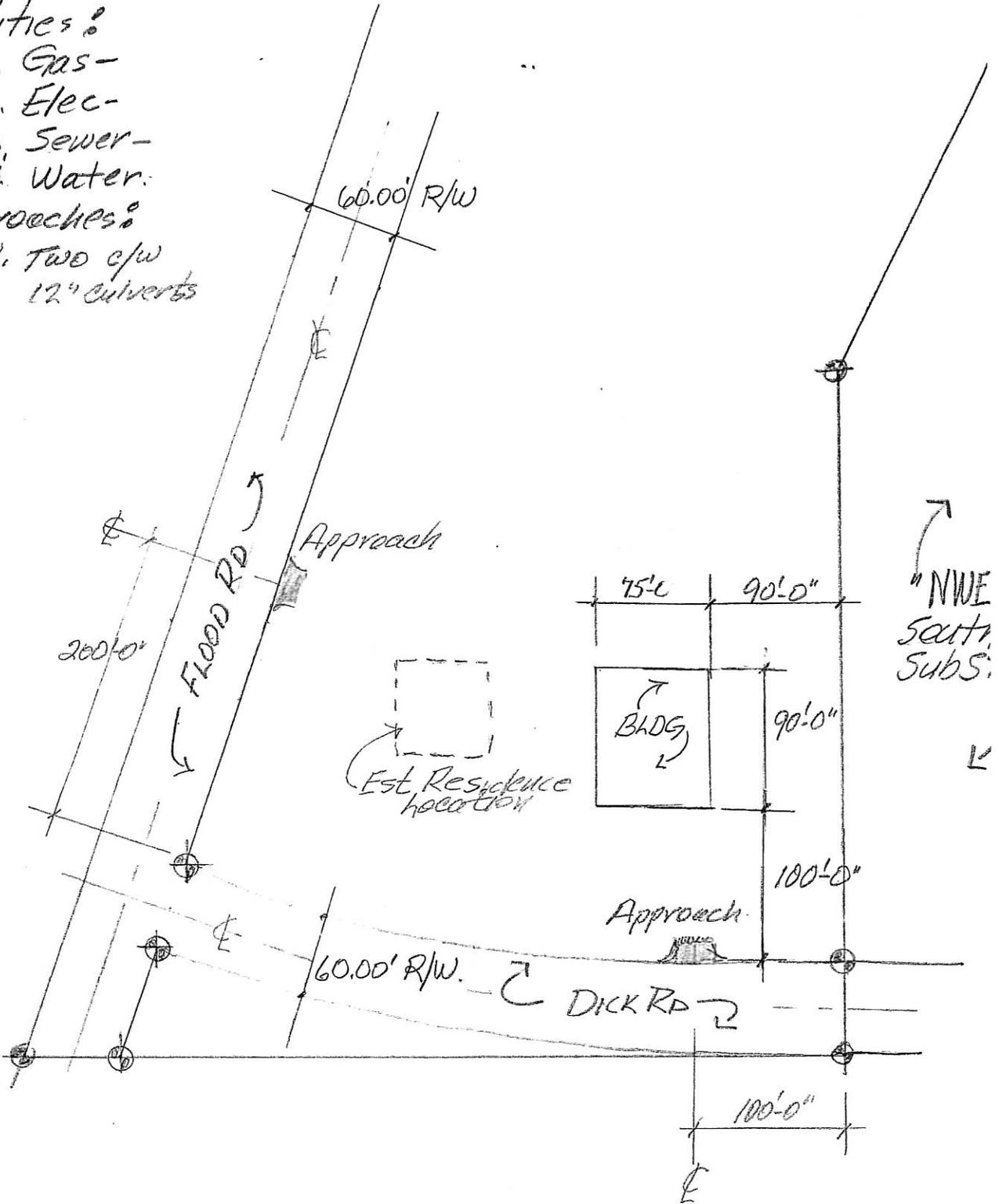
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Utilities:

1. Gas-
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3. Sewer-
4. Water:

Approaches:

1. Two c/w  
 12" culverts



- Volk -  
 Site Plan  
 scale 1" = 100'-0"  
 7-27-16

MEMO

TO: Cascade County Planning Dept.  
121-4<sup>th</sup> St No L Ste 2H/I.  
Great Falls, Mt 59401

Date: 7-28-16 Fax To: \_\_\_\_\_

Ref: Site Plan  
Planning Staff:

Please find attached our  
Proposed Site Map for the  
Development @ Corner of Flood Road  
& Dick Road South of Great Falls.

We will be working with bsc&e  
Engineers -ie Mark Leo Engineers. I have  
dropped off the Haven survey @ their  
office since Mark was out in the field  
plus left note for them to Contact Ms  
Johnson.

Sincerely, R. Volk

Roy D. Volk  
301 Big Bend Ln  
Great Falls, Montana 59404

Ph: 406-761-4260 Fax: 406-761-4658 E-Mail: volkroydiane@gmail.com





# CASCADE COUNTY

Your Local Government in Great Falls, Montana



Shopping Cart: 0 items [\$0.00]

- [New Search](#)
- [History](#)
- [Payoff](#)
- [PayTaxes](#)
- [Help](#)

**Parcel Number:** 0002476210

**Status:** Current

**Receipt:** 30913

**2016 Owner(s):**  
VOLK ROY & DIANE

**Mailing Address:**

301 BIG BEND LN  
GREAT FALLS, MT 59404

**Levy District:**

1-A, Levy District 1-A

**2015 Value:**

**Market:** \$103,718  
**Taxable:** \$1,400

**2015 Taxes:**

		<a href="#">View Pie Charts</a>
<b>First Half:</b>	\$352.56	<b>Due:</b> 11/30/2015
<b>Second Half:</b>	\$352.56	<b>Due:</b> 5/31/2016
<b>Total:</b>	\$705.12	

**2015 Payments:**

<b>First Half:</b>	\$352.56
<b>Second Half:</b>	\$352.56
<b>Total:</b>	\$705.12

(May include penalty & interest)

[Detail](#)

[Detail](#)

**2016 Legal Records:**

**Geo Code:** 02-3015-27-4-01-01-0000 **Instru#:** R0325406 **Doc Type:** RE/WD **Date:** 2016-07-18

**Property address:** 11 DICK RD  
**TRS:** T20, R3E, Sec. 27  
**Legal:** IN E/2SW  
S27,T20N,R3E  
**Mark:** 7A1

**Note:** The accuracy of this data is not guaranteed.

Web data was last updated 07/28/2016 09:15 AM.

**Send Payments To:**

Cascade County  
Treasurer's Office  
121 4th St North,  
Suite 1A,  
Great Falls, MT 59401



Roy and Diane Volk  
301 Big Bend Ln  
Great Falls, Montana 59404

July 26, 2016

Cascade County Public Works  
Planning Department  
121 4<sup>th</sup> St. No. Ste 2H/1  
Great Falls, Montana 59404

Ref: Property Located at #11 Dick Road, Cascade County, Montana

Gentlemen:

This is just a little Narrative before we get into the property and submission for building permit. The 15<sup>th</sup> of July this year we purchased a small parcel of land from the Flood Road Business Trust Tract #2 consisting of 13.82 acres ( see attached Google Map) of the property and the Henen Survey. You will note the attached Henen Survey includes Flood Road and Dick Road, which leaves about 9 +/- acres useable land.

We unsuccessfully tried to find Mr. Henen to see if we could hire him to locate the property corners, so without response I contacted Mark Leo, Engineer of bsc&e engineering and he had their surveyor locate the corners with orange painted lath as noted on your photos. In order to lay out the proposed building we have stripped off the vegetation and will be setting prelim building corners. The building we propose is 6,750 sq ft , 75ft x 90 ft. The general location is shown on the Google Map and the attached Site Map.

Road and Site Access: We delivered to the County Road Department on Friday a site drawing locating our proposed 40 ft access approaches. We have not as of this writing received a response. The Application 7/26/16 documents we pulled off the internet indicated we need this information prior to submitting the Permit Application.

Now, when I brought in the entire file on the property yesterday there was concern by individuals we were locating our former construction company to this location, totally wrong and false, we are not in the construction business, done some development in the past but that's it. We are as of this Tuesday, the 26<sup>th</sup> starting to sell all the left over equipment and miscellaneous materials from our yard left over from construction activities 30 years ago plus we have also signed a Buy-Sell Agreement to sell our offices, shop, warehouses and yard which is located just off Exit Zero on 14<sup>th</sup> St S.W.

Also to clear some misconception with many people our major current interests are Ranching and Farming North East of Belt and our hotels here in Great Falls. This property will not be a business or any type of commercial property. In fact I made the building appealing enough so a home could easily be built to fit in with the building site

away from the electrical distribution. I tried to design a building, which would fit into the neighboring rural landscape and development, please refer to the sketch of building elevations. The two, the home and the building would complement each other. This does bring me to the point, we keep certain amounts of ranch and farming equipment from our ranch from time to time, in town where it can be worked on as needed, just like we have done at our prior location. It is our intent to continue as we have in the past.

Other items of interest, to the East and adjacent to this parcel of land is North Western Energy Southern Primary Distribution Sub-Station, to the North and East is the land owned by Dave Pierce and to the West is the County Road and BN tracks and to the South the County Road and a large parcel of land currently listed for sale.

We have been requested to complete a CC Special USE permit (SUP ) application, which we have done but it just doesn't appear to be the proper way to approach the application for permitting for us and this site. The Documents under 7.1.1 RR-5 District Use Regulations seem to cover this use. I have also attached the Completed Cascade County Location Conformance Permit Application along with \$50.00 fee and request this application be given serious consideration.

In response to the SUP we submit the following additional information.

The \$450.00 Application Fee is attached

Location of Structure and Drain Field

Note test holes, perc tests and submission to DNRC will follow, also we will be using the Engineering Firm of bsc&e, Mark Leo to assist with the proper submittals and documentation.

Traffic – No impact

Utilities

Electrical – North Western Energy has been contacted

Gas – Energy West Application submitted

Water – A cistern will be installed

Sewer – An Approved system to be installed

Soil Erosion – N/A

We will be staking out the building today and if you wish will provide the layout information, let me know also will check with the Road Dept and will see if our access request has been reviewed. Will keep you advised.

Thank You,

Roy and Diane Volk

**HENEN**  
LAND SURVEYING

Michael E. Henen  
MT Registered Land Surveyor No. 9523 L.S.

2822 1st Ave. South, Great Falls, MT 59401  
TELEPHONE (406) 553-7820

Third Generation  
Land Surveying

CERTIFICATE OF REGISTERED LAND SURVEYOR

I, Michael E. Henen, Registered Professional Land Surveyor, Montana License No. 9523 L.S., do hereby certify that the above described land is the true and correct position of the boundaries of the land as shown on the attached plan, and that the same is in accordance with the provisions set forth in Sections 73-3-402 and 403 M.C.A., and that all measurements shown are of the character and occupy the position shown thereon.

Date: 3/26/06

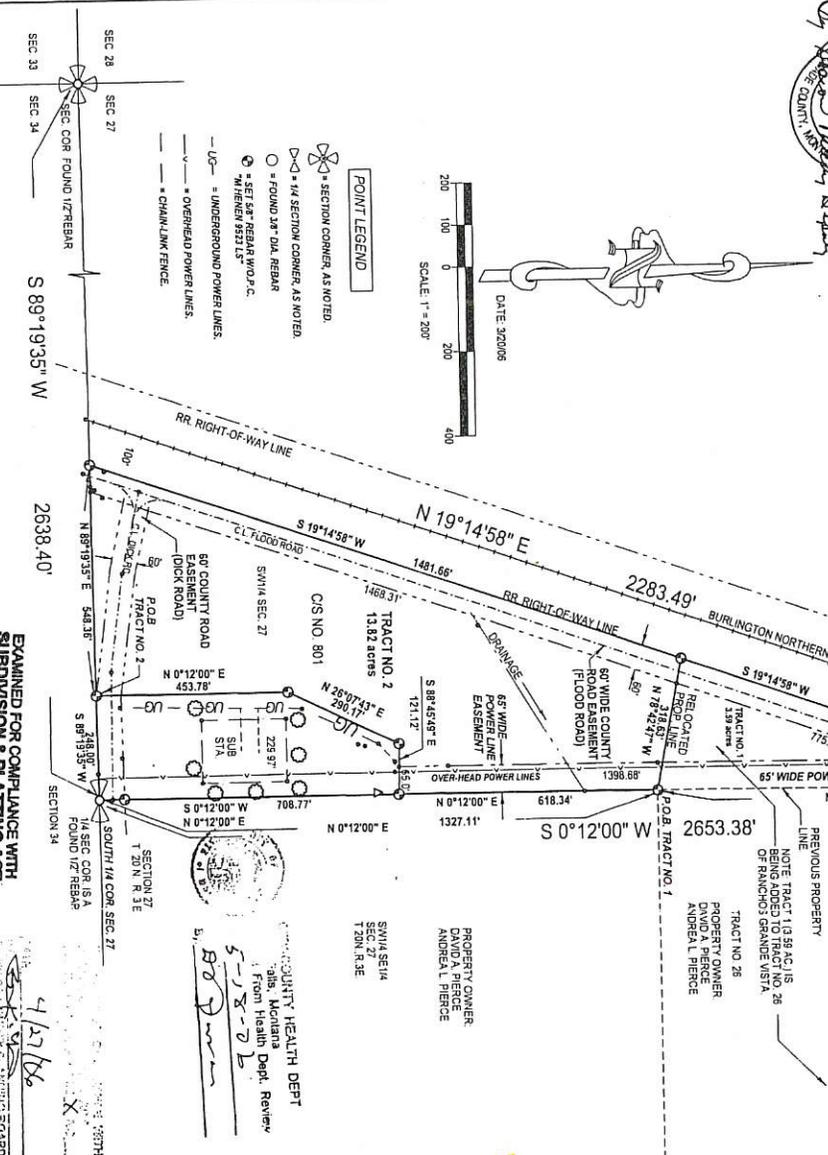
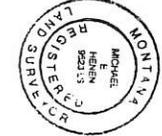
Michael E. Henen  
Montana License No. 9523 L.S.

CERTIFICATE OF THE CASCADE COUNTY TREASURER

I, Lisa Anderson, Treasurer of Cascade County, Montana, do hereby certify that I have examined the records covering the area included in the map, and find that all real taxes, assessed and levied, on said land to be subdivided hereon have been paid, and are not delinquent.

Date: 3/26/06

Lisa Anderson  
Treasurer of Cascade County, Montana



**CERTIFICATE OF SURVEY NO. 4394**

TRACTS OF LAND LOCATED IN THE SW1/4 OF SECTION 27, T. 20 N., R. 3 E., P.M.M., CASCADE COUNTY, MONTANA

CERTIFICATE OF SURVEY:  
The undersigned property owner, does hereby certify that they have caused to be surveyed, as shown by the plat hereunto included, the following described tracts of land, to-wit:

TRACT NO. 1 (BOUNDARY RELOCATION; Northwest Easement to Pierce)

A tract of land located in the SW1/4 of Section 27, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana, said tract being more fully described as follows, to-wit:

Commencing at the South 1/2 corner of said Section 27, said corner is a found 1/2\"/>

TRACT NO. 2 (NW Easement property after boundary relocation)

A tract of land located in the SW1/4 of Section 27, Township 20 North, Range 3 East, P.M.M., Cascade County, Montana, said tract being more fully described as follows, to-wit:

Commencing at the South 1/2 corner of said Section 27, said corner is a found 1/2\"/>

The purpose of this survey is a division made outside a platted subdivision for the purpose of relocating, correcting, boundaries lines between adjoining properties. Therefore this survey is exempt from review as a Subdivision of Environmental Quality pursuant to A.R.M. 7-28-605 and 7-28-606 M.C.A. unless the subdivision authority may decide parcels created by division of land from review under 17A, chapter 4, part 1 M.C.A. unless the subdivision is used to evade the provisions of that part. (D) a parcel that has no existing land authority under supply, wastewater disposal, and solid waste disposal other than that which is shown on the plat hereunto included.

Property Owner: Northwest Easement Energy  
Date: 3/26/06

Surveyor: Ronald Anderson  
Date: 3/26/06



Reviewed for Compliance with Subdivision & Platting Act  
TREASURER'S STAMP YES NO

Examined for Compliance with Subdivision & Platting Act  
TREASURER'S STAMP YES NO

CASCADE COUNTY PLANNING BOARD

State of Montana  
County of Cascade

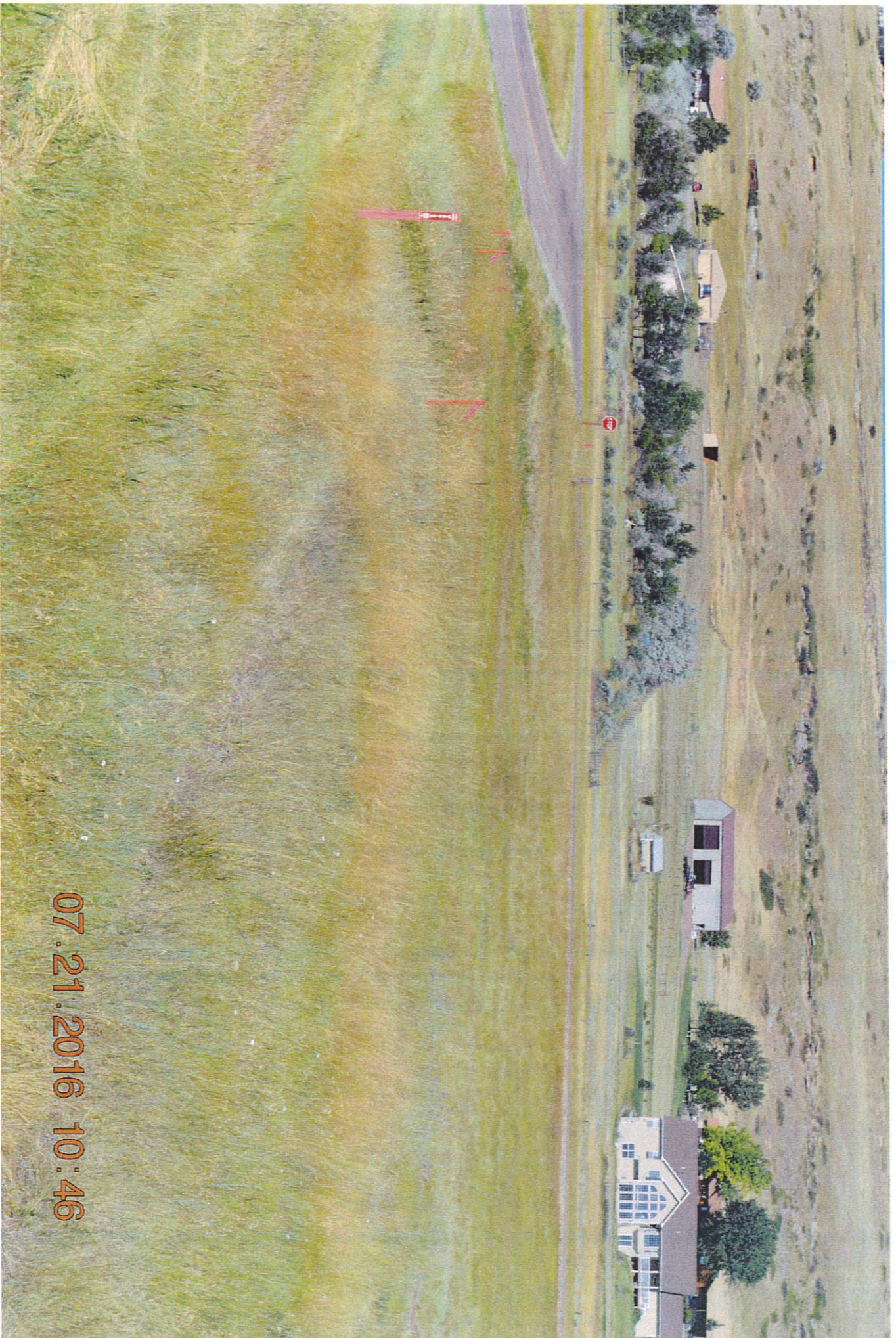
City of Great Falls

Before me, a Notary Public for the State of Montana, personally appeared David A. Pierce and Andrea L. Pierce, known to me to be the persons who executed the foregoing Certificate of Survey, and they acknowledged to me that they are the same.

Notary Public for the State of Montana  
Residing in Great Falls, Cascade County, Montana  
My Commission Expires 5-28-2007

Page: 1 of 1  
\$-0004394  
Printed by: JSTP/PLM/EN

SURVEY OR INTEREST	DATE
PROJECT NAME: <u>WESTERN POWER CO.</u>	
PROJECT NO: <u>114</u>	
SECTION: <u>27</u>	
TOWNSHIP: <u>20 N</u>	
RANGE: <u>3 E</u>	



07.21.2016 10:46

~~11~~



07.21.2016 10:46



07:21:2016 10:46



07.21.2016 10:45

# Property Record Card

## Summary

### Primary Information

Property Category: **RP** Subcategory: **Real Property**  
 Geocode: **02-3015-27-4-01-01-0000** Assessment Code: **0002476210**  
 Primary Owner: **VOLK ROY & DIANE** PropertyAddress:  
**301 BIG BEND LN** COS Parcel: **000**  
**GREAT FALLS, MT 59404-6466**  
*NOTE: See the Owner tab for all owner information*

Certificate of Survey: **4393**

Subdivision:

Legal Description:

**S27, T20 N, R03 E, 4393, PARCEL 000, TR 2, COS #4393 IN E2SW MK 7A1**

Last Modified: **9/28/2016 6:44:50 PM**

### General Property Information

Neighborhood: **009.C** Property Type: **VR - Vacant Land Rural**  
 Living Units: **0** Levy District: **02-A098-1-A**  
 Zoning: **Ownership %: 100**  
 Linked Property:

No linked properties exist for this property

Exemptions:

No exemptions exist for this property

Condo Ownership:

General: **0** Limited: **0**

### Property Factors

Topography: **8** Fronting: **0 - None**  
 Utilities: **0** Parking Type:  
 Access: **0** Parking Quantity:  
 Location: **0 - Rural Land** Parking Proximity:

### Land Summary

Land Type	Acres	Value
Grazing	0.000	00.00
Fallow	0.000	00.00
Irrigated	0.000	00.00
Continuous Crop	0.000	00.00
Wild Hay	0.000	00.00
Farmsite	0.000	00.00
ROW	0.000	00.00
NonQual Land	0.000	00.00
Total Ag Land	0.000	00.00
Total Forest Land	0.000	00.00
Total Market Land	13.820	103,718.00

### Deed Information:

Deed Date	Book	Page	Recorded Date	Document Number	Document Type
7/15/2016			7/15/2016	R0325340	Warranty Deed
7/15/2016			7/18/2016	R0325406/R0325340	Warranty Deed
1/29/2007	0001	42478			



# SUPREME COURT OF NORTH CAROLINA

## Docket Sheet

Dellinger v Lincoln County, et al.

**Case Number:** 311P16  
**As of:** 11/16/2016  
**Case Closed:** No      **Close Date:**      **Case Type:** Civil (Civil\_othr)

GARY DELLINGER, VIRGINIA DELLINGER, and TIMOTHY S. DELLINGER, Petitioners

v

LINCOLN COUNTY, LINCOLN COUNTY BOARD OF COMMISSIONERS, and STRATA SOLAR, LLC, Respondents

and

TIMOTHY P. MOONEY, MARTHA McLEAN, and THE SAILVIEW OWNERS ASSOCIATION, Intervenor Respondents

**Docket Date:** 08-23-2016      **Acquired Date:** 08-23-2016  
**Bond Collected:** No      **Docket Fee:** No      **Pauper:** No      **Rule 16b:** No

**History**

**Venue:** Lincoln (27B)      **Previous Venue:** N.C. Court of Appeals (200)

**Lower Court Number(s)**

Location: N.C. Court of Appeals (200)  
 Judge: John M. Tyson  
 Case #: 15-1370

Location: Lincoln (27B)  
 Judge: Yvonne Mims Evans  
 Case #: 15CVS384

**Tracking/Argue**

**Opinion**

**Documents**

Document	Date Recvd	Cert of Service	Rec/Brf Due	Resp. Due	Resp. Recvd	Mailed Out	Ruling	Ruling Date
(1) PDR	08-23-2016					09-16-2016		

1 - PETITION FOR DISCRETIONARY REVIEW  
 Filed: 08-23-2016 @ 14:51:36  
 FOR: Intervenor-Appellant Mooney, Timothy P., et al  
 BY : Mr. James E. Scarbrough  
 SCARBROUGH & SCARBROUGH, PLLC

RESPONSE TO PETITION FOR DISCRETIONARY REVIEW  
 Filed: 09-02-2016  
 BY : Mr. Jason White

### Financial Information

#### Receipts

Date Charged	Charge Type	Amount Charged	Amount Paid	Document	Pages	Receipt #	Date Paid
09-16-2016	Printing	169.75	169.75	PETITION	97	R091003916	09-22-2016

#### Parties

Party Name	Role
Dellinger, Gary	Petitioner-Appellee
Dellinger, Virginia	Petitioner-Appellee
Dellinger, Timothy S.	Petitioner-Appellee
Lincoln County	Respondent-Appellee
Lincoln County Board of Commissioners	Respondent-Appellee
Strata Solar, LLC	Respondent-Appellee
Mooney, Timothy P.	Intervenor-Appellant
McClellan, Martha	Intervenor-Appellant
The Sailview Owners Association	Intervenor-Appellant
Dellinger, Gary, et al	Petitioner-Appellee
Lincoln County, et al	Respondent-Appellee
Mooney, Timothy P., et al	Intervenor-Appellant

#### Attorneys

##### Attorney for Petitioner-Appellee - Dellinger, Gary, et al

Mr. Forrest A. Ferrell [Primary Attorney]

Attorney at Law

forrest.ferrell@sigmonclark.com

Mr. Jason White [Primary Attorney]

Attorney at Law

jason.white@sigmonclark.com

SIGMON, CLARK, MACKIE, HANVEY & FERRELL, P.A.

420-B Third Avenue, NW

P.O. Drawer 1470

Hickory, NC 28603

(828) 328-2596

##### Attorney for Respondent-Appellee - Lincoln County, et al

Mr. Wesley L. Deaton [Primary Attorney]

Attorney at Law

wdeaton@deatonlegal.net

PENDLETON, PENDLETON & DEATON, P.A.

P.O. Box 2459  
Denver, NC 28037  
(704) 489-2491

---

**Attorney for Intervenor-Appellant - Mooney, Timothy P., et al**

Mr. James E. Scarbrough [Primary Attorney]

Attorney at Law

jes@sandslegal.net

Mr. John F. Scarbrough [Primary Attorney]

Attorney at Law

johnscarbrough@fspa.net

SCARBROUGH & SCARBROUGH, PLLC

137 Union Street South  
Concord, NC 28025  
(704) 788-3211

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RECEIVED NOV 16 2016 #1

Zoning Board of Adjustment:  
16 November 2016

We are Vern & Ruthi Pankratz of 5101 Flood Rd. Great Falls, MT. We are opposed to this application and the use of unclassified use permits.

Our objection to the use of the unclassified use permits for Solar Plants, is that this use was ill gained. The new regulations were written specifically to place solar plants in our residential areas. In our opinion; the Solar Co's, Great Falls Development Authority, and possibly county officials, applied undue pressure, on the Planning Staff/ Board, to make changes in the zoning regulations. These changes would facilitate placing solar plants in residential zoned areas.

Last fall Jolene Schalper of the Great Falls Development held a meeting with the Planning Staff to encourage them to find a way that the solar plants could be placed where the Solar Co's want them.

This March the Planning Staff/Board passed new zoning regulations with Power Plant Solar and Unclassified Use Permit sections which gave the solar co's what they wanted.

This application should have never made it past the Planning Staff, for the following reasons:

1. Cascade County Zoning Regulations, under definitions page 32, Power Plants Solar states; "Solar Power Plants" means a COMMERCIAL FACILITY that converts sunlight into electricity. There for it is commercial not residential and it's not farming. For that reason alone it should not have made it to this board.
2. Residential @ Districts: 7.1.0.4 Lot Coverage. Buildings cannot cover more than 35-40 % of the lot. Then under Power Plants Solar 8.12.1 of the regulations they created themselves a loophole on lot coverage.
3. Cascade County Zoning Regulations 8.12 was written specifically for the purpose of placing solar plants in residential areas.
4. They do not meet the definition or the spirit of harmony. Harmony speaks to agreement, accord, and harmonious relations. We see no agreement, no accord, and no harmonious relations. Harmony also states that no part shall harm any other part. If you change our current view for an eye sore and a possible substantial drop in property values, how is that not harming us. If it were harmonious, why does it require a tall green fence and a green belt to try to hide it like a Junk Yard?

In closing we'd like to say that this was unfair to the Zoning Board of Adjustments, because it should never have came out of the Planning Office.

There are 96 proposed Solar Plant sites in Montana and 12 of those are in Cascade County. Of these the Solar Co's should be able to find plenty of locations outside of residential zoning, such as the site in Black Eagle. It is on industrial land that no one has to look at.

Thank you,  
Vern & Ruthi Pankratz  
5101 Flood Rd  
Great Falls, MT. 59404