

Addendum - Borchers of Finley Point Homeowners' Association

Planning/Zoning related considerations:

A letter to the Timbrshor Association in care of Caryl Cox dated January 28, 2009 provided detailed information about the existing subdivision regulation and zoning standards which are used to review an amendment request. In order to facilitate the ability of the homeowners in the subdivision to make the amendments necessary to clear the record in the Clerk and Recorder's Office and bring the subdivision into compliance, Lake County Planning Department is offering the following minimum guidelines for the homeowners to address in an amendment proposal that would have planning department support through the amendment process.

Roadways and Driveways

All units in the condominium subdivision will be required to have legal and physical access that meets the approval of the governing body. For the purposes of this correspondence, a driveway is a roadway that only accesses one residential unit; a subdivision access road provides ingress/egress to more than one residential unit.

To address the existing roadway network, the county recognizes that the as-built access roads were not constructed as approved and recorded with the condominium subdivision. In an effort to work with the landowners to bring the subdivision into compliance with the record, the county planning department will support use of the as built roadways for physical access to the existing and recorded units so long as it is demonstrated that the physical access meets the needs of all emergency service providers. The design specifications (including but not limited to grade, width, base and surface materials) of existing roadways must be certified acceptable by the fire department and ambulance service. If the existing roadways cannot be certified by these emergency service providers, the landowners must solicit the recommendation of the emergency service providers to bring the roadways up to a standard they are willing to certify as acceptable and the landowners must propose a plan to build the roadway to these standards prior to the county's approval of the amended condominium subdivision plan.

The subdivision access road to the western units (318-430 excluding 320) in the division traverses across an adjacent property without a legal easement and therefore, the County will not allow increased use of the roadway as part of an amendment request. This means that the number of units dependent on use of the off-site subdivision access road for access purposes shall not be increased. Currently it appears Unit 317 as depicted on the recorded plan was to access from internal on site access roads, but as built this unit is accessed via use of the off-site subdivision access road.

All non-existing access roads and driveways that are proposed to either access relocated units that are undeveloped, and/or would provide access to a unit where the access will not be constructed as depicted on the recorded plan, must have a proposal for design and construction of the access roads and driveways to be reviewed by the governing body as part of the amendment request. The design specifications (including but not limited to grade, width, curve radius, and base and surface materials) of proposed subdivision access roads/driveways should also be reviewed and approved by the fire department and ambulance service to demonstrate that all proposed accesses will meet the needs of the emergency service providers. The amendment request must also include a plan to construct the subdivision access roads/driveways and have

Zoning Requirements

The Finley Point Zoning Regulations went into effect in September 1991. A request to amend the subdivision will require that new roads and unit locations meet the requirements of the zoning regulations. Therefore, all proposed relocated units shall meet the following setbacks:

- 50 ft from the highwater mark of Flathead lake
- 20 ft from side property boundaries

A Conditional Use approval is required for the disturbance of slopes greater than 25% on lakefront lots. Therefore any proposed relocated unit location, access road or driveway which will require the disturbance of slopes greater than 25% will require conditional use approval prior to construction.

Multi-family residential units are prohibited by the zoning regulations. Therefore, the amendment request shall not increase the total number of multi-family residential units within the subdivision.

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Sanitation considerations:

The end goals of these sanitation comments are:

1. That the 1977 Certificate of Subdivision Approval issued by the Montana Department of Environmental Quality, MDEQ, for the subdivision will be revised and brought into compliance. Per previous correspondence with the homeowners' association, it has been determined that the focus will be on revision of the wastewater approval. However, the water system approval is important and should be addressed in a timely manner. The MDEQ has confirmed that this stepped revision for the wastewater plan first and then the water system plan is acceptable.
and
2. That the existing wastewater treatment systems are in brought into compliance with the MDEQ revised approval and state and local regulations.

Because the original MDEQ approval was for a single community drainfield, the revision must provide a new plan. A draft plan has been provided by Rowland Environmental Consulting and provides for five multi-user drainfields. Two of these drainfields are existing and three are replacement systems; all systems incorporate capacity for future home sites. This plan must be finalized and submitted to MDEQ for review and approval.

As stated in the letter dated to the homeowners' association in June of 2007:

Now that it is understood that the subdivision is not in compliance with its MDEQ approval, the Lake County Environmental Health Department will not issue wastewater permits for this subdivision nor allow new construction or changes to existing systems until the MDEQ approval is revised. Revision of the MDEQ approval, while a substantial undertaking, will both bring the subdivision into compliance with state law and provide an orderly plan for the future water and wastewater infrastructure of this condominium subdivision.

The water rights for the subdivision should be clarified. This may require a water rights professional to assist the homeowners' association.

As previously discussed with the homeowners' association, the initial focus of compliance with the MDEQ approval statement would be the wastewater systems, and that compliance with the water system approval would follow. However, as the homesite locations are fixed and developed, they certainly should have the assurance that they have an approved and legal water system. Another issue to be considered is if the subdivision water systems are or should be seasonal or year around. If they are not year around, this should be known to future buyers, and it may be something the homeowners would like to work toward. Any water system that serves residences constructed since the subdivision approval will require plans be reviewed and

approved by MDEQ if they are changed from the original approval. Also, as per the MDEQ approval, capacity should be made available for the pre-existing homes that may need to, or want to, connect to the subdivision systems.

Water System Considerations:

1. How do water systems for the homes constructed since the subdivision approval comply with the approved plan? This must consider all lake water intakes and any well.
2. If the water system(s) need to be revised, plans reviewed and approved by MDEQ are required unless the previously approved plans are followed. If additional capacity is to be added to serve the pre-existing homes, this additional design flow must be reviewed and approved by MDEQ.
3. Are the water systems seasonal or year around? If seasonal, do the homeowners want to plan for a year around water source?
4. Are the water rights for the subdivision in order? Who owns the water rights now and who should own them in the future?
5. The homeowners may benefit from having a water/wastewater district in that low interest loans are available to a district for water system improvements. This would also provide for unified water system management including operation, maintenance, and financing.

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DNRC Water Right Query System

Water Right	WR Type	Status	Purpose	Priority Date yyymmdd (hhmm)	Src	Src Name	Means of Diversion	Owner	Flow Rate	Volume Acres	Doc Image	Div Count & map	Use Count & map	Irr Count & map	Res Count & map	Issue Remarks
76LJ 26562 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19420515	S	FLATHEAD RIVER	PUMP	MURPHY PATRICIA A	15.00 GPM	0.75	View	1	1			
76LJ 27697 00	STATEMENT OF CLAIM	ACTV	IRRIGATION	19480715	S	FLATHEAD RIVER	PUMP	GOLF WORLD INC	400.00 GPM	5.50	View	1	1	1		
76LJ 32241 00	PROVISIONAL PERMIT	ACTV	DOMESTIC	198103091350	S	FLATHEAD RIVER (FLATHEAD LAKE)	UNKNOWN	SWAN DORIS N	10.00 GPM	1.50	View	1	1			
76LJ 32241 00	PROVISIONAL PERMIT	ACTV	DOMESTIC	198103091350	S	FLATHEAD RIVER (FLATHEAD LAKE)	UNKNOWN	SWAN MILES L	10.00 GPM	1.50	View	1	1			
76LJ 34348 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19500701	S	FLATHEAD RIVER	PUMP	MCALPIN RANDA J	200.00 GPM	1.50	View	1	2			
76LJ 35709 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19600531	S	FLATHEAD RIVER	PUMP	DAVIS DAVID D	40.00 GPM	1.50	View	1	1			
76LJ 35709 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19600531	S	FLATHEAD RIVER	PUMP	DUNLAP KAREN K	40.00 GPM	1.50	View	1	1			
76LJ 35709 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19600531	S	FLATHEAD RIVER	PUMP	EBEL PAMELA M	40.00 GPM	1.50	View	1	1			
76LJ 35709 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19600531	S	FLATHEAD RIVER	PUMP	JONES THERESA F	40.00 GPM	1.50	View	1	1			
76LJ 35709 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19600531	S	FLATHEAD RIVER	PUMP	POTTER CONSTANCE J	40.00 GPM	1.50	View	1	1			
76LJ 36098 00	PROVISIONAL PERMIT	ACTV	DOMESTIC	198107221335	S	FLATHEAD RIVER (FLATHEAD LAKE)	PUMP	JONES ROBERT W	10.00 GPM	1.50		1	1			
76LJ 42597 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19720228	S	FLATHEAD RIVER	PUMP	HALL CONSTANCE	10.00 GPM	0.15	View	1	1			
76LJ 42597 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19720228	S	FLATHEAD RIVER	PUMP	TIMBRSHOR	10.00 GPM	0.15	View	1	1			
76LJ 42598 00	STATEMENT OF CLAIM	ACTV	MULTIPLE DOMESTIC	19591231	S	FLATHEAD RIVER	PUMP	TIMBRSHOR	25.00 GPM	6.00	View	1	1			
76LJ 42599 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19720331	S	FLATHEAD RIVER	PUMP	SAND MICHAEL P	10.00 GPM	0.15	View	1	1			
76LJ 42599 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19720331	S	FLATHEAD RIVER	PUMP	TIMBRSHOR	10.00 GPM	0.15	View	1	1			
76LJ 42600 00	STATEMENT OF CLAIM	ACTV	COMMERCIAL	19401231	S	FLATHEAD RIVER	PUMP	BORCHERS LOU	15.00 GPM	3.00	View	1	1			
76LJ 42600 00	STATEMENT OF CLAIM	ACTV	COMMERCIAL	19401231	S	FLATHEAD RIVER	PUMP	TIMBRSHOR	15.00 GPM	3.00	View	1	1			
76LJ 42601 00	STATEMENT OF CLAIM	ACTV	FIRE PROTECTION	19712131	S	FLATHEAD RIVER	PUMP	TIMBRSHOR	1000.00 GPM	4.42	View	1	1			
76LJ 42602 00	STATEMENT OF CLAIM	ACTV	MULTIPLE DOMESTIC	19571231	S	FLATHEAD RIVER	PUMP	TIMBRSHOR	15.00 GPM	9.00	View	1	1			
76LJ 42603 00	STATEMENT OF CLAIM	ACTV	MULTIPLE DOMESTIC	19691231	S	FLATHEAD RIVER	PUMP	TIMBRSHOR	25.00 GPM	13.50	View	1	1			
76LJ 45166 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19710731	S	FLATHEAD RIVER	PUMP	ROTH DONNA E	20.00 GPM	1.00	View	1	2			
76LJ 45385 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19660306	S	FLATHEAD RIVER	PUMP	CRERAR DAVID G	10.00 GPM	1.50	View	1	1			
76LJ 45385 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19660306	S	FLATHEAD RIVER	PUMP	CRERAR HAZEL E	10.00 GPM	1.50	View	1	1			
76LJ 46915 00	STATEMENT OF CLAIM	ACTV	DOMESTIC	19520630	S	FLATHEAD RIVER	PUMP	COOK KEESE DEEANNE	20.00 GPM	2.50	View	1	2			

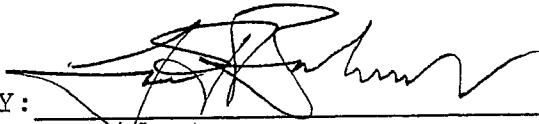
Lake County Commissioner's
Lake County Courthouse
Polson, Montana 59860

Dear Sirs:

In clarification of the statement concerning the total number of units to be developed shown on plats filed under Microfile No.'s 235628 & 243049, please be advised that the following sites will not be developed:

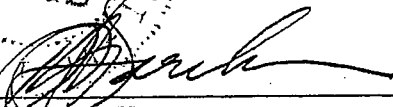
- Site 217
- Site 319
- Site 411
- Site 414
- Site 420
- Site 421

BORCHERS OF FINLEY POINT

BY: 

 President



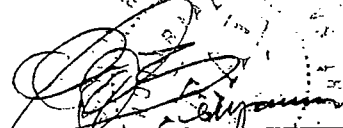
BY: 

 Secretary

STATE OF MONTANA)
) ss
 County of Cascade)

On this 3rd day of March, 1980 before me, a Notary Public for the State of Montana personally appeared Louis F. Borchers & Dean C. Borchers known to me to be the President & Secretary of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first hereinabove written.



 Notary Public for the State of Mont.
 Residing at Great Falls, Mont

Key for Planning Action Needed on Condo Unit Status Sheet

1. Must amend Document # 254073 to address that this unit is developed and which unit shown on the Plat of Borchers of Finley Point will not be developed instead.
2. Must amend Document # 254073 to address that this unit will not be developed.
3. Must address why the unit is not part of a duplex or triplex as originally proposed, and how the total number of single family units and multi-family units has not been increased.
4. Must address relocation
5. Must address legal and physical access
6. Must address zoning compliance:
 - a. 20 ft side property line setback
 - b. 50 ft setback from the highwater mark of Flathead Lake
 - c. The disturbance of slopes >25% for either homesite or access development

Borchers of Finley Point WASTEWATER SYSTEM EVALUATION

EXISTING SYSTEM #1

PROPOSED SYSTEM A – Orange

SYSTEM: Large Community System in Parking Area – Permit 1837

Units Connected	201 – McFadden 9947	Per Assessor 2001 – 2BR
	203 – Acher 3126	Per Assessor 56/1994 – 2 BR
	204 – Swindlehurst 3126	Per Assessor 56/1994 – 3 BR
	205 - Rotondi	Per Assessor 56/2009 – 5 BR
	206 - Walters	Per Assessor 1996 – 4 BR
	209 – Peterson	Per Assessor 2002 – 2 BR
	210 – Schwank	Per Assessor 1956 – 2 BR
	211 – Fordahl 1837	Per Assessor 1956 – 2 BR
Units Proposed to Connect	201 - McFadden	System A - Orange
	202 – Borchers?	
	203 – Acher	
	204 – Swindlehurst	
	205 – Rotondi	
	206 - Walters	
	209 – Peterson	
	210 - Schwank	
	211 – Fordahl	
	216 – Borchers?	
	217 – Borchers ?	
	219 – Borchers-Michione	
System Permit	#1837 + tanks	
System Installed	1989	
Tank Size	Multiple	
Design Capacity GPD	400 GPD*	
Comments	Replacement needed.	
Compliance	MDEQ Approval must be revised Drainfield has been parking area – illegal Residences connected without permit – 205, 206, 209, 210 Residence/Bedroom Count would require 1275 GPD design flow 1275 – 400 = 875 gpd short Unit 205 expansion based upon commitment to Board of Health to upgrade system	Note: bolded unit numbers indicate those existing in 1977 when the subdivision was approved.

*100' X 2' X 4 = 800sf X .5 application rate = 400 gpd

Borchers of Finley Point WASTEWATER SYSTEM EVALUATION

EXISTING SYSTEM #3

SYSTEM: 4 Plex

Units Connected	306 - Selvig	Per Assessor 1956 - 2BR
	307 - Payson	Per Assessor 1956 - 1BR
	308 - Novinski	Per Assessor 1956 - 1BR
	309 - Cole	Per Assessor 1956 - 1BR
Units Proposed to Connect	None	System B - Dark Blue
System Permit	Prior to Permitting 1969?	
System Installed	Unknown	
Tank Size	Unknown	
Design Capacity GPD	Unknown	
Comments	<p>Well under building? Water system under building? No wastewater pump - gravity?</p> <p>Septic tank does not likely meet 50' setback to lake. Drainfield does not likely meet 100' setback to lake.</p> <p>Very shallow bedrock apparently in presumed drainfield location - likely near direct discharge to bedrock</p> <p>Replacement plan needed.</p>	Note: bolded unit numbers indicate those existing in 1977 when the subdivision was approved
Compliance	<p>Likely violation of Section 2.1 - LCWRSR ARM 17.36.913(1)</p> <p><i>"No person may install, alter, repair, extend or utilize any wastewater treatment system that may:</i></p> <ol style="list-style-type: none"> <i>1. Contaminate any actual or potential drinking water supply;</i> <i>4. Violate any law or regulation governing water pollution or wastewater treatment and disposal;</i> <i>5. Pollute or contaminate any state water in violation of MCA 75-5-605;"</i> <p>System should have been upgraded per 1979 county regulation requiring upgrade of pre-existing systems with any new permit on the lot.</p>	

Borchers of Finley Point WASTEWATER SYSTEM EVALUATION

EXISTING SYSTEM #5 PROPOSED SYSTEM D – Purple

SYSTEM: 1001Q and Replacement

Units Connected	401 – Johnson	Per Assessor 1973 – 3 BR
	402 – Manning	Per Assessor 1974 – 3BR
Units Proposed to Connect	401 - Johnson	System D - Purple
	402 - Manning	
	417 - ?	
	421 - Johnson	
	422 – Johnson	
	424 - Johnson	
System Permit	1001Q	
System Installed	1973	
Tank Size	1000/500 pump	
Design Capacity GPD	220 GPD**	
Comments	System documented after installation. Replacement plan needed.	Note: bolded unit numbers indicate those existing in 1977 when the subdivision was approved
Compliance	Drainfield has been driveway & parking area – illegal Drainfield very likely nearly direct discharge to fractured bedrock. Residence/Bedroom Count would require 650 GPD design flow 650 – 220 = 430gpd short	Likely violation of Section 2.1 – LCWRSR ARM 17.36.913(1) <i>"No person may install, alter, repair, extend or utilize any wastewater treatment system that may:</i> 1. Contaminate any actual or potential drinking water supply; 4. Violate any law or regulation governing water pollution or wastewater treatment and disposal; 5. Pollute or contaminate any state water in violation of MCA 75-5-605;"

* 22' X 2' = 220sf X .5 application rate = 220 gpd

Borchers of Finley Point WASTEWATER SYSTEM EVALUATION

EXISTING SYSTEM #7 PROPOSED SYSTEM E - Green

SYSTEM: Rys-Sikora/Kukendall - #5584 + #5912

Units Connected	428 – Rys-Sikora	Per Assessor 2002 – 3BR
	418/419 - Kuykendall	Per Assessor 2004 – 3BR
Units Proposed to Connect	418/419 - Kuykendall	System C - Green
	426 – Borchers, Wm	
	427 - Maxwell	
	428 – Rys-Sikora	
	430 – Rys-Sikora	
System Permit	#5584 + #5912	
System Installed	2002 & 2003	
Tank Size	Multiple	
Design Capacity GPD	1350 GPD*	
Comments	Can 418/419 Units be split - requiring additional drainfield capacity needs? Does one lateral still need to be installed?	
Compliance	MDEQ Approval must be revised. With MDEQ revision, system will be in compliance for five 3-bedroom residences with full system installed Additional homesites will require permit for septic tank.	

*8' X 80' X 2 = 1280sf

10' X 75' X 2 = 1500sf + 1280sf = 2780sf X .5 GPD application rate = 1390 GPD

Borchers of Finley Point WASTEWATER SYSTEM EVALUATION

EXISTING SYSTEM #9

SYSTEM: Laundry Building

Units Connected	Laundry Building only?	
Units Proposed Connected	None	
System Permit	None	
System Installed	?	
Tank Size	?	
Drainfield Size	?	
Design Capacity GPD	?	
Comments	<p>Gray water under current regulations must be treated and disposed in the same manner as full wastewater</p> <p>No reference to this facility in the 1977 MDEQ approval</p> <p>If the facility is to remain it needs to be connected to legal system. Replacement needed.</p>	
Compliance	System should have been upgraded per 1979 county regulation requiring upgrade of pre-existing/unapproved systems with any new permit on the lot.	