

HOUSE BILL NO. 317

INTRODUCED BY W. SALES

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A LOCAL GOVERNING BODY TO HOLD A HEARING AS PART OF REVIEW FOR CERTAIN SUBDIVISIONS; PROVIDING THAT A HEARING MAY BE HELD FOR A FIRST MINOR SUBDIVISION FROM A TRACT OF RECORD; AND AMENDING SECTIONS 76-3-506 AND 76-3-609, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-3-506, MCA, is amended to read:

"76-3-506. Provision for granting variances. (1) Subdivision regulations may authorize the governing body, after a public hearing on the variance request before the governing body or its designated agent or agency, to grant variances from the regulations when strict compliance will result in undue hardship and when it is not essential to the public welfare.

(2) Any variance granted pursuant to this section must be based on specific variance criteria contained in the subdivision regulations.

~~(3) A minor subdivision as provided for in 76-3-609(2) is not subject to the public hearing requirement of this section."~~

Section 2. Section 76-3-609, MCA, is amended to read:

"76-3-609. Review procedure for minor subdivisions -- determination of sufficiency of application -- governing body to adopt regulations. (1) Minor subdivisions must be reviewed as provided in this section and subject to the applicable local regulations adopted pursuant to 76-3-504.

(2) If the tract of record proposed to be subdivided has not been subdivided or created by a subdivision under this chapter or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207 since July 1, 1973, then the proposed subdivision is a first minor subdivision from a tract of record and, when legal and physical access to all lots is provided, must be reviewed as follows:

(a) Except as provided in subsection (2)(b), the governing body shall approve, conditionally approve, or



1 deny the first minor subdivision from a tract of record within 35 working days of a determination by the reviewing
2 agent or agency that the application contains required elements and sufficient information for review. The
3 determination and notification to the subdivider must be made in the same manner as is provided in 76-3-604(1)
4 through (3).

5 (b) The subdivider and the reviewing agent or agency may agree to an extension or suspension of the
6 review period, not to exceed 1 year.

7 (c) Except as provided in subsection (2)(d)(ii), an application must include a summary of the probable
8 impacts of the proposed subdivision based on the criteria described in 76-3-608(3).

9 (d) The following requirements do not apply to the first minor subdivision from a tract of record as
10 provided in subsection (2):

11 (i) the requirement to prepare an environmental assessment; and

12 (ii) the requirement to review the subdivision for the criteria contained in 76-3-608(3)(a) if the minor
13 subdivision is proposed in the portion of a jurisdictional area that has adopted zoning regulations that address
14 the criteria in 76-3-608(3)(a).

15 (e) The governing body or its authorized agent or agency may ~~not~~ hold a public hearing, ~~or a subsequent~~
16 ~~public hearing under 76-3-615, noticed as provided in 76-3-605(3),~~ for a first minor subdivision from a tract of
17 record as described in subsection (2). If the governing body or its authorized agent or agency holds a public
18 hearing or subsequent public hearing as provided in this subsection (2)(e), the provisions of 76-3-506 apply. THE
19 GOVERNING BODY SHALL STATE IN THE SUBDIVISION REGULATIONS ADOPTED PURSUANT TO 76-3-504 WHETHER OR NOT
20 A PUBLIC HEARING WILL BE REQUIRED FOR FIRST MINOR SUBDIVISIONS.

21 (f) The governing body may adopt regulations that establish requirements for the expedited review of
22 the first minor subdivision from a tract of record. The following apply to a proposed subdivision reviewed under
23 the regulations:

24 (i) except as provided in subsection (2)(d), the provisions of 76-3-608(3); and

25 (ii) the provisions of Title 76, chapter 4, part 1, whenever approval is required by those provisions.

26 (3) Except as provided in 76-3-616 and subsection (4) of this section, any minor subdivision that is not
27 a first minor subdivision from a tract of record, as provided in subsection (2), is a subsequent minor subdivision
28 and must be reviewed as provided in 76-3-601 through 76-3-605, 76-3-608, 76-3-610 through 76-3-614, and
29 76-3-620.

30 (4) The governing body may adopt subdivision regulations that establish requirements for review of

1 subsequent minor subdivisions that meet or exceed the requirements that apply to the first minor subdivision, as
2 provided in subsection (2) and this chapter.

3 (5) (a) Review and approval, conditional approval, or denial of a subdivision under this chapter may
4 occur only under those regulations in effect at the time that a subdivision application is determined to contain
5 sufficient information for review as provided in subsection (2).

6 (b) If regulations change during the period that the application is reviewed for required elements and
7 sufficient information, the determination of whether the application contains the required elements and sufficient
8 information must be based on the new regulations."

9 - END -