

Glenda Wiles

From: Jeff Burrows
Sent: Friday, May 31, 2019 8:33 AM
To: Glenda Wiles; Chris A. Hoffman; Greg Chilcott
Subject: RE: Roaring Lion Citizen Initiated Zoning District

Glenda,

I talked with Terry. He said in the past when there has been a complaint in a zoning district he sends a letter to both the complainant and complaine and asks the complaine to respond. Planning is sending the letters.

Jeff

From: Glenda Wiles <gwiles@rc.mt.gov>
Sent: Thursday, May 30, 2019 11:36 AM
To: Jeff Burrows <jburrows@rc.mt.gov>; Chris A. Hoffman <CAHoffman@rc.mt.gov>; Greg Chilcott <gchilcott@rc.mt.gov>
Subject: FW: Roaring Lion Citizen Initiated Zoning District

Jeff; I don't see that Jenna sent this to Planning. Is this where you would like this to start, or do you want me to place on calendar and invited Terry Nelson? Glenda

From: Hannah Ellison [<mailto:hellison@dmlaw.com>]
Sent: Thursday, May 30, 2019 11:30 AM
To: Glenda Wiles <gwiles@rc.mt.gov>; Greg Chilcott <gchilcott@rc.mt.gov>; Chris A. Hoffman <CAHoffman@rc.mt.gov>; Jeff Burrows <jburrows@rc.mt.gov>
Cc: George H. Corn <gcorn@dmlaw.com>; Jenna Lyons <jlyons@dmlaw.com>
Subject: Roaring Lion Citizen Initiated Zoning District

Good morning all,

Please find attached a letter from Jenna P. Lyons regarding the above Zoning District.

Please let me know if you have any questions or concerns.

Best,

Hannah

Hannah Ellison, Paralegal

DM&L

Datsopoulos, MacDonald & Lind, P.C.

201 W. Main Street, Suite 201 Missoula, MT 59802

Phone: 406.728.0810 | Fax: 406.543.0134

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Glenda Wiles

From: Hannah Ellison <hellison@dmlaw.com>
Sent: Thursday, May 30, 2019 11:30 AM
To: Glenda Wiles; Greg Chilcott; Chris A. Hoffman; Jeff Burrows
Cc: George H. Corn; Jenna Lyons
Subject: Roaring Lion Citizen Initiated Zoning District
Attachments: Ltr to RC Commissioners 05.30.19.pdf

Good morning all,

Please find attached a letter from Jenna P. Lyons regarding the above Zoning District.

Please let me know if you have any questions or concerns.

Best,

Hannah

Hannah Ellison, Paralegal

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Nathan G. Wagner

Joseph R. Casillas

George H. Corn

• Jason A. Williams

Jenna Lyons

Edward "Jake" Miller

Darla J. Keck [Of Counsel]

Zane K. Sullivan [Of Counsel]

Ronald B. MacDonald [1946-2002]

▲ Also admitted in Massachusetts

► Also admitted in North Dakota

◦ Also admitted in Washington

• Also admitted in Idaho

May 30, 2019

Via US Mail

Ravalli County Commissioners

215 S. 4th Street

Suite A

Hamilton, MT 59840

Dear Ravalli County Commissioners:

Please be advised that I represent Mick Shisker with respect to the matters discussed in this letter. I am writing to clarify some issues and ask for your assistance in enforcing the provisions of the Roaring Lion Citizen Initiated Zoning District (hereinafter "CIZD"). Mr. Shisker resides at 404 Roaring Lion, within the Roaring Lion CIZD. Mr. Shisker bought the home in 1973 and was involved in creating the Roaring Lion CIZD in 1978.

Kim and Wes White bought their home, located at 406 Roaring Lion, about a year ago. Since that time, Mr. Shisker has noticed dramatic degradation and overuse on the dirt road he shares with the 406 Roaring Lion address. He is extremely concerned that the activities occurring at the 406 Roaring Lion address are going to devalue his property and undermine the purpose of the Roaring Lion CIZD.

The Roaring Lion CIZD was created for the very purpose of creating a quiet place of seclusion for homeowners to retreat, and to maintain the character of the landscape and to protect and enhance the environment. The only

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intention of the CIZD was to maintain low density development of a rural character.

Upon information and belief, there are three couples, as well as children, living in a single-family home, which was initially inhabited by only the first set of parents (Kim and Wes White). Mr. Shisker suspects there is a commercial operation being run out of the home, as he has observed one or two UPS and Fedex trucks per day coming and going on the privately maintained road. In addition, Mick estimates that the 406 Roaring Lion residence has six or more cars coming and going, which has taken a toll on the 360-foot-long dirt road that the 404 and 406 addresses share.

I have attached the resolution enacting the Roaring Lion Planning and Zoning District. This district was created with the sole purpose being environmental protection, and planned unit developments and planned variations which preserve agricultural land and enhance environmental amenities found in rural areas. Of particular relevance in this situation is the requirement on page two (2) of that document, on which you will see that the only permitted uses that are authorized are (1) single family dwelling; (2) Modular homes; and (3) accessory buildings and uses. *See Resolution*, p. 2 (attached hereto as Exhibit A). Commercial activities are not permitted. *Id.* The Ravalli County Commissioners are tasked with the responsibility of enforcing the provisions of subparagraph I of the resolution adopting the Citizen Initiated Zoning District. *See Resolution*, p. 2. That provision of the resolution provides as follows:

The Ravalli County Commissioners hereby assume responsibility for the enforcement of only those regulations set out in this subparagraph I. Such enforcement shall be discretionary with the Ravalli County Commissioners and shall be civil in nature. The cost of such enforcement shall be paid by Ravalli County. The regulations for which Ravalli County assumes responsibility for enforcement are as follows:

- B. Space and Bulk Requirements
- C. Permitted Uses

Resolution, p. 2. Similarly, the relevant provision of the Montana Code provides:

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76-2-113. Enforcement of zoning provisions. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any building, structure, or land is used in violation of this part or of any resolution adopted under this part, the county, in addition to other remedies, may take any appropriate action or begin proceedings to:

- (1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- (2) restrain, correct, or abate a violation;
- (3) prevent the occupancy of a building, structure, or land; or
- (4) prevent any illegal act, conduct, business, or use in or near the premises.

Mont. Code Ann. § 76-2-113. Recognizing that the Commissioners' responsibility for enforcing the terms of the resolution, the suspected violations of the zoning district's permitted uses in this matter present a health and safety risk that needs to be addressed.

The Resolution itself does not define a "single family dwelling." However, similar zoning resolutions in Montana have defined that term. For instance, a Missoula County Zoning Resolution at issue in *State v. Stewart*, a 2003 Montana Supreme Court case, defined the term as "a detached building designed for occupancy by one (1) family," and another section in that resolution defined "family" as: "one or more persons. . .living and cooking together as a single housekeeping unit." *State v. Stewart*, 2003 MT 108, ¶ 9, 315 Mont. 335, 68 P.3d 712. It is evident, based on the things Mr. Shisker has observed, that the home is being inhabited by more than one family. In this context the degradation of the privately maintained dirt road becomes a significant factor. This road is the only access to the property.

It is our position that the Ravalli County Commissioners should take immediate action to investigate and enforce the Roaring Lion CIZD. Please advise as to your position in this matter. I look forward to hearing from you, and in the meantime, please contact me directly if you have any questions or concerns.

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Sincerely,

DATSOPOULOS, MacDONALD & LIND, P.C.

A handwritten signature in black ink, appearing to read 'Jenna P. Lyons', written over a horizontal line.

Jenna P. Lyons

Attorney for Mick Shisker