



Lincoln County Planning Department

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**LINCOLN COUNTY PLANNING STAFF REPORT**

<b>Subdivision Name:</b> Dolly Varden Estates	<b>35-Working Day Expires:</b> 06-29-2015
<b>General Location:</b> Libby/Pipe Creek/Kootenai River	<b>Submitted:</b> 04-10-2015
	<b>Commissioner Review:</b> 06/24/2015

<b>Developer:</b> Paul Bunn & Jim Bouma PO Box 3155 Columbia Falls, MT. 59912	<b>Surveyor:</b> E.I.D., LLC PO Box 896 Troy, MT. 59935
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**Legal Description:** GOV'T Lot 7, Section 30, Township 31 North, Range 31 West, PMM  
*Parent Tract: Remainder PM #6469; Bothman Subdivision #3*

<b>Number of Lots/Land Use:</b> 1 Residential & 1 Ag Exempt	<b>Total Acreage:</b> 18.86 Acres
	<b>Min. Lot Size:</b> 3.26 Acres
<b>Parkland [Per MCA 76-3-621(1)]:</b> Not Applicable	<b>Max. Lot Size:</b> 15.60 Acres

**PROJECT DESCRIPTION:**

The developer is proposing a 2-Lot subdivision of the remainder of PM#6469, Bothman Subdivision #3, which is approximately 3 miles northwest of Libby, located off Bothman Drive. The parcel also borders Pipe Creek to the North and the Kootenai River to the West.

The parcel consists of mostly grass and open meadow with a detailed floodplain delineated study depicting the 100-year floodplain. Lot 1 has an existing house, utilities, driveway and approach off Bothman Dr.

Lot 2 is currently undeveloped; the developer is proposing it to remain undeveloped and therefore shall it be designated as an agricultural exempt lot. When an Ag Exemption is used, specific language shall to be added to the deed, covenants, and face of pl and rat indicating the restrictions and removal process in order to lift the exemption for future development.

**RECOMMENDATION:** *Grant preliminary approval to Dolly Varden Estates subdivision, subject to conditions and based on the findings in the staff report.*

**REVIEWED & PREPARED BY:** LISA OEDEWALDT, COUNTY PLANNER  
**DATE:** MAY 15, 2015

## **FINDINGS OF FACT [BASED ON REVIEW CRITERIA SET FORTH IN MCA 76-3-608(3)(A)]:**

### **1. IMPACTS ON AGRICULTURE:**

According to the Natural Resource Conservation Service (NRCS), the predominant soil type of the proposed subdivision is classified as rock outcrop-Lithic Ustocheps complex, glaciated mountain ridges and is not considered prime farmland or farmland of statewide importance.

The Tax Assessor's classification of the subject property is residential rural land and the adjacent properties are Vacant and Residential Rural land.

**CONCLUSION:** There does not appear to be a significant impact to agriculture.

### **2. IMPACT ON AGRICULTURAL WATER USER FACILITIES:**

The property does have access to surface water being Pipe Creek and the Kootenai River have water rights to use these waters

**CONCLUSION:** There does not appear to be an impact on agricultural water user facilities; but water rights will need to be obtained from the DNRC if usage is planned.

### **3. IMPACTS ON LOCAL SERVICES:**

**ROADS** – Access to the proposed subdivision will be from individual driveways off separate approaches off of the County Road known as Bothman Drive. Lot 1 has an existing driveway and will need to comply with driveway standards. Lot 2 will need a new approach off Bothman drive and be approved by the Libby District Road Foreman.

**UTILITIES** – Flathead Electric has an existing overhead power line that is being used by the existing structure on Lot 1. Lot 2 will not need it as it is an agricultural exempted Lot. Frontier Communication has an existing buried line that is used by Lot 1; Lot 2 will not need service provided due to exemption.

**EMERGENCY SERVICES** – The nearest basic emergency services for the land proposed for subdivision are based in Libby approximately 6 miles away.

Structural fire protection is limited to the Lincoln County Rural Fire District #1 with a station 6 miles away. The USFS and DNRC will help in wildland fire if requested by local services; both have resources under 12 miles away.

Cabinet Peak Medical Center and other non-emergency service situations for the area are located in Libby 6 miles on primary roads. Ambulance service is available from Libby Volunteer Ambulance service depending on availability. Alert Air from Kalispell Regional Hospital is available from the heliport at Cabinet Peaks Medical Center.

Police protection will be provided by the Lincoln County Sheriff's Department and local deputies residing in the general area whom are available for response.

**WATER SUPPLY** and **WASTEWATER TREATMENT** - The nearest public water system and public wastewater treatment system are greater than 500 feet from the proposed subdivision. Lot 1 has an existing septic system and well. Lot 2 is will have an Ag. Exemption and therefore will not have sanitation services.

**SOLID WASTE DISPOSAL FACILITIES** – Refuse shall be "Owner Haul" or "Contract Hauler" to be deposited in the Lincoln County Landfill in Eureka Montana located approximately 5 miles from this proposed development. It will be the responsibility of the individual lot owner to insure solid waste is transported to an appropriate facility.

**PUBLIC SCHOOL FACILITIES** - This proposed subdivision is in the Libby School District. No additional dwellings are proposed and therefore will not add to the enrollment of school-age children to the school district.

**CONCLUSION:** There does not appear to be a significant impact to local services.

#### **4. IMPACTS ON THE NATURAL ENVIRONMENT:**

**Topography:** The property is mostly grass land and open meadows with slopes generally less than 5%. The existing conditions are not planned to change and therefore the natural environments will not have much change; Re-seeding disturbed areas will be required to help maintain soil stability.

**Public Lands:** The property is surrounded by private land and water features.

**Historical Features:** There does not appear to be any historical features on the property.

**Surface Water:** Pipe Creek borders the Northern boundary of Lot 2; while the Kootenai River borders the western boards of Lot 1 & 2. Pipe creek has a Letter of Map Revision (LOMR) based on a detailed study done in 2013 (13-08-0330P). There is a delineated 100-year floodplain for Pipe Creek based on that study per FIRM 3001572436C. The Kootenai River is an Approximate A Zone and there are no determinations based on FIRM 3001572436C.

Mike Hensler of FWP offered the following comment:

*“...comments focus on the proximity of the proposed lots 1 and 2 to the bed and banks of the Kootenai River. Our general recommendations for design standards for stream the size of the Kootenai River. Rivers: A minimum of 250 feet of vegetated buffer plus 50 additional feet of building setback. Total building setback equals at least 300 feet from each side of a river. Though the Kootenai River is regulated, we have all seen ample evidence that flows can approach 60,000 cubic feet per second (cfs) and likely will reach 35,000 cfs with the sturgeon flows. In addition, during the unregulated spill flows of 2002 and 2006, there were numerous instances of flooding and water seepage primarily at structures that were either built too close to the river, that removed riparian vegetation or that created daylight basements by cutting into the banks immediately adjacent to the river. Within the buffer, natural vegetation should be maintained or re-established and no land clearing should occur except to provide a reasonable path to the stream. Setback for structures, especially homes, should be at least 300 feet and no daylighting should occur that would cut into the banks immediately adjacent to the river. Daylighting could be acceptable if there is an existing terrace above the immediate bank of the river...”*

The proposed floodplain mitigation language within in the covenants and the face of the plat provide a provision addressing efforts to reduce such concerns of FWP and the natural vegetative buffer.

**Ground Water:** Groundwater is at a sufficient depth not to be a concern for pollution.

**Vegetation:** The property mostly grass and meadow and a large infestation of noxious weeds.

**CONCLUSION:** There appears to be minimal potential for impact to the natural environment. Recommendations included at the end of this report may help reduce those impacts.

## **5. IMPACTS ON WILDLIFE AND WILDLIFE HABITAT:**

Nearly 80% of Lincoln County's land area is managed for wildlife habitat. According to habitat maps, available from Fish Wildlife & Parks (FWP), this proposal is in an area that may contain habitat for general/winter range for moose, elk, grizzly and black bear, Big Horn Sheep, whitetail deer and occasionally mule deer. Since this subdivision is adjacent to large areas of public lands, the potential for wildlife conflicts is increased.

Tonya Chilton of FWP offered the following comment:

*"...Much of the proposed area represents habitat used by both white-tailed and mule deer, bighorn sheep, and both species of bear. The patches of grassland on the proposed site are regularly used by white-tailed deer, especially outside of winter season, so use of this site by deer should be expected almost year-round and not just occasionally. The applicants should also recall use by both bear species, especially in the spring, and by the occasional elk and sheep herds, particularly in the winter and spring seasons. In addition, the proposed area is close to prime winter range for moose.*

*I am aware of at least four homes located on the Kootenai River Road between Bobtail Road and Bothman Road that have had regular problems with black bears (FWP reports), due in part to either fruiting trees or improperly stored garbage. This area is used regularly by bears for travel during the spring, summer, and fall months due to its proximity to two creeks and the river. In addition, FWP had one confirmed grizzly bear using the area on Bobtail Road in 2014, nearby to Bothman Road ..."*

The proposed modification of the conflicts of wildlife standard with in the covenants addresses this concern of FWP.

**CONCLUSION:** There does not appear to be a significant impact to wildlife or wildlife habitat.

## **6. IMPACTS ON PUBLIC HEALTH AND SAFETY:**

The project is not within the Libby Air Quality or Airport Influence Zones.

**CONCLUSION:** There is does not appear to be potential for significant impact to public health and safety with this subdivision.

## **7. GROWTH POLICY:**

The Lincoln County Growth Policy encourages development near existing communities and infrastructure. It also encourages maintaining rural character, while reducing development in the Wildland Urban Interface. Lincoln County has limited area for private land to develop. This project is in rurally developed area along two (2) water sources with the neighboring lands similar in development; though the lots are larger than nearby properties. it is relatively close to Libby and local services.

**CONCLUSION:** The project appears to conform to the growth policy.

## **PLANNING DEPARTMENT RECOMMENDATIONS**

The Lincoln County Planning Department has reviewed this proposed land subdivision under the criteria established in the Montana Subdivision and Platting Act, the Montana Code Annotated, Lincoln County Subdivision Regulations, and the Lincoln County Growth Policy.

Based on the information provided, the proposed subdivision could have very few potentially significant adverse impacts. The mitigation measures recommended below offer assurance that the proposed subdivision will be in compliance with residential developmental requirements in Lincoln County, and ensure the criteria of reducing impacts to public health and safety are met.

The Lincoln County Planning Department recommends approval of **Dolly Varden Estates** Subdivision with the following conditions for approval:

### **ACCESS/ROADS:**

1. An approach permit from the Lincoln County Libby Road Supervisor must be secured for Lot 2 and any conditions thereon must be complied with prior to final plat approval.
2. The existing driveway for Lot 1 needs to be upgraded to comply with the driveway standards; See Table 1 of the Lincoln County Road Design Standards.
3. The Surveyor of Record must certify on the final plat that the access requirements have been met or an improvements agreement with the governing body must be filed with the final plat insuring completion of these requirements.

### **NOXIOUS WEED / FIREWISE:**

4. Per the recommendation of the Weed Coordinator, the property shall be treated for noxious weed infestation and reseeded with weed free grass prior to final plat approval.
5. The developer must secure a Fire Risk Assessment from an approved County Evaluator and any recommendations from that assessment need to be completed prior to final plat approval. Comments from the fire risk evaluator of record attesting to the satisfactory completion of this condition must accompany the final plat application.

### **COVENANTS :**

6. The proposed covenants for Dolly Varden Estates, submitted with the application, shall be amended to address the following provisions prior to final plat approval:

Section IV (1) shall be revised as follows: *“Lot 1 is designated as single-family residential; Lot 2 is an Agricultural Exempt Lot; any future development on Lot 2, whether utilities or structure, will be subject to subdivision review per Lincoln County Subdivision Regulations and DEQ criteria.”*

Section IV (6) should be revised as follows: *“Any development within the delineated floodplain shall require a permit from the Lincoln County Floodplain Administrator, at a minimum, prior to any work performed. Compliance is enforceable by the Lincoln County Floodplain Administrator per the Lincoln County Floodplain Regulations.”*

Section V (1) shall be amended to read *“14 feet (not 16 feet)”*

Modify Section V (7) to say: *“To reduce potential conflicts with wildlife household waste and garbage is stored in a certified bear-resistant container or in an enclosure with secure walls, roof, and door (p. C-58, FWR). Contact the local office of Fish Wildlife and Parks for such containers.”*

7. The approved weed plan shall be added as an exhibit to the covenants prior to final plat approval.

**MISCELLANEOUS/ FACE OF PLAT:**

8. The following Language shall be added to the face of the plat:
  - a. Any Development within the FEMA delineated floodplain shall require a permit; Contact the County Floodplain Administrator prior to any work is performed.
  - b. Lot 2 is an Agricultural Exempt Lot; any future development on Lot 2, whether utilities or structure, will be subject to subdivision review per Lincoln County Subdivision Regulations and DEQ criteria.
9. The following language will be added to the deed of Lot 2:
  - a. Lot 2 is an Agricultural Exempt Lot; any future development on Lot 2, whether utilities or structure, will be subject to subdivision review per Lincoln County Subdivision Regulations and DEQ criteria.
10. All driveway approaches need to be indicated on the face of the final plat to verify physical and legal access to the lot as well as aid in E911 Addressing of the lots in the subdivision per County Resolution #804.
11. The face of the final subdivision plat submission must conform to Lincoln County Subdivision Regulations, the Montana Subdivision & Platting Act, and Montana ARM 24.183.1107 Uniform Standards for Final Subdivision Plats.