

City/County  
Planning Division

Billings  
Metropolitan  
Planning  
Organization

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To: Jeff Martin, Clerk and Recorder  
From: Anna Vickers, Planning Division Manager  
Date: May 15, 2025  
RE: Amended Certificate of Survey 3030, Zimmerer Family Transfer - Exempt Plat (PZX-24-00315)

Tom Llewellyn, on behalf of Stephen Zimmerer submitted an exempt survey for the purpose of creating four parcels using the family transfer exemption per Montana Code Annotated 76-3-207(1)(b).

The design, development, and creation of four parcels using an exemption does require that the governing body determine whether or not the creation of lots evades the Montana Subdivision and Platting Act (MSPA). Appendix B of City of Billings Subdivision Regulations provide guidance on how to determine whether evasion has occurred.

*The governing body and its agents, when determining whether an exemption is claimed for the purpose of evading MSPA, shall consider all of the surrounding circumstances. These circumstances may include but are not limited to:*

- 1. the nature of the use of the parcel,*
- 2. the prior history of uses of the particular tract in question,*
- 3. the proposed configuration of the tracts if the proposed exempt transaction is completed, and*
- 4. any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review (State ex rel. Dreher v Fuller, 50 St. Rptr.454, 1993).*

*Exempt divisions of land that would result in a pattern of development equivalent to a subdivision shall be presumed to be adopted for purposes of evading the Act. A "pattern of development" occurs whenever three (3) or more parcels of less than 160 acres each with common covenants or facilities pertaining to each parcel have been divided from the original tract.*

Per the regulations, staff is required to issue an advisory opinion on whether evasion has occurred. After staff review and consideration, staff finds the development of four residential tracts with a common access results in a clear pattern of development equivalent and identical to a subdivision. By not going through subdivision review, an approved turn around, road, streetlights, and sidewalks will not be constructed. All of these items have a direct relationship to emergency services and public safety.

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This matter will need to be discussed with the City of Billings City Council for guidance and direction. This discussion is scheduled for June 9, 2025.