

MARLS Comments on SB290

03/24/05

Rick Gustine, Chair, Legislation Comm.
MT Association of Registered Land Surveyors (MARLS)

Title: Page 1, Line 9.

Strike: "UNLESS CERTAIN PROCEDURES ARE FOLLOWED"

Title: Page 1, Line 13.

Following: "QUALITY"

Strike: "OR ON"

Title: Page 1, Line 14.

Strike: "CERTAIN WATER AND SANITATION INFORMATION BEING PROVIDED"

Title: Page 1, Line 19.

Strike: "76-4-104"

Page 2, Lines 8-13.

Strike: "Lines 8-13"

Parcels 20 acres in size and larger are not subject to review per 76-3-604. There is no justification to revise this procedure.

Page 4, Lines 8-17.

Strike: "Lines 8-17"

Page 4, Line 18.

Strike: "(4)"

Insert: "(2)"

Page 6, Line 9.

Strike: "AND, FOR PARCELS LESS THAN 20 ACRES, PROPOSED"

Page 6, Lines 11-14.

Strike: "Lines 11-14"

Page 6, Line 19.

Strike: "that shows"

Page 6, Lines 20-21.

Strike: "Lines 20-21"

Page 7, Line 4.

Strike: "or"

Page 7, Lines 5-6.

Strike: "Lines 5-6"

Page 7, Lines 12-19.

Strike: "Lines 12-19"

Page 7, Line 23.

Strike: "unless the governing body complies with the"

Page 7, Line 24.

Strike: "Line 24"

Page 8, Line 12.

Strike: "; and"

Insert: "."

Page 8, Lines 13-14.

Strike: "Lines 13-14"

Page 8, Lines 18-21.

Strike: "Lines 18-21"

Page 10, Line 8.

Strike: "as a result of the water"

Page 10, Line 9.

Strike: "Line 9"

Page 10, Line 10.

Strike: "the information provided pursuant to [section 4]"

Page 12, Lines 28-29.

Strike: "Lines 28-29"

MARLS supports portions of SB290 that deal with the issues addressed in Vol. 49 Opinions of the Attorney General No. 7.

MARLS major concern with SB290 is that the requirements in the submittal for "preliminary plat" approval, particularly Section 4, could be very costly to the developer with no assurance whatsoever that the proposed subdivision will receive "preliminary plat" approval based on some other review criteria. Preliminary plat review should consist of a determination that the development is in compliance with planning, zoning, lot layout and street design standards, the Montana Subdivision and Platting Act and local subdivision regulations.

Issues such as water supply, sewage and solid waste disposal, etc. should be addressed by qualified agencies such as DEQ or the local reviewing authority. As a general rule elected local government officials do not possess the knowledge or expertise to make a determination on these issues.

All that is required to protect the public health, safety and welfare in the subdivision review process is for local government to make it a condition of "final plat approval" that the proposed development obtain approval from DEQ or the local review authority. If the proposed development is unable to satisfy the requirements of DEQ or the local review authority the condition cannot be met and the project is dead.