

This is a story, with a too long history, about some MLDs, a civil lawsuit, and the county. It spans three years and culminated in a jury trial just last week. Given the case it could have implications for the county moving forward it seems worthy of review.

**TL;DR** The county approved and platted an MLD within 8 days. Neighbors ended up suing applicant in civil court. Neighbors awarded millions. Applicant may come after county.

#### **5/27/2020**

MLD0034-20 was submitted for a property at the end of Evergreen Road in Sagle. It was to divide one 34.6-acre parcel into 4 parcels, one 5-acre, two 5.1-acre, and one 19.4-acre parcels. The subdivision was named Hundred Acre Wood, the applicant was Candice Stephens, and the final plat was approved approximately three months later on 8/25/2020.

#### **8/25/2022**

Two years to the date, MLD0084-22 was submitted for Hundred Acre Wood First Addition. It was to further divide 24.5-acres, or lots 2 & 3, of Hundred Acre Wood that was created from MLD0034-20. It would create two 5-acre lots, one 5.1-acre lots, and one 9.4-acre lots. It should be noted that from at least 8/29/2022 – 9/5/2022 Director Gabell was on military leave with the National Guard. 9/5/22 was also Labor Day.

#### **9/6/2022**

The MLD had already been administratively approved on 8/31/2022, met the deadline to be put on the BOCC consent agenda, and was approved on consent agenda by the BOCC. It only took a total of seven work days from application submission to approval.

#### **9/7/2022**

The MLD was officially recorded, in spite of BCRC requiring a 10-day waiting period in which appeals could be filed.

#### **9/23/2022**

Neighbors appealed and a BOCC hearing was held.

Jeremy Grimm presented on behalf of the neighbors pointing out the most obvious of failings by the county to properly review and approve the MLD.

- From submittal to approval for the MLD was 8 days total. The average time for the previous 12 MLDs submitted to be approved was 4.2 months.
- The MLD received final plat prior to the 10-day window neighbors were allowed by code to appeal.

- It was a contiguous MLD. A very similar hearing had been held prior with the BOCC denying the MLD (Rockstarr).
- The MLD illegally vacated an easement to the neighbor's property without any notification.
- The MLD affected the neighbors shared drainfield.

Erik Smith, the attorney for the neighbors, referred to the fact that a company in which county contracted surveyor Glahe, is an equity owner (Glahe & Associates, Inc.), also employed the consultant who was hired by the applicant to submit the MLD, concluding:

- Glahe involvement was clear nepotism.
- Due process violation: Application approval time and final plat approved before window closed.
- Illegal vacation of easement without noticing.
- Applicants threatened the neighbors, asking them to sell or they would change the CC&Rs. Additionally, further dividing the property would give them more votes, and majority control. (Acknowledging this was not for the BOCC to consider, other than the intent of the hasty MLD process).

Toby McLaughlin represented the applicants. His argument was to declare that the county was efficient, and correct in their processes and approval. He also stated any issues with the legality of the easement should be up to the courts.

The typical BOCC "deliberation" consisted more of statements of support for BCRC and the planning department than of the required discussion of findings of facts. Commissioner Connolly, when referring to the MLD code that allows for MLDs to be done on contiguous properties after two years, stated, "I would have never dreamed that someone would do an MLD within an MLD...I never saw that one coming!" Although by then it had been happening with regularity.

County attorney Bill Wilson, who used to regularly sit at the table with the BOCC, provided guidance and the BOCC voted unanimously to uphold the planning department's approval of the MLD.

**11/1/2022**

The BOCC came out of executive session and voted to grant the neighbors a reconsideration hearing (date the MTR filed is unknown).

**11/15/2022**

The reconsideration hearing is noticed and scheduled, then canceled. No information could be found for the cancelation, but the neighbors moved onto a civil case against the applicant.

**9/28/2023**

The neighbors (now plaintiffs) filed a case against the applicants (defendants) in Bonner County District Court.

**3/6/2024 – 10/23/2025**

There were 11 hearings on the case during this time, consisting of Motions in preparation for trial.

**10/27/2025**

Jury trial in Bonner County begins, lasting 5 days. There were approximately 31 claims of action by the plaintiff, and several counter claims filed against them.

In a courtroom empty of spectators, except for an array of law enforcement officers and a couple other judges, the jury found in favor of the majority of the plaintiff's claims, leaving it to the judge to decide the legality of the remaining claims. The final cost to the defendant reportedly totalled in the millions, and included the requirement to remove miles of road that had been laid after the MLD approval.

Given the argument by the defendant was grounded in the county's approval of the MLD, the question now becomes whether or not the defendant can or will sue the county over the loss.

In land use cases against the county, courts only have the option to vacate decisions. In most cases, the files are resubmitted to the county. Mr. Wilson was frequently advising the BOCC that the court would give broad deference to their decisions. However, it appears a jury trial may not command the same BOCC deference.

This case highlights the problem that those opposing MLDs have pointed out for years – whether it is appropriate or legal for Glahe, as an equity owner who receives financial benefits from employees who submit land division applications, to also be the contracted county surveyor who reviews the applications for the county.

And what affect, if any, will this case hold for future cases, such as the RICO case which had very similar components, (including final plat sign off by J. Pilch). Can others affected

by MLDs in which Glahe employees were applicants while Glahe was reviewer be in question? Will past MLDs result in more civil lawsuits?