

HOUSE BILL 583

IN THE HOUSE

February 6, 1979

Introduced and referred to  
Committee on Natural Resources.

1 House BILL NO. 583  
2 INTRODUCED BY Dozier

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS  
5 76-3-606 AND 76-3-607, MCA, TO ALLOW ADDITIONAL USES FOR  
6 LAND DEDICATED TO THE PUBLIC UNDER THE MONTANA SUBDIVISION  
7 AND PLATTING ACT."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 76-3-606, MCA, is amended to read:

11 "76-3-606. Dedication of land to public -- cash  
12 donations. (1) A plat of a residential subdivision shall  
13 show that one-ninth of the combined area of lots 5 acres or  
14 less in size and one-twelfth of the combined area of lots  
15 greater than 5 acres in size, exclusive of all other  
16 dedications, is forever dedicated to the public ~~for parks or~~  
17 ~~playgrounds.~~ No dedication may be required for the combined  
18 area of those lots in the subdivision which are larger than  
19 10 acres exclusive of all other dedications. The governing  
20 body, in consultation with the planning board, the school  
21 trustees, or other governmental entities having  
22 jurisdiction, may determine suitable locations and uses for  
23 such ~~parks and playgrounds~~ dedications. Those uses are  
24 limited to parks, playgrounds, schools, and other public  
25 facilities.

1 (2) Where the dedication of land for parks or  
2 playgrounds is undesirable because of size, topography,  
3 shape, location, or other circumstances, the governing body  
4 may, for good cause shown, make an order to be endorsed and  
5 certified on the plat accepting a cash donation in lieu of  
6 all or part of the dedication of land and equal to the fair  
7 market value of the amount of land that would have been  
8 dedicated. For the purpose of this section, the fair market  
9 value is the value of the unsubdivided, unimproved land.  
10 ~~Such~~ The cash donation shall be paid into the park fund to  
11 be used for the purchase of additional lands or for the  
12 initial development of parks and playgrounds."

13 Section 2. Section 76-3-607, MCA, is amended to read:

14 "76-3-607. Waiver of land dedication and cash donation  
15 requirements. (1) If the proposed plat provides for a  
16 planned unit development with land permanently set aside for  
17 park and recreational uses or other public uses sufficient  
18 to meet the needs of the persons who will ultimately reside  
19 therein, the governing body may issue an order waiving land  
20 dedication and cash donation requirements.

21 (2) If a tract of land is being developed under single  
22 ownership as a part of an overall plan and part of the tract  
23 has been subdivided and sufficient park lands have been  
24 dedicated to the public from the area that has been  
25 subdivided to meet the requirements of 76-3-606 for the

1 entire tract being developed, the governing body shall issue  
2 an order waiving the land dedication and cash donation  
3 requirements for the subsequently platted area.

4 (3) The local governing body may waive dedication and  
5 cash donation requirements:

6 (a) where all of the parcels in a subdivision are 5  
7 acres or more in size and where the subdivider enters a  
8 covenant to run with the land and revocable only by mutual  
9 consent of the governing body and the property owner that  
10 the parcels in the subdivision will never be subdivided into  
11 parcels of less than 5 acres and that all parcels in the  
12 subdivision will be used for single family dwellings;

13 (b) when the subdivider agrees to create a property  
14 owners' association for the proposed subdivision and to deed  
15 to the association land to be held in perpetuity for use as  
16 ~~parcs--or--playgrounds~~ public areas, and the area of land to  
17 be deeded to the association shall equal the amount that  
18 would otherwise have been dedicated to public use;

19 (c) for subdivision to be created by rent or lease  
20 where the subdivider agrees to develop parcs, or  
21 playgrounds, or other public dedications within the  
22 subdivision for the common use of the residents of the  
23 subdivision, and the area of land to be reserved for this  
24 purpose shall equal the amount that would otherwise have  
25 been dedicated to the public."