

COMMISSIONERS APPROVAL

GRANDSTAFF *gy*

ROKOSCH *JR*

THOMPSON *at*

CHILCOTT *gc*

DRISCOLL *KD*

PLETTENBERG (Clerk & Recorder)

Members Present..... Commissioner Carlotta Grandstaff,
Commissioner Jim Rokosch, Commissioner Alan Thompson, Commissioner Greg
Chilcott and Commissioner Kathleen Driscoll

Date.....March 18, 2008

Minutes: Beth Perkins

► The Board held a public meeting for Sleeping Child Farms First Minor subdivision.
Present were Planner Renee Lemon, PCI Representatives Chris Cobb-Taggart and Tom
Hansen, Owners Terry and Darla Coleman, Civil Counsel Karen Mahar, Environmental
Health Director Lea Jordan and several citizens.

Commissioner Grandstaff called the meeting to order and requested any conflicts of
interest, hearing none. She then requested the Planning Staff report be read.

Renee presented the Staff Report as follows:

**SLEEPING CHILD FARMS
FIVE-LOT FIRST MINOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Renee Lemon

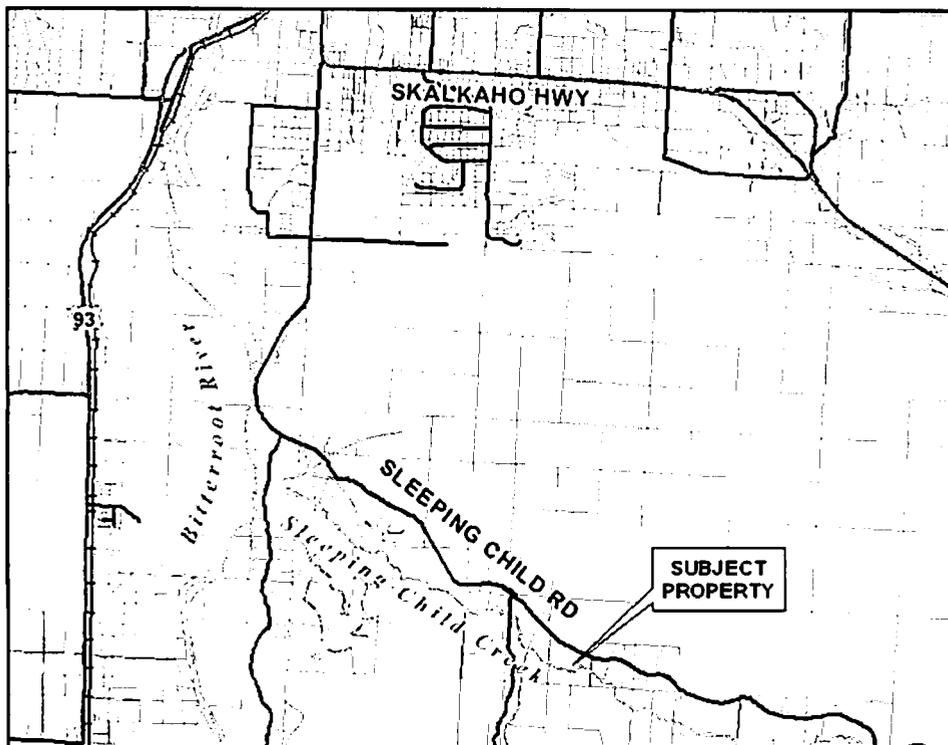
**REVIEWED/
APPROVED BY:** John Lavey

PUBLIC MEETINGS: Planning Board Public Meeting: March 5, 2008
BCC Public Meeting: 9:00 a.m. March 18, 2008
Deadline for BCC action (35 working days): April 7, 2008

SUBDIVIDER: Terry "Max" and Darla Coleman
1641 Sleeping Child Road
Hamilton, MT 59840

REPRESENTATIVE: Chris Cobb-Taggart
Professional Consultants, Inc. (PCI)
1713 N. 1st Street
Hamilton, MT 59840

LOCATION OF REQUEST: The property is located southeast of Hamilton off Sleeping Child Road. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

LEGAL DESCRIPTION OF PROPERTY: A portion of the W2NE4 of Section 32, T5N, R20W, P.M.M., Ravalli County, Montana.

APPLICATION INFORMATION: The subdivision application was determined sufficient on February 15, 2008. Agencies were notified of the subdivision on April 17, 2007 and February 15, 2008. Comments received from agencies are Exhibits A-1 through A-14 of the staff report. **This subdivision is being reviewed under the Ravalli County**

Subdivision Regulations (RCSR) amended May 24, 2007.

LEGAL NOTIFICATION: Notice of the project was posted on the property and adjacent property owners were notified by regular mail dated February 15, 2008. No public comments have been received to date.

DEVELOPMENT

PATTERN:

Subject property: Low Density Residential
North: Low Density Residential
South: Low Density Residential
East: Low Density Residential
West: Low Density Residential

INTRODUCTION

The applicants are proposing a commercial vineyard operation on Lot 1, in addition to their existing residence. Lots 2 through 5 are proposed for single family residential homes. Sleeping Child Creek, its associated floodplain, riparian areas, and wetlands traverse the property. The protection of the floodplain, riparian areas, and wetlands are integral to protecting the natural environment, wildlife habitat, and public health and safety. The applicants and applicants' consultants have worked with the Planning Department, the Floodplain Administrator, the Department of Natural Resources and Conservation (DRNC), and Montana Fish Wildlife and Parks (FWP) to determine the best way to protect these sensitive areas. The applicants are recommending two restrictive zones, with one zone for the floodplain and one zone for the riparian/wetland areas. Each zone has a separate set of restrictions and allowed uses that are proposed in the covenants.

PLANNING STAFF RECOMMENDED MOTION

That the Sleeping Child Farms Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report, and subject to the conditions in the staff report.

PLANNING STAFF RECOMMENDED CONDITIONS

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (*Section 3-2-8(b)(v), RCSR, Effects on Agriculture*)

Notification of Irrigation Facilities and Easement. Within this subdivision there are irrigation easements, as shown on the final plat. All downstream

water right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. Downstream water right holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. *(Section 3-2-8(a), Prerequisites to Approval and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)*

Notification of the Pond on Lot 2. There is an abandoned gravel pit that has turned into a pond on Lot 2. There are no water rights associated with the pond. In order to use water from the pond, water rights must be obtained through the Department of Natural Resources and Conservation. Stocking the pond with fish would require a permit from Montana Fish Wildlife and Parks. Using gravel from the pit may require an Opencut Mining Permit from the Department of Environmental Quality. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)*

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Sleeping Child Road frontage of the subdivision, excepting the approaches for the existing driveway to the residence on Lot 1 and Vineyard View, as approved by the Ravalli County Road and Bridge Department. There is also a no-ingress/egress restriction along the private driveway leading to Lot 5 so that only Lot 5 can access from this driveway. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

Notification of Road Maintenance Agreement. The internal subdivision road is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A road maintenance agreement for this road was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

Notification of Proximity to Sleeping Child Creek. This subdivision is located in close proximity to Sleeping Child Creek. There is an inherent hazard associated with creeks, due to potential soil erosion, flooding and movement of the stream channel. The modeled floodplain boundary on the final plat is an estimate and does not account for potential debris, ice jams, changes in the hydrology of the watershed, and/or poorly maintained culverts.

While portions of the internal subdivision road and driveways were constructed to be 2.00 feet above the base flood elevation of 3,669 feet, there is no guarantee that the internal road and/or driveways will not be overtopped during a flood event. There is no alternate access for Lots 3, 4, and 5. It is recommended that property owners of this subdivision obtain flood insurance and that the lowest enclosed floor (including mechanical/utility equipment) of all structures and utilities be located a minimum of 3.0 feet above the base flood elevation of 3,669 feet. *(Section 3-2-8(b)(v), RCSR, Effects on Public Health and Safety)*

Notification of Severe Soils. Within this subdivision there are areas of the property identified by the Natural Resources Conservation Service (NRCS) as potentially having soils rated as "very limited" for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat. Descriptions of the severe soils in question are included as exhibits to this document [the subdivider shall include the exhibits as attachments]. *(Section 3-2-8(b)(v), RCSR, Effects on Public Health and Safety)*

Notification of Steep Slopes. Within this subdivision there are no-build/alteration zones, as shown on the plat, to restrict building in areas with steep slopes. No new structure, with the exception of fences, may be constructed in these areas. *(Effects on Public Health & Safety)*

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Waiver of Protest to Creation of RSID/SID. Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Each lot owner shall obtain or be provided and read a copy of the brochure "Living with wildlife," available from the Montana Fish, Wildlife & Parks office in Missoula for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov. *(Section 3-2-8(b)(v), RCSR, Effects on Agriculture and Wildlife & Wildlife Habitat)*

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. *To keep wildlife such as bears out of gardens and/or away from fruit trees and shrubs, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)*
- c. **Garbage** should be stored in secure bear-resistant containers or indoors to avoid attracting and discourage entry by wildlife such as bears and raccoon. If stored indoors, do not set garbage cans out until the morning of garbage pickup and bring them in no later than that evening.
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer can attract mountain lions to the area.
- e. **Birdseed in bird feeders** attracts bears. If used, bird feeders must: 1) be suspended a minimum of 15 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be

allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124).

- g. **Pet food and livestock feed** should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lion, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors, and permanent, outdoor barbecues grills should not be used in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail) and no lower than 18 inches (at the bottom rail) in order to facilitate wildlife movement.
- j. **Compost piles** can attract skunks and bears. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps.
- k. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- a. These wildlife covenants cannot be changed or eliminated without the concurrence of the governing body (Ravalli County Commissioners).

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (Section 3-2-8(b)(v), RCSR, Effects on Natural Environment)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the

Ravalli County Environmental Health Department for further information.
(Section 3-2-8(b)(v), RCSR, Effects on Public Health & Safety)

Control of Noxious Weeds. A noxious weed evaluation form has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (Section 3-2-8(b)(v), RCSR, Effects on Agriculture and Natural Environment)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The All Valley Fire Council has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)

Access Requirements for Lots within this Subdivision. The All Valley Fire Council has adopted the Fire Protection Standards. All access roads, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire Department for further information. (Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)

Building Standards. The All Valley Fire Council recommends that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. It is recommended that any commercial buildings be constructed to meet state building code requirements. (Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana

Department of Environmental Quality's website. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment*)

Wastewater Treatment Facilities Setback. The Ravalli County Subsurface Wastewater Treatment and Disposal Regulations require that wastewater facilities are located 100 feet from the modeled floodplain of Sleeping Child Creek. The 100-foot setback is shown on the final plat. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment and Public Health and Safety*)

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment*)

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (*Section 3-2-8(b)(v), RCSR, Effects on all six criteria*)

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety*)
4. The subdividers shall provide evidence with the final plat submittal that they have applied for a County-issued address for the new lots. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)
5. Prior to final plat approval, the subdividers shall provide a letter from the Hamilton Rural Fire Department stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection of each lot. Alternatively, the subdividers may provide evidence that \$500 per lot for Lots 2 through 5 has been contributed to the Hamilton Rural Fire Department with the final plat submittal in lieu of the required water supply or water storage for fire protection. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)
6. The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Hamilton Rural Fire Department, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width

of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire Department for further information". (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety*)

7. The subdividers shall submit a letter or receipt from the Hamilton School District stating that they have received an amount (to be determined at the Commissioner meeting) per lot for Lots 2 through 5 prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services*)
8. The subdividers shall submit an amount (to be determined at the Commissioner meeting) per lot for Lots 2 through 5 to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety*)
9. No-ingress/egress zones shall be placed on the final plat along the Sleeping Child Road frontage of the subdivision, excepting the approach to Vineyard View and the existing driveway to Lot 1, and along the private driveway to only allow access to Lot 5. (*Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety*)
10. The 100-foot wastewater treatment facility setback shall be prominently shown on the final plat with a label in large, bold font. Also, the setback shall be shown on the map approved by DEQ. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment and Public Health and Safety*)
11. The Floodplain Inundation Restrictive Zone (FIRZ), and the Riparian Restrictive Buffer Zone (RRBZ), as shown on the preliminary plat, shall be shown on the final plat. The provisions for the Restrictive Zones on Pages 6 through 9 of the proposed covenants shall be filed with the final plat, with the following modification:

The first bullet under the FIRZ restrictions shall state: "No new structures or alterations, which includes the planting of lawns and removal of native vegetation that is not related to agricultural use, shall be allowed in the FIRZ, except for the following..." (*Section 3-2-8(b)(v), RCSR, Effects on Agriculture, Natural Environment, Wildlife and Wildlife Habitat, and Public Health and Safety*)
12. If the applicants use the borrow pit for road construction, the applicants shall submit a copy of the Opencut Mining Permit from DEQ or an explanation as to why the permit was not required. (*Section 3-2-8(b)(v), RCSR, Effects on Natural Environment and Public Health and Safety*)

13. The post construction road plans shall show that the portions of Vineyard View and the driveways leading to Lots 3, 4, and 5 have been constructed a minimum of 2.00 feet above the base flood elevation of 3,669.00 feet. *(Section 3-2-8(b)(v), RCSR, Effects on Public Health and Safety)*
14. The applicants shall submit the appropriate permit for the relocation of the drainfield for the guest house on Lot 1 prior to final plat approval. *(Section 3-2-8(b)(v), RCSR, Effects on Natural Environment and Public Health and Safety)*
15. Prior to final plat approval, the applicants shall work with the Hamilton School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed on the Sleeping Child Road frontage of the property. The applicants shall provide evidence that they have worked with the School District prior to final plat approval. If any improvements are required, the applicants shall complete the improvements prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety)*

FINAL PLAT REQUIREMENTS (Ravalli County Subdivision Regulations Section 3-4-4(a))

1. A statement from the project surveyor or engineer outlining how each final plat requirement or condition of approval has been satisfied shall be submitted with the final plat submittal.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) shall be submitted prior to final plat approval. The final plat shall conform to the preliminary plat decision. The following features are required on the Final Plat:
 - a) Project name
 - b) Title block
 - c) Certificate of registered owner – notarized
 - d) Certificate of registered land surveyor with seal
 - e) Certificate of governing body approval
 - f) Signature block for Clerk and Recorder, preferably in lower right hand corner
 - g) Certificate of public dedication
 - h) Other certifications as appropriate
 - i) North arrow
 - j) Graphic scale
 - k) Legal description
 - l) Property boundaries (bearings, lengths, curve data)
 - m) Pertinent section corners and subdivision corners
 - n) Names of adjoining subdivisions/certificates of survey

- o) Monuments found
 - p) Witness monuments
 - q) Acreage of subject parcel
 - r) Curve data (radius, arc length, notation of non-tangent curves)
 - s) Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
 - t) Lots and blocks designated by number (dimensions/acreage)
 - u) Easements/rights of ways (location, width, purpose, ownership), which includes existing/proposed utility easements, existing/proposed irrigation easements as shown on the preliminary plat, a 60-foot wide public road and utility easement for Vineyard View, and a 30-foot wide private driveway and public utility easement for the access leading across Lot 4 to Lot 5
 - v) Dedication for public use (boundaries, area, purpose)
 - w) The FIRZ and RRBZ zones, as proposed on the preliminary plat, shall be shown on the final plat
 - x) No-ingress/egress zones along the Sleeping Child Road frontage of the subdivision and along the private driveway so that access is only allowed to Lot 5
 - y) Water resources (rivers, ponds, etc.)
 - z) Floodplains
 - aa) Irrigation canals including diversion point(s), etc.
 - bb) High-pressure gas lines
 - cc) Existing and new roads (names, ownership, etc.)
 - dd) The 100-foot wastewater facility setback from the modeled floodplain of Sleeping Child Creek. The setback line shall be prominent and clearly labeled in large, bold font.
 - ee) Building envelopes, as proposed by the applicants on the preliminary plat, shall be shown on the final plat.
 - ff) No-build/alteration zones on slopes greater than 25%, as proposed on the preliminary plat, shall be shown on the final plat.
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
 4. Any variance decisions shall be submitted with the final plat submittal.
 5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
 6. The final plat review fee shall be submitted with the final plat submittal.
 7. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.

8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
12. Road and driveway approach and encroachment permits shall be submitted with the final plat submittal.
13. Evidence of a Ravalli County-approved road name petition(s) for each new road shall be submitted with the final plat submittal.
14. Engineering plans for the bridge shall be submitted with the final plat submittal.
15. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.
16. Road certification(s) shall be submitted with the final plat submittal.
17. Utility availability certification(s) shall be submitted with the final plat submittal.
18. Road/common access maintenance agreement(s), signed and notarized, shall be submitted with the final plat submittal.
19. A signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property shall be submitted with the final plat submittal.
20. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch shall be submitted with the final plat submittal.
21. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.

22. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
23. A copy of the letter sent to the appropriate school district(s) stating the applicants have made or are not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
24. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.) Following are the improvements specific to this subdivision:
 - a) Construction of the internal road
 - b) Construction of the bridge over Sleeping Child Creek
 - c) Installation of stop sign and road name sign at the intersection of the internal subdivision road with Sleeping Child Road
 - d) Construction of a bus shelter and/or turnout land, if necessary
25. The applicants shall pay the pro rata share of the cost to improve the portion of Sleeping Child Road leading to the subdivision prior to final plat approval. (Section 5-4-5(d), RCSR)

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. Existing utilities are located within the public road and utility easement for Sleeping Child Road, and along the private driveway that is located east of the subject property. There is also an existing 20-foot wide easement granted to the Ravalli County Electric Cooperative for an overhead power line on Lot 1. (Sleeping Child Farms Subdivision Application and Document 499815)

2. Utility easements are proposed within the easements for Vineyard View and the private driveway accessing Lot 5. (Sleeping Child Farms Subdivision Application)
3. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*

Conclusion of Law

The subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. The property is proposed to be accessed via US Highway 93, Skalkaho Highway, Sleeping Child Road, and the internal subdivision road, Vineyard View. (Map 1)
2. US Highway 93 and Skalkaho Highway are State-maintained highways that provide legal and physical access.
3. Sleeping Child Road is a State highway that is maintained by the County. (RCSR)
4. The applicants are required to pay the pro rata share of the cost to improve the portion of Sleeping Child Road leading to the subdivision. (Section 5-4-5(d), RCSR)
5. The applicants are proposing to construct the internal road to meet County standards and are proposing a 60-foot wide public road and utility easement. (Sleeping Child Farms Subdivision Application)
6. Lot 5 will be accessed via a private driveway across Lot 4. At the Planning Board Meeting on March 5, 2008, the applicants' representative stated that they would provide for a 30-foot wide driveway easement on the final plat. (Sleeping Child Farms Subdivision Application and Planning Board Meeting Minutes)
7. *To ensure physical access to the subdivision, the applicants shall meet the following requirements:*
 - *The applicants are required to pay the pro rata share of the cost to improve the portion of Sleeping Child Road leading to the subdivision prior to final plat approval. (Final Plat Requirement 25)*
 - *The applicants are required to construct Vineyard View to meet County standards and obtain final approval from the Road Department. (Final Plat Requirements 15 and 16)*
 - *The applicants are required to provide for the 60-foot wide public road and utility easement on the final plat, as proposed on the preliminary plat. (Final Plat Requirement 2)*
 - *The applicants are required to provide for the 30-foot wide driveway easement to Lot 5, as proposed at the Planning Board Meeting (Final Plat Requirement 2)*

Conclusion of Law

With the requirements of final plat approval, legal and physical access will be provided to the subdivision.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Finding of Fact

The applicants are required to submit evidence that the following improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdividers prior to final plat approval (Final Plat Requirement 26):

- Construction of the internal road
- Construction of the bridge over Sleeping Child Creek
- Installation of stop sign and road name sign at the intersection of the internal subdivision road with Sleeping Child Road
- Construction of a bus shelter and/or turnout land, if necessary

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that the improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. 76-3-504(1)(j), MCA states that when a subdivision creates parcels with lot sizes averaging less than 5 acres, the subdivider is required to:
 - (i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
 - (ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
 - (iii) reserve and sever all surface water rights from the land.
2. There are water rights associated with this property. The applicants are proposing to divide the water rights among the lots. (Sleeping Child Farms Subdivision Application)

3. The average lot size for this proposal is approximately 6.78 acres.
(Sleeping Child Farms Subdivision Application)

Conclusion of Law

The provisions in 76-3-504(1)(j), MCA, do not apply because the average lot size is greater than 5 acres.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the subdivider is required to establish ditch easements in the subdivision that:
 - (A) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - (B) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (C) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. There is not an irrigation district or water commissioner associated with the water rights for this property. (Sleeping Child Farms Subdivision Application)
3. The Wallen Tullack Ditch traverses the proposed internal subdivision road, Vineyard View, and Lot 1. There are downstream users. The applicants are proposing a 10-foot wide easement centered on the ditch. (Sleeping Child Farms Master Irrigation Plan)
4. There is an existing pumphouse on Lot 1 that will pump water from Sleeping Child Creek to all the lots within the subdivision. The applicants are proposing an additional 10 feet of easement along Vineyard View and the private driveway to Lot 5 for irrigation purposes. (Sleeping Child Farms Master Irrigation Plan)
5. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and condition shall be met prior to final plat approval:*
 - *The existing and proposed irrigation easements are required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission*

*of the ditch owner shall be included in the notifications document.
(Condition 1)*

Conclusion of Law

This prerequisite will be met through the requirements and conditions of final plat approval.

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.

Finding of Fact

Parkland dedication is not required for lots larger than 5.00 acres. (Section 6-1-5(b)(2), RCSR)

Conclusion of Law

This requirement is not applicable.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. The subdivision design as indicated on the preliminary plat meets the design standards in Chapter 5 of the RCSR. (Sleeping Child Farms Subdivision File)
2. This development proposal has followed the necessary application procedures and has been reviewed in compliance with Chapter 3 of the RCSR. (Sleeping Child Farms Subdivision File)

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The requirements for the application and review of this proposed subdivision have been met.

B. Applicable zoning regulations.

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). The application complies with Resolution 2038.

2. The property is not within one of the voluntary zoning districts in Ravalli County. (Sleeping Child Farms Subdivision Application)

Conclusion of Law

This proposal complies with existing zoning regulations.

C. Existing covenants and/or deed restrictions.

Finding of Fact

There are no existing covenants on the property. (Sleeping Child Farms Subdivision Application)

Conclusion of Law

There are no applicable covenants and/or deed restrictions.

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

Conclusion of Law

With the requirements of final plat approval, the application will meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The applicants are proposing to continue vineyard development on Lot 1. Other portions of the property have been used for hay production. (Sleeping Child Farms Subdivision Application)
2. Parcels to the west and southwest of the subject property are classified for tax purposes as agricultural rural and farmstead rural. Other adjacent parcels to the north, south, and east are classified as residential rural (Montana

- Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
3. The soil survey for this property has not been updated. (Web Soil Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))
 4. The Soil Survey for the Bitterroot Valley Area, Montana, dated 1959, shows that map units B2x, B2r, Gd, Af, B2n, Gh, and B2l are located on the property. (Sleeping Child Farms Subdivision Application)
 5. The map unit Af is classified as Farmland of Statewide Importance. The map unit Gd is classified as Prime Farmland if Irrigated. From the Bitterroot Soils Survey in the application, it appears that over half of the property has soils classified as either Farmland of Statewide Importance or Prime Farmland if Irrigated. (Partial Soil Survey Geographic (SSURGO) Database for Bitterroot Valley Area, NRCS and Sleeping Child Farms Subdivision Application)
 6. The applicants submitted an exhibit at the Planning Board Meeting that shows the extent of the soil map unit Gd that is located on the property. The applicants are proposing restrictions on approximately half of this soil type to mitigate impacts on agriculture. The portion of the Floodplain Inundation Restrictive Zone outside of the Riparian Restrictive Buffer Zone restricts structures or alterations that are not related to agriculture. (Exhibit B and Sleeping Child Farms Subdivision Application)
 7. The small portion of soil map unit Af, which is listed as Farmland of Statewide Importance, is also located within the restrictive zones on the property. (Staff Determination)
 8. Agricultural uses will be allowed outside of the Riparian Restrictive Buffer Zone. (*Effects on Natural Environment*)
 9. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Canada Thistle, Common Tansy, Houndstongue, and Spotted Knapweed were located on the property. (Sleeping Child Farms Subdivision Application)
 10. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
 11. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*

- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
- *The restrictive zones (Floodplain Inundation Restrictive Zone and the Riparian Restrictive Buffer Zone) shall be shown on the final plat, as shown on the preliminary plat. The proposed covenants for the restrictive zones shall be filed with the final plat, with an amendment as noted in Condition 11. (Condition 11)*

Conclusions of Law:

1. This proposal allows for the continued agricultural use of all lots.
2. The design of the restrictive zones encourages agriculture on prime agricultural soils.
3. With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on agriculture.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. There is one water right for 336.6 gpm associated with this property (76H 20025 00). The source is Sleeping Child Creek. There is not an irrigation district, association, or provider related with the water right. (Sleeping Child Farms Subdivision Application)
2. Currently the property is provided water by the Wallen Tullack Ditch and directly from Sleeping Child Creek via an existing pumphouse. (Sleeping Child Farms Subdivision Application)
3. The applicants are proposing to divide the water rights among all of the lots within the subdivision. The applicants are proposing an irrigation agreement that outlines the division of water rights. (Sleeping Child Farms Subdivision Application)
4. The Wallen Tullack Ditch traverses the proposed internal subdivision road, Vineyard View, and Lot 1. There are downstream users. The applicants are proposing a 10-foot wide easement on the ditch. The ditch will be relocated under Vineyard View. (Sleeping Child Farms Master Irrigation Plan)
5. There is an existing pumphouse on Lot 1 that will pump water from Sleeping Child Creek to Lots 1, 2, 3, 4, and 5. The applicants are proposing an additional 10 feet of easement along Vineyard View and the private driveway to Lot 5 for irrigation purposes. (Sleeping Child Farms Master Irrigation Plan)
6. There is an abandoned borrow pit that has turned into a pond located on Lot 2. There is not an existing water right for the pond. (Sleeping Child Farms Subdivision Application)
7. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agricultural water user facilities:*
 - *The applicants shall submit a master irrigation plan, which includes a diagram of existing and proposed irrigation infrastructure/easements either on the final plat or in a separate document, and the irrigation agreement, with the final plat application. (Final Plat Requirement 19)*

- *The existing and proposed irrigation easements are required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
- *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*
- *A notification that there are no water rights associated with the pond shall be included in the Notifications Document. (Condition 1)*
- *The applicants will be required to submit a notarized statement from each downstream water user specifically authorizing the alteration to the Wallen Tullack Ditch prior to final plat approval. (Final Plat Requirement 20)*

Conclusion of Law

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on agricultural water user facilities.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire District

1. The subdivision is located within the jurisdiction of the Hamilton Rural Fire Department. (Sleeping Child Farms Subdivision Application)
2. The All Valley Fire Council, which includes the Hamilton Rural Fire Department, has adopted Fire Protection Standards (outlined in document from the Hamilton Rural Fire Department) that address access, posting of addresses, and water supply requirements. (Exhibit A-1)
3. The Hamilton Rural Fire District stated that they would find no negative effects to the provision of adequate fire service protection to the subdivision if all buildings are built to IRBC code and all roads within the subdivision are constructed to County standards without any variances. (Exhibit A-2)
4. *The following conditions will mitigate impacts of the subdivision on the Hamilton Rural Fire Department:*
 - *Provisions shall be included in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *The covenants shall include a recommendation that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. (Condition 2)*
 - *Prior to final plat approval, the subdividers shall provide a letter from the Hamilton Rural Fire Department stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection of each lot. Alternatively, the subdividers may provide evidence that \$500 per lot for Lots 2 through 5 has been contributed to the Hamilton Rural Fire Department with the final plat*

submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)

- *The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Hamilton Rural Fire Department, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire Department for further information". (Condition 6)*

School District

5. The proposed subdivision is located within the Hamilton School District. (Sleeping Child Farms Subdivision Application)
6. It is estimated that 2 school-aged children will be added to the Hamilton School District, assuming an average of 0.5 children per household. (Census 2000)
7. The applicants are proposing to mitigate the impacts of the subdivision on the School District through a voluntary contribution of \$250 per lot for the new lots, for a total of \$1,000 (Sleeping Child Farms Subdivision Application)
8. Notification letters were sent to the Hamilton School District requesting comments on April 17, 2007 and February 15, 2008, but no comments have been received from the School District. (Sleeping Child Farms Subdivision File)
9. The cost per pupil for one year in the Hamilton School District, excluding capital costs, is \$6,619. Taxes from new residents are not immediately available to the school districts. (Exhibit A-3)
10. The Ravalli County Educational Transportation Committee has requested that the BCC require that developers establish a bus shelter and a turnout land or turnaround, as appropriate, at subdivision entrances to County-maintained roads. (Exhibit A-14)
11. *To mitigate the impacts of the subdivision on the School District, the following conditions shall be met:*
 - *Staff recommends that the applicants negotiate a contribution with the BCC, in consultation with the Hamilton School District, if possible. (Condition 7 and Final Plat Requirement 23)*
 - *Prior to final plat approval, the applicants shall work with the Hamilton School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed on the Sleeping Child Road frontage of the property. The applicants shall provide evidence that they have worked with the School District prior to final plat approval. If any improvements are required, the applicants shall complete the improvements prior to final plat approval. (Condition 15)*

Water and Wastewater Districts

12. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Sleeping Child Farms Subdivision Application)

Law Enforcement and County Emergency Services (Sheriff, E-911, DES)

13. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Sleeping Child Farms Subdivision Application)
14. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on April 17, 2007 and February 15, 2008, but no comments have been received from the Sheriff's Office. (Sleeping Child Farms Subdivision File)
15. The average number of people per household in Ravalli County is 2.5. (Census 2000)
16. The applicants have not proposed any mitigation for the impacts of the additional 10 people on Public Safety Services prior to taxes being collected for the additional households. (Sleeping Child Farms Subdivision Application)
17. *To mitigate impacts on Ravalli County Public Safety Services, the subdividers shall submit an amount (to be determined at the Commissioner meeting) per lot for Lots 2 through 5 to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. (Condition 8)*

Ambulance Services

18. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Dept. Marcus Daly was contacted on April 17, 2007 and February 15, 2008, but no comments have been received to date. (Sleeping Child Farms Subdivision File)
19. *To mitigate impacts on emergency services, the subdividers shall provide evidence with the final plat submittal that they have applied for County-issued addresses for the new lots. (Condition 4)*

Solid Waste Services

20. Bitterroot Disposal provides solid waste service to this site.
21. Notification letters were sent to Bitterroot Disposal requesting comments on April 17, 2007 and February 15, 2008, but no comments have been received. (Sleeping Child Farms Subdivision File)

Utilities

22. The proposed subdivision will be served by Ravalli Electric Cooperative and Qwest Communications. (Sleeping Child Farms Subdivision Application)
23. Notification letters were sent to both utility companies requesting comments on April 17, 2007 and February 15, 2008, but no comments have been received by either company. (Sleeping Child Farms Subdivision File)
24. *The following requirements will mitigate impacts of the subdivision on local utilities:*
 - *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
 - *The applicants shall submit utility availability certifications from Ravalli Electric Cooperative and Qwest Communications prior to final plat approval. (Final Plat Requirement 17)*
 -

Roads - Offsite

25. It is estimated that this subdivision will generate an additional 49 vehicular trips per day. (Sleeping Child Farms Subdivision Application)
26. Skalkaho Highway, Sleeping Child Road, and the proposed internal subdivision road, Vineyard View, will provide access to the subdivision from US Highway 93. (Sleeping Child Farms Subdivision Application)
27. US Highway 93 and Skalkaho Highway are State-maintained roads.
28. Sleeping Child Road is a State highway that is maintained by the County. (RCSR)
29. The applicants are required to pay the pro rata share of the cost to improve the portion of Sleeping Child Road leading to the subdivision. (Section 5-4-5(d), RCSR)
30. The pro rata share is estimated at \$13,270.00. (Sleeping Child Farms Subdivision File)
31. There is an existing home on Lot 1 that will continue to access off the existing approach to Sleeping Child Road. The applicants are proposing a new approach for the internal subdivision road, Vineyard View. The applicants submitted a preliminary approach permit from the Road and Bridge Department. (Sleeping Child Farms Subdivision Application)
32. The applicants are proposing a stop sign at the intersection of Vineyard View with Sleeping Child Creek Road. (Sleeping Child Farms Subdivision Application)
33. The applicants are required to install a road name sign at the intersection Vineyard View with Sleeping Child Creek Road.
34. *To mitigate impacts on the off-site roads leading to the subdivision, the following conditions and requirements shall be met:*
 - *The applicants shall pay the pro rata share of the cost to improve the portion of Sleeping Child Road leading to the subdivision to meet County standards prior to final plat approval. (Final Plat Requirement 25)*
 - *A final approach permit from the Ravalli County Road and Bridge Department for the approach to Vineyard View shall be submitted with the final submittal. (Final Plat Requirement 12)*
 - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
 - *The final plat shall show a no-ingress/egress zone along the Sleeping Child Road frontage of the subdivision, excluding any approaches approved by the Road Department. A no-ingress/egress zone shall also be placed along the private driveway to only allow access to Lot 5. A notification of the no-ingress/egress zones shall be included in the notifications document. (Conditions 1 and 9, and Final Plat Requirement 2)*
 - *The applicants are required to install a stop sign and road name sign at the intersection of Vineyard View and Sleeping Child Creek Road prior to final plat approval. (Final Plat Requirement 24)*

Internal Subdivision Road – Vineyard View

35. The applicants are proposing to construct Vineyard View to meet County standards. The proposal includes a bridge over Sleeping Child Creek. The applicants have received preliminary approval from the Road Department. (Sleeping Child Farms Subdivision Application) (Exhibit A-4)
36. The applicants are proposing a 60-foot wide public road and utility easement for Vineyard View and a 30-foot wide private driveway and public utility easement across Lot 4. (Sleeping Child Farms Subdivision Application)

37. Lots 2 through 4 will access off Vineyard View. Lot 5 will access off the private driveway across Lot 4. (Sleeping Child Farms Subdivision Application)
38. The applicants have submitted a preliminary road maintenance agreement for Vineyard View. (Sleeping Child Farms Subdivision Application)
39. To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:
 - *The applicants are required to submit a copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ prior to final plat approval. (Final Plat Requirement 10)*
 - *The applicants are required to submit final road plans for the internal subdivision road and the bridge, and approval from the Road Department. (Final Plat Requirements 14, 15, and 16)*
 - *The applicants are required to submit a final road maintenance agreement, signed and notarized, with the final plat submittal. (Final Plat Requirement 18)*
 - *Notification of the road maintenance agreement shall be included in the Notifications Document. (Condition 1)*
 - *The applicants are required to provide for the 60-foot wide public road and utility easement on the final plat, as proposed on the preliminary plat. (Final Plat Requirement 2)*
 - *The applicants are required to submit evidence of a Ravalli County-approved road name petition for Vineyard View with the final plat submittal. (Final Plat Requirement 13)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on local services.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. In an email dated January 10, 2007, the Montana Department of Environmental Quality (DEQ) identified the Hamilton and Missoula areas as communities with a high probability of failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. Sources of particulate from this subdivision could be vehicles and/or wood-burning stoves. There are no gravel roads accessing the subdivision. (Exhibit A-5)
2. *To mitigate impacts on air quality, a recommendation for EPA-certified wood stoves shall be included in the covenants. (Condition 2)*

Ground Water Quality

3. Currently, a residence, guest house, and dining hall exist on Lot 1. These building have septic permits. There are two cabins, a chicken coop, and a pole barn without water or wastewater treatment facilities. (Sleeping Child Farms Subdivision Application)
4. A septic permit (7519-R) was granted for the residence in 1998. (Sleeping Child Farms Subdivision Application)

5. A septic permit (10473) was granted for the dining hall in 2000. (Sleeping Child Farms Subdivision Application)
6. A septic permit (179) was granted for the guest house in 1977. The applicants are proposing to relocate the drainfield. (Sleeping Child Farms Subdivision Application)
7. The applicants are proposing individual wells and wastewater treatment facilities for Lots 2 through 5. The applicants submitted water and sanitation information per MCA 76-3-622 for the proposed systems. (Sleeping Child Farms Subdivision Application and Exhibit A-6)
8. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Exhibit A-6, MCA 76-3-622)
9. *To mitigate impacts on the natural environment, the following requirement and condition shall be completed prior to final approval:*
 - *The applicants are required to submit a final DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*
 - *The applicants shall submit the appropriate permit for the relocation of the drainfield for the guest house on Lot 1 prior to final plat approval. (Condition 14)*

Surface Water Features – Borrow Pit/Pond

10. There is a borrow pit that has turned into a pond in the northern corner of Lot 2. (Sleeping Child Farms Subdivision Application)
11. There do not appear to be any ditches or surface waters feeding the pond. The water in the pond is most likely groundwater. (Sleeping Child Farms Subdivision Application, aerial photographs, Exhibit 12, and site visit)
12. At this time, the applicants are considering the use of the borrow pit to extract gravel for the construction of the internal road. (Sleeping Child Farms Subdivision Application)
13. The National Wetlands Inventory (NWI) identifies wetlands over the borrow pit/pond. The NWI data for Montana are based on color infrared aerial photographs taken between 1980 and 2005. The recommended scale is 1:24,000 or smaller. Due to the scale, the primary intended use is for regional and watershed data display and analysis, rather than specific project data analysis. (U.S. Fish and Wildlife Service National Wetlands Inventory)
14. In a letter dated October 26, 2007, the US Army Corps of Engineers stated that a permit would not be required to remove building fill material from the abandoned gravel pit to construct the internal subdivision road. (Exhibit A-9)
15. Page 5 of the Project Overview states: "At such time, or if, the property owner desires to expand the borrow pit, an Opencut Mine Permit must be applied for and obtained from the Montana Department of Environmental Quality (MDEQ) under MCA Title 84, Chapter 4 and ARM Title 17, Chapter 4." (Sleeping Child Farms Subdivision Application)
16. DNRC stated that a Notice of Completion would be required if the water within the borrow pit/pond was used for any purpose. (Exhibit 12)
17. *To mitigate the impacts of the subdivision on water issues related to the borrow pit/pond, the following conditions shall be met:*
 - *A notification of the permits that are required for any use of the borrow pit/pond shall be included in the Notifications Document. (Condition 1)*

- *If the applicants use the borrow pit for road construction, the applicant shall submit a copy of the approved Opencut Mining Permit from DEQ or an explanation as to why the permit was not required. (Condition 12)*

Surface Water Features – Sleeping Child Creek

18. Sleeping Child Creek, its associated floodplain, riparian areas, and wetlands traverse the property. (Sleeping Child Farms Subdivision Application)
19. All components of the wastewater treatment facilities are required to be setback 100 feet from the modeled floodplain of Sleeping Child Creek. (Article 4, Section 4.2(J), Ravalli County Subsurface Wastewater Treatment and Disposal Regulations)
20. FWP reviewed the proposal and recommended the following (Exhibit A-7):
 - a) A no-build/alteration zone within 100 feet of the high water mark on each side of Sleeping Child Creek and over wetland areas.
 - b) Specific riparian covenants encouraging the development of native vegetation and discouraging actions such as grading, planting and irrigating lawns, mowing, cutting, clearing vegetation, and unrestricted livestock grazing.
21. The Ravalli County Floodplain Administrator recommended that the no-build/alteration zone be extended to the modeled floodplain boundary to mitigate impacts on the natural environment. (Exhibit A-8) (See Effects on Public Health and Safety for information on the floodplain analysis.)
22. The applicants proposed two restrictive zones, the Floodplain Inundation and Restrictive Zone (FIRZ), and the Riparian Restrictive Buffer Zone (RRBZ), on Page 2 of the Preliminary Plat. The proposed covenants outline the restrictions of each zone. (Sleeping Child Farms Subdivision Application)
23. The proposed covenants for the FIRZ state that no structures or alterations are allowed except for the following:
 - The existing cabin and picnic pad on Lot 1
 - Any agricultural uses
 - Fencing
 - Construction and maintenance of irrigation facilities
 - Continue use and maintenance of the small bridge between Lots 1 and 4
 - Picnic sites with tables
 - Activities in the borrow pit as long as the required permits are obtained
24. The proposed covenants for the RRBZ state that all of the restrictions in Finding 23 apply in addition to the following:
 - No removal of live or dead vegetation
 - Motorized access is not allowed except for weed spraying or the maintenance of the vineyard on Lot 1
 - No storing of vehicles
 - No planting lawns
 - Plant native vegetation
 - Unrestricted livestock grazing is not allowed
 - Develop off-channel watering facilities
25. To mitigate impacts on agricultural, agricultural uses should be allowed outside of the RRBZ. (*Effects on Agriculture*)
26. The applicants are proposing building envelopes for Lots 2 through 5. (Sleeping Child Farms Subdivision Application)
27. *To mitigate the impacts of this subdivision on the surface water features, the following conditions and requirements shall be met:*

- *The 100-foot wastewater treatment facility setback shall be prominently shown on the final plat with a label in large, bold font, and the covenants shall include a provision referring to the setback. Also, the setback shall be shown on the map approved by DEQ. (Conditions 2 and 10)*
- *The Floodplain Inundation Restrictive Zone (FIRZ), and the Riparian Restrictive Buffer Zone (RRBZ), as shown on the preliminary plat, shall be shown on the final plat. The provisions for the Restrictive Zones on Pages 6 through 9 of the proposed covenants shall be filed with the final plat, with the following modification:*

The first bullet under the FIRZ restrictions shall state: "No new structures or alterations, which includes the planting of lawns and removal of native vegetation that is not related to agricultural use, shall be allowed in the FIRZ, except for the following..." (Condition 11)

- *Building envelopes shall be designated on the final plat, as proposed on the preliminary plat. (Final Plat Requirement 2)*

Light Pollution

28. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association, www.darksky.org)
29. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

Vegetation

30. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Canada Thistle, Common Tansy, Houndstongue, and Spotted Knapweed were located on the property. (Sleeping Child Farms Subdivision Application)
31. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
32. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (Sleeping Child Farms Subdivision Application).
33. *To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Archaeological Resources

34. There are no known sites of historical significance on the property. (Sleeping Child Farms Subdivision Application)

35. *To mitigate possible impacts on any potential sensitive historical, cultural, archaeological, paleontological, and/or scenic sites, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the developer will contact the State Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 2)*

Conclusions of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

12. According to the Montana Natural Heritage Program (MNHP) in January of 2007, the Bull Trout, Canada Lynx, Olive-sided Flycatcher, the Townsend's Big-eared Bat, and the Westslope Cutthroat Trout were identified as species of concern as they have been known to exist in the same section as the proposed subdivision. (Sleeping Child Farms Subdivision Application)
13. The subdividers submitted waiver requests from completing sensitive species reports for all the identified species of concern. (Sleeping Child Farms Subdivision Application)
14. Due to the lack of habitat, the Planning Department granted waivers for the Canada Lynx, the Olive-sided Flycatcher, the Townsend's Big-eared Bat, and the Westslope Cutthroat Trout. The waiver was denied for the Bull Trout. (Sleeping Child Farms Subdivision File)
15. FWP submitted a letter that outlined fish studies completed on Sleeping Child Creek. The letter noted that both the Westslope Cutthroat Trout and Bull Trout were located in the Creek. FWP recommended a no-build/alteration zone within 100 feet of the high water mark of each side of Sleeping Child Creek and on the wetlands. (Exhibit A-7)
16. To meet the sensitive species report requirement, the applicants contacted Chris Clancy from FWP to determine whether or not the studies noted in the letter from FWP would suffice. In an email dated August 6, 2007, Mr. Clancy stated that he agreed with the letter and that no further fish sampling was required. (Sleeping Child Farms Subdivision Application)
17. The applicants proposed the RRBZ zone and a set of associated restrictions to protect the Creek and associated riparian areas. (Sleeping Child Farm Subdivision Application)
18. The property is located within big-game winter range. (FWP)
19. FWP recommended living with wildlife covenants for the property. (Exhibit A-7)
20. The applicants are proposing to include the FWP-recommended covenants. (Sleeping Child Farms Subdivision Application)
21. *To mitigate impacts on wildlife, the following conditions shall be met:*
 - *The Floodplain Inundation Restrictive Zone (FIRZ), and the Riparian Restrictive Buffer Zone (RRBZ), as shown on the preliminary plat, shall be shown on the final plat. The provisions for the Restrictive Zones on Pages 6 through 9 of the proposed covenants shall be filed with the final plat with the modification noted in Condition 11. (Condition 11)*

- *The covenants shall include provisions that apply to the Restricted Zone. These covenants include recommendations from FWP. (Condition 2)*
- *The covenants shall include a living with wildlife section. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off Skalkaho Highway, Sleeping Child Road, and the internal subdivision road from US Highway 93. (Sleeping Child Farms Subdivision Application)
2. *The requirements and conditions listed under Roads, both off-site and on-site, in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*
3. The Ravalli County Educational Transportation Committee has requested that the BCC require that developers establish a bus shelter and a turnout land or turnaround, as appropriate, at subdivision entrances to County-maintained roads. (Exhibit A-14)
4. *To mitigate impacts on public health and safety, prior to final plat approval, the applicants shall work with the Hamilton School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed on the Sleeping Child Road frontage of the property. The applicants shall provide evidence that they have worked with the School District prior to final plat approval. If any improvements are required, the applicants shall complete the improvements prior to final plat approval. (Condition 15)*

Emergency Vehicle Access and Response Time

5. The proposed subdivision will be served by the Hamilton Rural Fire Department, the Ravalli County Sheriff's Office, Ravalli County E-911, the Ravalli County Department of Emergency Services, and Marcus Daly Memorial Hospital EMS Department. (Sleeping Child Farms Subdivision Application)
6. This proposal will add approximately 10 people to Ravalli County. (Census 2000)
7. *The requirements and conditions listed under Fire District, Law Enforcement and County Emergency Services, Ambulance Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater Treatment

8. There are three existing buildings with wastewater treatment facilities on Lot 1. All three buildings have existing septic permits. The drainfield for the guesthouse is proposed to be moved. (Sleeping Child Farms Subdivision Application)
9. The applicants are proposing individual wells and wastewater treatment facilities for Lots 2 through 5. The applicants submitted water and sanitation information per MCA 76-3-622 for the proposed systems. (Sleeping Child Farms Subdivision Application and Exhibit A-6)

10. All components of the wastewater treatment facilities are required to be setback 100 feet from the modeled floodplain of Sleeping Child Creek. (Article 4, Section 4.2(J), Ravalli County Subsurface Wastewater Treatment and Disposal Regulations)
11. *The following conditions and requirements will mitigate the impacts of this subdivision on public health and safety issues related to water and wastewater treatment facilities:*
 - *The applicants are required to submit a final DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*
 - *The 100-foot wastewater treatment facility setback shall be prominently shown on the final plat with a label in large, bold font, and the covenants shall include a provision referring to the setback. Also, the setback shall be shown on the map approved by DEQ. (Conditions 2 and 10)*
 - *The applicants shall submit the appropriate permit for the relocation of the drainfield for the guest house on Lot 1 prior to final plat approval. (Condition 14)*

Natural and Man-Made Hazards

12. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
13. *To mitigate impacts on public health & safety, the covenants shall include a statement regarding radon exposure. (Condition 2)*
14. The preliminary plat and soils map indicate that the subdivision may have soils rated as severe for road and building construction. (Sleeping Child Farms Subdivision Application)
15. *To educate property owners and to mitigate potential impacts of this subdivision on Public Health & Safety, a notification of the potential for severe soils shall be included in the notifications document filed with the final plat. A reduced plat showing the approximate locations of soils rated as severe for roads and building construction and descriptions of the soils in question shall be attached to the notifications document as an exhibit. (Condition 1)*
16. There are slopes greater than 25% located on Lots 1 through 5 of the subdivision. The applicants are proposing no-build/alteration zones on the slopes.
17. *To mitigate impacts on Public Health and Safety, the no-build/alteration zones on slopes greater than 25% are required to be shown on the final plat, as shown on the preliminary plat. A notification of the steep slopes shall be included in the Notifications Document. (Condition 1 and Requirement)*

Floodplain

18. The applicants submitted a floodplain analysis for Sleeping Child Creek. (Sleeping Child Farms Subdivision Application)
19. In a letter dated June 19, 2007, the Ravalli County Floodplain Administrator recommended conditional approval of the floodplain analysis with the following conditions:

- a) The access to Lots 3, 4, and 5 (Vineyard View and driveways) should be designed to have 2.00 feet of freeboard or an alternate emergency access should be proposed.
 - b) Any required permits should be obtained prior to construction.
 - c) The 100-foot wastewater treatment facility setback from the modeled floodplain should be on the plat.
 - d) A no-build/alteration zone should be extended to include the modeled floodplain boundary. The construction of roads, bridges, and continued vineyard development activities should be permissible, granted the development does not impact the 100-year base flood elevation.
 - e) A no-build zone should be extended 50 feet from the modeled floodplain.
 - f) Proposed residences should be elevated so that the lowest floor (including mechanical equipment) is located 2.00 feet above the 100-year base flood elevation.
 - g) It is strongly recommended that the property owners obtain flood insurance.
20. The applicants proposed to construct the portions of Vineyard View and the driveways leading to Lots 3, 4, and 5 within the modeled 100-year floodplain to be 2.00 feet above the base flood elevation of 3,669.00 feet. (Sleeping Child Farms Subdivision Application)
21. The applicants submitted a copy of an application for a 310 permit and a Section 404 permit. A letter from the US Army Corps of Engineers stated that a Section 404 permit is not required. (Sleeping Child Farms Subdivision Application)
22. In a letter dated February 27, 2008, the Ravalli County Floodplain Administrator modified recommendations based on revisions to the floodplain analysis. The modifications are as follows:
- a) Future lot owners should be notified that the modeled floodplain boundary is an estimate and does not account for debris, ice jams, potential changes in the hydrology of the watershed, and/or poorly maintained culverts.
 - b) The lowest enclosed floor (including all mechanical/utility equipment) should be located 3.00 feet above the 100-year base flood elevation. This recommendation was made in lieu of the original recommendation for an additional 50-foot setback from the modeled floodplain boundary.
 - c) While the bridge will be built to allow 2.00 feet of freeboard, accesses could be overtopped during a flood event. Future lot owners should be notified of this and the fact that an emergency access was not part of the design.
 - d) Permits for bridge and road development should be obtained prior to construction.
 - e) The applicants' two restrictive zones should be combined to be one restricted zone with one set of restrictions.
 - f) All components of wastewater treatment facilities must be located 100 feet from the modeled floodplain. This setback should be shown on the final plat.
 - g) The existing borrow pit/pond should be identified as wetlands on the final plat. Permits may be required for the future use of this feature.

23. To mitigate impacts on agriculture, agricultural uses will be allowed outside of the RRBZ. *(Effects on Agriculture)*

24. To mitigate the impacts of this subdivision on public health and safety, the following conditions and requirements shall be met:

- *The post construction road plans shall show that the portions of Vineyard View, the bridge, and the driveways leading to Lots 3, 4, and 5 have been constructed a minimum of 2.00 feet above the base flood elevation of 3,669.00 feet. (Condition 13)*
- *The applicants are required to submit a copy of the approved 310 permit prior to final plat approval. A 318 permit may also be required. (Final Plat Requirement 22)*
- *The 100-foot wastewater treatment facility setback shall be prominently shown on the final plat with a label in large, bold font, and the covenants shall include a provision referring to the setback. Also, ensure that the setback is shown on the map approved by DEQ. (Conditions 2 and 10)*
- *The Floodplain Inundation Restrictive Zone (FIRZ), and the Riparian Restrictive Buffer Zone (RRBZ), as shown on the preliminary plat, shall be shown on the final plat. The provisions for the Restrictive Zones on Pages 6 through 9 of the proposed covenants shall be filed with the final plat, with the following modification:*

The first bullet under the FIRZ restrictions shall state: "No new structures or alterations, which includes the planting of lawns and removal of native vegetation that is not related to agricultural use, shall be allowed in the FIRZ, except for the following..." (Condition 11)

- *A notification of the proximity of Sleeping Child Creek that includes a recommendation that future buildings are built with the lowest enclosed floor (including mechanical/utility equipment) elevation 3.00 feet above the 100-year base flood elevation and that future lot owners obtain flood insurance shall be included in the Notification Document. The notification will explain the limitations of the model and the risk of flooding. (Condition 1)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

Commissioner Grandstaff opened public comment.

Chris stated they agree with the Planning Report and they have strengthened the covenants to provide "green" improvements.

Renee stated the Planning Board did recommend a school contribution of \$500 per new lot.

Commissioner Rokosch asked if the covenants listed for the floodplain zone would also apply to the riparian zone. Tom Hansen replied they would. Commissioner Rokosch

requested the language be added to ensure that the floodplain covenants also apply to the riparian zone.

Paul Weese stated he has spent many years on this property and is happy with what the Coleman's have done.

Commissioner Grandstaff closed public comment and began Board deliberation.

Criteria One – Effects on Agriculture – Commissioner Rokosch asked if the building envelopes could avoid prime farm land soils. Tom replied that was not possible on Lots 3, 4, and 5. He stated in the past, the ground produced hay with 25% slopes. Commissioner Rokosch asked if it was the Board's consensus the farmland within the restricted zones would mitigate loss of farmland. Terry stated there are two acres of vineyard on Lot 1. Commissioner Grandstaff stated that a portion of the property was transitioning from agricultural use to residential. Terry replied they have added the vineyard and organic garden to Lot 1. Commissioner Rokosch stated his point is that some prime farmland will become residential. Commissioner Grandstaff stated in her opinion, the vineyard and the organic garden mitigates the impacts of loss of prime farm land. Commissioner Rokosch stated the percentage of the permanent loss of farm land does not equal the vineyard and organic garden. Commissioner Chilcott stated putting a house on five acres does not preclude agricultural use.

Commissioner Driscoll discussed the weed plan and asked when the weed plan would be enacted. Chris replied it would probably in the spring. Commissioner Grandstaff stated since Terry lives on the property there is probably weed control already taking place. Chris stated a final weed plan is required for final plat approval. Commissioner Rokosch requested the Weed Board be notified prior to construction. Chris stated they also mentioned the weed plan in the covenants.

Commissioner Grandstaff requested a vote to determine if the impacts on agriculture had been sufficiently mitigated.

Commissioner Grandstaff, Commissioner Thompson, Commissioner Chilcott and Commissioner Driscoll voted 'aye'. Commissioner Rokosch voted 'nay'.

Criteria Two – Effects on Agricultural Water-User Facilities - Commissioner Rokosch asked about notification of down stream users for approval of alterations to the Wallen Tullack Ditch. He stated his concern is the alteration proposed will be done prior to final plat and the applicants will not get approval after it is done. Renee stated it is a risk for the owner. Terry stated there is one water right user downstream. He received a signed letter from the user stating the owner/developer could go ahead with the alterations. Commissioner Rokosch asked if he had the letter here today. Terry replied no. Commissioner Rokosch questioned the language in the irrigation agreement in regard to any future diversion from Sleeping Child Creek from the lots. Terry replied they have no plans to change the diversion.

Commissioner Grandstaff requested a vote to determine if the impacts on agricultural water user facilities had been sufficiently mitigated. All Commissioners voted 'aye'.

Criteria Three – Effects on Local Services – Commissioner Rokosch requested mitigation for the Fire District. **Chris stated the offered mitigation is \$500 per lot for new lots for the Hamilton Fire District payable prior to final plat approval.** Commissioner Rokosch reviewed Exhibit A-3 of the staff report for consideration in the assessment of impacts on the School District. The non-capital cost per pupil totals \$6,619. Existing tax payers are paying \$2,329 on their tax bill for the Hamilton School District. This is the cost to educate one student. There is a lag time between a student attending school and the funds being received. He stated the direct impact on the neighbors is \$1,165. He stated \$250 does not sufficiently mitigate the impacts on the school. Chris stated the original mitigation offer was \$250 per new lot payable upon first conveyance. The Planning Board's recommendation was \$500 per new lot payable upon first conveyance. Terry asked if this was to be paid prior to construction. Commissioner Rokosch stated in the past, the Board has agreed to allow the contribution to be halved upon final plat and the remaining half upon first conveyance with Consumer Price Index adjustment. **Terry agreed to \$500 per new lot for Hamilton School District payable upon first conveyance with CPI adjustment. Commissioner Chilcott confirmed \$500 contribution for Public Safety for each new lot payable upon first conveyance with CPI adjustment. Terry agreed.** Commissioner Rokosch expressed his concern with the school contribution being low. Terry stated based on the market, these homes are intended for retired people. There isn't any bus pick up for 3 miles in the area.

Commissioner Rokosch discussed the impacts on county services. He stated it comes out to approximately \$215 to \$250 per new household. He asked if Terry would consider a contribution. Terry replied this is the first time he has heard of it. The Planning Board didn't discuss it with him. Commissioner Grandstaff stated in the past the Board has mitigated the impact to county services at an average of \$200 per new lot. **Terry offered to split it with an offer of \$125 payable upon first conveyance for each new lot with CPI adjustment.**

Commissioner Grandstaff requested a vote to determine if the impacts on local services had been sufficiently mitigated.

Commissioner Thompson, Commissioner Chilcott and Commissioner Driscoll voted 'aye'. Commissioner Grandstaff and Commissioner Rokosch voted 'nay'.

Criteria Four – Effects on Natural Environment – Commissioner Driscoll asked about the floodplain zone and the riparian zone. Renee pointed out the floodplain and riparian zones on the map. Commissioner Rokosch questioned the language again. Renee stated on page 7 under riparian restrictive buffer zone, the first sentence will be that the riparian restrictive buffer zone is depicted on the plat, includes areas within and outside the FIRZ, includes the FIRZ restrictions noted above, and establishes additional covenants and restrictions to help avoid damage to the stream and its riparian areas, as well as to protect

and enhance, fish, wildlife, water quality and the functionality of the stream. Commissioner Rokosch questioned the second paragraph in Condition 11. Chris agreed to the language recommended by staff in Condition 11. Commissioner Rokosch discussed Environmental Health review, in that special consideration should be given due to the proximity to Sleeping Child Creek, and every effort should be made to mitigate the impacts, the potential for nitrate and phosphate contamination, and the Bitterroot TMDL. Lea stated the water and wastewater portion of the proposal has already been reviewed by the State and the requirements have been met. Commissioner Rokosch asked about the Planning Board recommendations which included agricultural use in the floodplain zone, and whether or not the Floodplain Administrator agreed. Renee replied she discussed the issue with Karen Hughes and Vanessa Perry, and given the impacts to agriculture, agricultural use should be allowed within the floodplain zone. She added the lawns and vegetation removal that is not related to agricultural use should not be allowed. Commissioner Rokosch questioned the 100 foot setback recommendation from Montana Fish, Wildlife and Parks. Renee stated the FWP recommendation was confirmed by Chris Clancy.

Commissioner Grandstaff requested a vote to determine if the impacts on the natural environment had been sufficiently mitigated. All Commissioners voted 'aye'.

Criteria Five – Effects on Wildlife and Wildlife Habitat –

Commissioner Grandstaff requested a vote to determine if the impacts on wildlife had been sufficiently mitigated. All Commissioners voted 'aye'.

Criteria Six – Effects on Public Health and Safety – Commissioner Rokosch asked about a 50-foot setback from the floodplain boundary that was recommended by the Floodplain Administrator. Renee stated that Floodplain Administrator Laura Hendrix recommended all buildings be constructed 3 feet above the base flood elevation instead of the 50-foot setback. Commissioner Rokosch asked if it was reflected in the conditions. Renee replied yes, on page 28 it is the last condition.

Commissioner Grandstaff requested a vote to determine if the impacts on public health and safety had been sufficiently mitigated. All Commissioners voted 'aye'.

Renee recapped the mitigation as follows:

- **\$500 per new lot for Hamilton Fire District payable prior to final plat approval**
- **\$500 per new lot for Hamilton School District payable upon first conveyance with CPI adjustment**
- **\$500 per new lot for Public Safety payable upon first conveyance with CPI adjustment**
- **\$125 per new lot for County Services payable upon first conveyance with CPI adjustment**

- **First sentence in the covenants for the Riparian Restrictive Buffer Zone to be modified, as stated herein.**

Commissioner Chilcott made a motion to approve the Sleeping Child Farms Minor Subdivision based on the findings of fact and conclusions of law in the staff report, and subject to the conditions in the staff report, with the modification as stated herein. Commissioner Thompson seconded the motion.

Commissioner Rokosch noted that mitigation for the impacts on the School District was not sufficient and he questioned the level of mitigation for the impacts on agriculture. Commissioner Driscoll agreed there should have been more contributed to the School District. Commissioner Grandstaff concurred with both Commissioners Rokosch and Driscoll on the school mitigation.

All voted 'aye'. Motion carried.