



**LOT 18A-2 AP 705183, BLOCK 9 SUNNYSIDE ORCHARDS NO. 3  
MINOR SUBDIVISION**

**STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS**

**CASE PLANNER:** Terry Nelson

**REVIEWED/ APPROVED BY:**

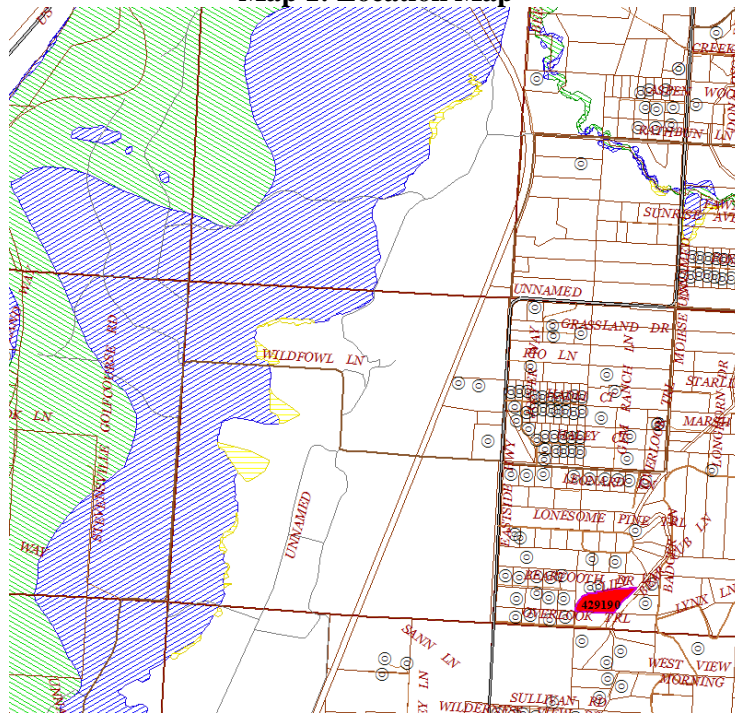
**PUBLIC HEARING:** BCC Public Hearing: 9:30 a.m., November 8<sup>th</sup>, 2018  
Deadline for BCC action  
(35 working days.): December 7<sup>th</sup>, 2018

**SUBDIVIDERS:** Brian Throckmorton  
6809 Kelsey Court  
Missoula, MT 59803

**REPRESENTATIVE:** Brian Throckmorton

**LOCATION OF REQUEST:** The property is located on the North side of Overlook Trail, which takes off to the East of Eastside Highway, approximately 3 miles North of Stevensville, approximately ¼ mile East of the intersection of Eastside Highway and Overlook Trail. (See Map 1, below).

**Map 1: Location Map**



**LEGAL DESCRIPTION  
OF PROPERTY:**

Lot 18A-2, Amended Subdivision Plat No. 705183, being a portion of Block 9, Sunnyside Orchards No. 3, located in Section 12, T9N, R20W.

**APPLICATION  
INFORMATION:**

The subdivision application was deemed sufficient for public review on October 19<sup>th</sup>, 2018. Agencies were notified of the subdivision on August 9, 2018. **This subdivision is being reviewed under the Ravalli County Subdivision Regulations (RCSR) amended June 4<sup>th</sup>, 2012.**

**LEGAL NOTIFICATION:**

Notice of the project was posted on the property, and adjacent property owners were notified by mail dated October 24<sup>th</sup>, 2018. Legal notice was placed in the Bitterroot Star on October 24<sup>th</sup>, 2018. No public comments have been received to date.

**DEVELOPMENT  
PATTERN:**

Subject property:	Existing single family residence
North:	Residential
South:	Open / Residential
East:	Residential
West:	Residential

**INTRODUCTION**

Lot 18A-2 AP 705183, Block 9, Sunnyside Orchards No. 3 Subdivision is a three-lot minor subdivision, proposed on 5.85 acres. The lots will serve existing and proposed residential activities. Proposed Lot 2 currently contain residences with individual well and septic systems. Lots 3 and 4 are proposed for new single family residences with individual wells and septic systems. Overlook Trail has been recently built to county paving standards as a condition of a prior subdividing approval by the applicant.

**Staff recommends conditional approval of the subdivision proposal.**

**RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS  
NOVEMBER 8<sup>TH</sup>, 2018**

**Lot 18A-2, Amended Subdivision Plat No. 705183, being a portion of Block 9,  
Sunnyside Orchards No. 3, located in Section 12, T9N, R20W.  
THREE-LOT MINOR SUBDIVISION**

**PLANNING STAFF RECOMMENDED MOTIONS**

1. That the AP Lot 18A-2, Block 9, Sunnyside Orchards No. 3 Minor Subdivision be *approved*, based on the findings of fact and conclusions of law in the subdivision report, and subject to the conditions in the staff report.

**PLANNING STAFF RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION**

*The following conditions have been recommended to mitigate any perceived negative effects that this subdivision will have on the seven subdivision review criteria, based on the findings of fact and conclusions of law, as discussed within the body of this staff report.*

1. **Notifications to Future Property Owners:** A signed and notarized document entitled “Notifications to Future Property Owners”, that includes the following notifications, shall be included in the submission 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. (RCSR Section 4-7(B)(5)(a), Effects on Adjacent Agricultural Operations)*

***Notification of Irrigation Facilities and Easements.** An irrigation easement traverses the southeastern portion of the subject property as shown on the final plat. All downstream water users 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/pipeline, interferes with its operation or maintenance in any way, or restricts access to the ditch/pipeline 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. (RCSR Section 4-7(A) and Section 4-7(B)(5)(b), Effects on Agricultural Water User Facilities)*

***Notification of Open Burning Season.** Landowners must follow open burning rules, established by MDEQ. Prior to burning, call the MDEQ ventilation hotline at 1-800-225-6779. Prior to burning, call the MDEQ ventilation hotline at 1-800-225-6779. The only material that can legally be burned is wood waste from trees, shrubs, and plants originating on the property, and clean, untreated wood generated on the property. You can review Montana open burning laws at <http://deq.mt.gov/dir/legal/Chapters/CH08-06.pdf>. Specific information regarding the Ravalli County Burn Permit procedures is available at <http://ravalli.us/501/Burning-Permits>. (RCSR Section 4-10(B)(5)(d), Effects on Natural Environment, and Section 4-10(B)(5)(g), Effects on Public Health and Safety)*

***Notification Regarding 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](http://www.darksky.org). (*RCSR Section 4-7(B)(5)(d), Effects on Natural Environment; (e) and (f), Effects on Wildlife and Wildlife Habitat; and (g), Effects on Public Health and Safety*)

**Notification of 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 structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. (*RCSR Section 4-7(B)(5)(g), Effects on Public Health and Safety*)

**Living with Wildlife.** Owners and/or renters of lots in this residential subdivision (hereafter, “residents”) 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, livestock feed, and other potential attractants. Residents must be aware of potential problems associated with the presence of wildlife such as deer, black bear, coyote, fox, raccoon, skunk, wild turkey, magpie, and other species. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help owners “live with wildlife.” Alternatively, see FWP’s web site at <http://fwp.mt.gov>.

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

- a. Residents must be aware of the potential for **vegetation damage by wildlife, particularly from deer** feeding on landscaping such as green lawns, flowers, ornamental shrubs and trees in this subdivision. Residents 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. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, other wildlife, or dogs.
- c. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer, elk, pheasant, wild turkey or other wildlife, including during winter. 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 (§ 87-3-130, MCA) to purposely or knowingly attract any ungulates (deer, elk), bears, or mountain lions 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, residents must be aware that deer and wild turkey can attract mountain lions to an area.
- d. If **pets** are allowed on site, they must be confined to buildings, in a fenced yard, or in an outdoor kennel area, 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 (§ 87-3-124, MCA). **Pet food** should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bear, raccoon, and skunk. When feeding pets, do not leave food

out overnight, and consider feeding pets indoors so that wild animals do not learn to associate food with your buildings.

e. Fencing:

- i. Use **wildlife-friendly fencing**. For wooden rail fences: no more than 3 rails, with the bottom of the bottom rail at least 18 inches off the ground and the top of the top rail no higher than 42 inches off the ground. For wire fences: use smooth wire, no more than 3 wires, with the top wire no higher than 42 inches off the ground and bottom wire at least 18 inches from the ground. These designs allow fawn deer and other wildlife to crawl under the fencing, while allowing adult deer to jump the fence with less chance of becoming entangled.
- ii. If tall **security fencing** is utilized and if lot location relative to adjacent lots allows, consider installing a second egress gate in the back of the lot, away from the main entry gate. It is not uncommon for wildlife such as deer to become trapped inside large fenced compounds, and being able to leave a back gate open for awhile when this happens can often facilitate getting the wildlife out of the compound without risking animal or human injury by wildlife leaving through the main gate onto a busy highway.

*(RCSR Section 4-7(B)(5)(d-g), Effects on Natural Environment, Wildlife, Wildlife Habitat, and Public Health and Safety)*

2. **Protective Covenants:** Protective covenants for this subdivision, signed and notarized, shall be submitted with the final plat that include the following provisions:

**Control of Noxious Weeds.** A weed control plan 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. *(RCSR Section 4-7(B)(5)(a), Effects on Adjacent Agricultural Operations; and (d), Effects on Natural Environment)*

**Required Posting of County-Issued Addresses for Lots within this Subdivision.** The Three-Mile Rural Volunteer Fire District 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. *(RCSR Section 4-7(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety)*

**Access Requirements for Lots within this Subdivision.** Three-Mile Rural Volunteer Fire District has adopted the 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 Three-Mile Rural Volunteer Fire District for further information. *(RCSR Section 4-7(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety)*

**Archaeological 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. *(RCSR Section 4-7(B)(5)(d), Effects on Natural Environment)*

**Amendment.** Written governing body approval must be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(RCSR Section 4-7(B)(5), Effects on all seven criteria)*

3. **RSID/SID Waiver:** The subdividers must include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: “Owners and their successors-in-interest waive all rights to protest the creation of a special/rural improvement district for any purpose allowed by law, including: developing, improving, or expanding, a community water system, or a community wastewater treatment system, for an incorporated municipality, improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs, and constructing and/or maintaining any pedestrian facilities, such as sidewalks, bike lanes, and trails. This waiver will expire 20 years after the date the final plat is filed with the Ravalli County Clerk and Recorder.” (*RCSR Section 3-7(B)(5)(c), Effects on Local Services; (g), Effects on Public Health & Safety; and 76-3-608(7), MCA*)
4. **Addresses:** The subdivider must provide evidence with the final plat submission that they have applied for County-issued addresses for each lot within this subdivision. (*RCSR Section 4-7(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety*)
5. **Fire Suppression:** Prior to final plat approval, the subdivider must provide a letter from the Three Mile Volunteer Fire District stating that the subdivider has provided the required 750 gallon-per-minute water supply. Alternatively, the subdivider may provide evidence that a \$900 contribution has been made to the Three Mile Volunteer Fire District with the final plat submission, in lieu of the required water supply for fire protection. (*RCSR Section 4-7(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety*)
6. **Fire Council Access Requirements:** The following statement must be shown on the final plat: “The Ravalli County Fire Council, which includes the Three-Mile Rural Volunteer Fire District, 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 Three-Mile Rural Volunteer Fire District for further information”. (*RCSR Section 4-7(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety*)
7. **Public Safety Services Mitigation:** The subdivider shall provide a receipt for \$250 per new lot, or a lien on each new lot, to alleviate perceived effects of the subdivision on Public Safety Services (Sheriff, E-911, DES). (*RCSR Section 3-7(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety*)
8. **School District Mitigation:** The subdivider shall provide a receipt for \$250 per new lot, or a lien on each new lot, to the Stevensville School District to alleviate identified effects of the subdivision on the school district. (*RCSR Section 3-7(B)(5)(c), Effects on Local Services, Recipient Letter*)
9. **Ditch Fencing:** The applicant must install a woven wire fence along the southeastern irrigation easement. (Effects on public health and safety, Summary of probable impacts)

### **FINAL PLAT APPLICATION REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)**

*The following items shall be included in the final plat application submission, as required by the Ravalli County Subdivision Regulations, Appendix C [Staff Note: items in ~~strikethrough~~ are not applicable to this subdivision]. If the applicant believes an item is not applicable, the applicant shall provide an explanation as to why the item is not applicable.*

The required materials in the final plat application shall be ordered as follows:

1. The final plat application review fee.
2. A statement from the subdivision surveyor or engineer outlining how each final plat requirement or condition of approval has been satisfied.
3. 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 24.83.1107). (One paper copy may be submitted for the first proofing.) Final plats must be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches overall to include a 1 ½-inch margin on the binding side.
4. If more than one sheet must be used to adequately depict the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications must be placed or referred to on one sheet.
5. A final plat containing on its face or on separate sheets referred to on the plat the requirements outlined in [Appendix D](#). The surveyor may, at his or her discretion, provide additional information regarding the survey, and must show any additional information as required by the BCC.
6. The original copy of the preliminary plat decision.
7. Any variance decisions.
8. Copies of extensions of the preliminary plat approval period.
9. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder.
10. A Title Report dated no less than one (1) year prior to the date of final plat application submission.
11. The MDEQ Certificate of Subdivision Approval or RCEH approval.
12. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the MDEQ.
13. The original document of 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.
14. Final roadway name approval from the County GIS Department for all newly constructed roadways.
15. ~~A copy of the Department of Revenue tax assessment or an appraisal report, per [Section 13-6 or 13-7](#), dated no less than six (6) months from the date of the submittal, for calculating the cash in lieu of parkland dedication and a receipt from the County Treasurer's Office for the payment of cash in lieu of parkland applicants dedication.~~
16. ~~Finalized roadway and driveway approach and encroachment permits from the MDT, as appropriate.~~
17. ~~Final engineering plans and specifications for all public water and sewer systems and any other improvements requiring engineering plans.~~
18. Final roadway plans, including:
  - a. Final Roadway plans approved by the RCRBD for all roadways to be constructed or reconstructed within or outside of the subdivision boundaries. Roadway plans shall be prepared by an engineer;
  - b. For each type of roadway proposed, typical cross sections for the full easement width;
  - c. Roadway grades;
  - d. Roadway profiles for all proposed roadways which have grades exceeding 7% or cuts and fills exceeding three feet;
  - e. Type and location of other infrastructure within the roadway easement, such as non-motorized walkways and curbs/gutters, if there are any;
  - f. Other information as appropriate and as necessary for the RCRBD to conduct and complete its review; and
  - g. Evidence that the roadway plans meet the roadway standards in these regulations.
19. Grading, drainage and stormwater management plans, prepared by an engineer in accordance with MDEQ Circular 8 as amended and the ARM for all subdivisions in which a roadway is to be constructed or reconstructed, including subdivisions with lots greater than 20 acres in size, shall be provided. The grading and stormwater plans shall be approved by all applicable reviewing agencies.



20. Roadway maintenance agreement(s) for all roadways and common driveways, which shall include the following requirements:

- a. A description of the parcels that are subject to the agreement;
- b. The section of the roadway or location of the common driveway that is subject to the agreement;
- c. The agreement is binding on any person having an interest in a parcel that is subject to the agreement;
- d. Any person providing public utilities may use the utility easements for such purposes;
- e. Decisions to undertake any roadway maintenance is the responsibility of the landowners and shall be based on a majority vote (over 50%) of the parties to the agreement;
- f. Who is eligible to cast a vote (one vote per parcel);
- g. How the maintenance costs will be assessed (equally or disproportionately) to the parties to the agreement;
- h. The amount that will be assessed in the event that a party subdivides a parcel that is subject to the agreement;
- i. In the event that an assessment becomes delinquent, the assessment and interest and the cost of collection shall become a continuing lien on the lot;
- j. The agreement is perpetual and cannot be rescinded unless the County or State agrees to maintain the roadway described in the agreement;
- k. ~~When a subdivision, or lots within a subdivision, is proposed for non-residential purposes, the provision for maintaining all associated parking lots shall be included in this document;~~
- l. Roadway/common driveway maintenance includes dust control, snow removal, maintenance of stormwater drainage facilities, ordinary maintenance and reconstruction if necessary. Roadway maintenance shall also include on-street parking enforcement provisions, in accordance with on-street parking provided for in the roadway design, because failure to enforce on-street parking may result in the inability of emergency services providers to provide service to lots along this roadway(s);
- m. The agreement may be amended, except that it may not be amended to be less strict or less inclusive; and
- n. Notary statement.
- o. Recording of Agreement. Roadway / maintenance agreement(s) shall be filed with the Clerk & Recorder as a single document (prior to or concurrent with the filing of the final plat) and shall not include other provisions not related to roadway maintenance (e.g. land use restrictions, etc.), unless there is a provision in the document stating that the roadway maintenance agreement section in the covenants cannot be amended to be less strict or less inclusive.

21. Utility availability certification(s).

22. ~~Completed, signed, and notarized Master Irrigation Plan, including to the following:~~

- a. ~~The plan and all supporting documentation shall be prepared by a person with a working knowledge of irrigation water delivery systems;~~
- b. ~~The plan shall be drawn at the same scale as required for the final plat;~~
- c. ~~The plan shall be legible, showing all of the required information;~~
- d. ~~Where multiple sheets are used, a cover sheet with index shall be included and each sheet shall show the number of that sheet and the total number of sheets included;~~
- e. ~~The plan shall show the location of all existing and new diversion points, ditches, pipes, pumps, heads, and associated easements;~~
- f. ~~The plan shall provide a watering schedule that shows when each of the users can use water from the system;~~
- g. ~~The plan shall describe the means to share in the cost of operating and maintaining those elements of the delivery system held in common;~~



- ~~h. The plan shall describe the amount of water allocated to each of the lots, and~~
- ~~i. Notary statement.~~
- 23. ~~Documentation from the appropriate irrigation company or district approving the relocation or alteration of irrigation infrastructure, and distribution of water right shares when the proposed subdivision 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.~~
- 24. ~~Documentation indicating that the water rights have been severed from the property.~~
- 25. ~~Protective covenants to be filed with the final plat that are signed and notarized.~~
- 26. ~~Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers.~~
- 27. ~~Signed and notarized homeowners' association documents, including the following requirements:~~
  - ~~a. Articles of Incorporation, which shall be filed with the Secretary of State's office~~
  - ~~b. Bylaws~~
  - ~~c. Covenants, and/or declarations, and~~
  - ~~d. The homeowners' association documents shall include the following information:~~
    - ~~(1) Mandatory membership for each landowner. Purchasers of property may also be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements;~~
    - ~~(2) A description of the common areas (land and facilities) that the landowners will own in common;~~
    - ~~(3) Perpetual reservation of the common areas when required under [76-3-621\(6\)\(a\), MCA](#);~~
    - ~~(4) Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;~~
    - ~~(5) Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;~~
    - ~~(6) Process for adjusting assessments to meet changing needs;~~
    - ~~(7) Means of enforcing any covenants, and of receiving and processing complaints;~~
    - ~~(8) Transition of control of the association from the applicant to the homeowners as lots are sold;~~
    - ~~(9) Dissolution of the association or modification of the covenants and restrictions after obtaining BCC approval for the change; and~~
    - ~~(10) Regular maintenance of roadways, parks, buildings, open space, drainage facilities, common areas, and other facilities controlled by the association.~~
    - ~~(11) Notary statement.~~
    - ~~(12) Recording of Agreement. The homeowners' association documents shall be filed with the Clerk & Recorder as a single document.~~
- 28. ~~Evidence that defensible space building envelopes have been provided.~~
- 29. ~~High fire hazard area Management Plan, including the following:~~
  - ~~a. A map showing the areas that are to be cleared of dead, dying, or severely distressed vegetation;~~
  - ~~b. A map of the areas that are to be thinned or treated for vegetative fuels management (thinning, fuel breaks, etc.), including defensible space building envelopes, roadway and driveway vegetation clearing;~~
  - ~~c. Defensible space building envelopes shall have a minimum defensible space as described in subpart (1), below:~~
    - ~~(1) From twenty (20) feet to one hundred (100) feet from a dwelling unit, thin trees to ten (10) feet between crowns, prune limbs of all remaining trees to fifteen (15) feet or~~

~~one third the total live crown height (whichever is less), and remove all downed woody fuels.~~

- d. ~~Driveway vegetation clearing shall be completed and maintained as described in subpart (1), below:
    - (1) ~~All live surface vegetation within five (5) feet of each side of individual driveways at twelve (12) inches or less and remove all dead vegetation, logs, snags, etc. Driveways shall be situated on each lot such that all required fuel reduction activities will occur solely on the lot on which the driveway is located.~~~~
  - e. ~~A narrative describing proposed vegetative management activities and timelines for when those activities are anticipated to be carried out and by whom;~~
  - f. ~~Provisions for the ongoing maintenance of defensible space and vegetation clearance along roadways and driveways;~~
  - g. ~~Provisions for the testing and maintenance of water delivery systems to ensure those systems are in operative conditions at all times and are repaired or replaced when defective;~~
  - h. ~~How the costs of vegetation management and/or water delivery system testing and maintenance will be assessed (equally or disproportionately) to the parties to the agreement;~~
  - i. ~~The amount that will be assessed in the event that a party subdivides a parcel that is subject to the agreement;~~
  - j. ~~In the event that an assessment becomes delinquent, the assessment and interest and the cost of collection shall become a continuing lien on the lot; and~~
  - k. ~~Notary statement.~~
  - l. ~~Recording of Agreement. The high fire hazard area Management Plan shall be filed with the Clerk & Recorder as a single document and shall not include other provisions not related to high fire hazard area management.~~
30. Evidence that improvements have been made, prior to final plat approval, in accordance with the conditions of approval and requirements of final plat approval and certified by the applicant, engineer, or contractor, as may be appropriate and required. An engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, a subdivision improvement agreement and guaranty shall be required that complies with [Appendix I](#).

#### **FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)**

*The final plat shall be submitted, with the following features shown on its face, as required by the Ravalli County Subdivision Regulations, Appendix D [Staff Note: items in ~~strikethrough~~ are not applicable to this subdivision]. If the applicant believes an item is not applicable, the applicant shall provide an explanation as to why the item is not applicable.*

1. A title, or title block, indicating the quarter-section, section, township, range, principal meridian, county and, if applicable city or town, in which the subdivision is located. The title of the plat must contain the words "plat" and either "subdivision" or "addition".
2. The name of the person(s) who commissioned the survey and the name(s) of the landowner(s) of the subdivision if other than the person(s) commissioning the survey, the names of any adjoining platted subdivisions, and the numbers of any adjoining certificates of survey previously filed.
3. The dated, signed, and notarized consent to the subdivision of the landowner(s) of the subdivision.
4. The dated signature and the seal of the surveyor responsible for the survey. The affixing of this seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the MSPA and these regulations.
5. A memorandum of any oaths administered under [76-3-405, MCA](#).

6. Certification by the BCC that the final plat is approved.
7. Space for the Clerk & Recorder's filing information in the lower right hand corner.
- ~~8. Certificate of public dedication, if any.~~
- ~~9. Certificate of cash in lieu of park dedication payment.~~
10. Other certifications, as appropriate.
11. North arrow.
12. Scale bar (the scale must be sufficient to legibly represent the required information and data on the plat).
13. A narrative legal description of the subdivision, as follows:
  - a. If the parcel being subdivided is either an aliquot part of a U.S. government section or a U.S. government lot, the information required by this subsection is the aliquot or government lot description of the parcel,
  - b. If the plat depicts the division of a parcel or lot that is shown on a filed certificate of survey or amended plat, the information required by this subsection is the number or name of the certificate of survey or amended plat and the number of the parcel or lot affected by the survey,
  - c. If the parcel surveyed does not fall within (a) or (b), above, the information required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision,
  - d. If the plat establishes the boundaries of a subdivision containing one or more interior parcels, the information required by this subsection is the legal description of the perimeter boundary of the subdivision.
14. The bearings, distances, and curve data of all boundary lines. If the subdivision is bounded by an irregular shoreline or body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given.
15. The location of, and other information relating to all monuments found, set, reset, replaced, or removed.
16. If additional monuments are to be set after the plat is filed, the location of these monuments must be shown by a distinct symbol, and the plat must bear a certification by the surveyor as to the reason the monuments have not been set and the date by which they will be set.
17. All monuments found during a retracement that influenced the position of any corner or boundary indicated on the plat must be clearly shown.
18. The location of any section corners or corners of divisions of sections pertinent to the survey.
19. Witness and reference monuments and basis of bearings.
20. Data on all curves sufficient to enable the re-establishment of the curves on the ground. For circular curves these data must at least include radius and arc length. For non-tangent curves, which must be so labeled, the plat must include the bearings of radial lines or chord length and bearing.
21. Lengths of all lines shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute. Distance measurements must be stated in English units, but their metric equivalents, shown to the nearest hundredth of a meter, may be noted parenthetically.
22. The location of any section corners or corners of divisions of sections the surveyor deems to be pertinent to the subdivision.
23. The total acreage of the subdivision.
24. All lots and blocks in the subdivision, designated by letter and/or number, the dimensions of each lot and block, the area of each lot, and the total acreage of all lots (Excepted parcels must be marked "Not included in this subdivision" or "Not included in this plat," as appropriate, and the bearings and lengths of these excepted boundaries must be shown).
25. Easements/rights of ways (location, width, purpose, ownership), including any conditional public access easement(s).

26. ~~The location, dimensions, and areas of all parks, common areas, and other grounds dedicated for public use.~~
27. ~~No build/alteration zones and no build zones.~~
28. ~~No ingress/egress zones.~~
29. ~~Water resources (rivers, ponds, etc.).~~
30. ~~Floodplains.~~
31. Irrigation canals/pipelines, including diversion point(s), etc.
32. ~~High pressure gas lines.~~
33. The names and locations of all roadways; their widths (if ascertainable) from public records, bearings and area; and the width and purpose of all roadway easements that will be created by the filing of the plat.
34. The following certifications must appear on the face of or accompany the approved final plat when it is presented to the Clerk & Recorder for filing:
  - a. ~~If applicable, the landowner's certificate of dedication of roadways, parks, playground easements or other public improvements,~~
  - b. ~~If applicable, a certificate of the BCC expressly accepting any dedicated land, easements or improvements. An acceptance of a dedication is ineffective without this certification,~~
  - c. A certificate of a title abstractor showing the names of the landowner(s) of the subdivision and the names of any lien holders or claimants of record against the land,
  - d. The written consent of the subdivision landowner(s), if different than the applicant, and any lien holders or claimants of record against the land,
  - e. References to any covenants or deed restrictions relating to the subdivision,
  - f. If applicable, a certificate from MDEQ or RCEH stating that it has approved the plans and specifications for water supply and sanitary facilities,
  - g. ~~A certificate from the applicant indicating which required improvements have been installed and a copy of any subdivision improvement agreement securing the future construction of any additional improvement(s) to be installed,~~
  - h. ~~Unless otherwise provided by these regulations, copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of an engineer that all required improvements which have been installed are in conformance with the attached plans,~~
  - i. ~~If requested, the certificate of a surveyor appointed by the BCC to review surveys and plats submitted for filing [76-3-611, MCA],~~
  - j. ~~If a roadway created by the final plat will intersect with a State highway, a copy of the State highway access or encroachment permit, and~~
  - k. The certification of the County Treasurer that all real property taxes and special assessments levied on the land to be subdivided have been paid.

## SUBDIVISION REPORT

### COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 4-10(A) of the RCSR states that the BCC shall not approve or conditionally approve a preliminary plat application and preliminary plat, unless it is established by credible evidence that the proposed subdivision:

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

##### Finding of Fact

The subdivision currently serves an existing residence and has proposed easements for the existing and proposed utilities. (Subdivision Application and Preliminary Plat)

Conclusions of Law

1. Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement)
2. The proposed subdivision provides for public utility easements. (Staff Determination)

**B. Provides legal access and physical access to the subdivision, and to each lot within the subdivision, and the notation of that access is included on the preliminary plat and in any instrument transferring the lot.**

Findings of Fact

1. The subject property gains legal and physical access from Overlook Trail, a 60' private non-exclusive road and utility easement, from Eastside Highway, a State Maintained Highway, via an existing 40' access easement. Overlook Trail continues past the entrance to this subdivision and heads North at the Supply Ditch along a 60' access easement, an overgrown roadway along the Easterly side of the property running to Moises Lane. (Preliminary Plat, Ravalli County GIS)
2. A preliminary Road Maintenance Agreement was submitted with the application. (Subdivision Application)
3. There are no physical obstructions preventing access to the site along the existing easements. (Staff Site Visit)
4. The access has been paved as a condition to a previous subdivision also owned by the applicant.

Conclusions of Law

1. Legal access will be provided to the proposed lots from existing easements. (Staff Determination)
2. Based on the fact that there are no elements or features preventing unobstructed access to the site, and that there are no elements or features that completely prevent unobstructed access to the proposed lots on-site, the subject property will have physical access. (Staff Determination)

**C. Assures that all required improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Appendix I of these regulations.**

Finding of Fact

The only required improvement needed is the construction of Overlook Trail from Eastside Highway and the interior road taking off from Overlook Trail to service the subdivision. This requirement is covered under a previously preliminarily approved subdivision on the property to the north. A utility availability certificate for Power and Phone will be required to assure the utility companies can provide services. (Preliminary Plat and Ravalli County GIS)

Conclusion of Law

The applicant shall provide evidence to Planning that construction of the roads has been completed, as specified in the finding above, prior to final plat approval. (Final Plat Application Requirement)

**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 12 have been considered and will be accomplished before the final plat application 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:
  - (a) 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;

- (b) 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
  - (c) Reserve and sever all surface water rights from the land.
2. The average lot size of this subdivision is 1.95 acres. (Staff Calculation)
  3. The subdivision property does not currently hold surface water rights. (Subdivision Questionnaire)

#### Conclusion of Law

Since the property does not currently hold water rights, the requirements of MCA 76-3-504(1)(j) do not apply to this subdivision proposal. (Staff Determination)

### **E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 12 have been considered and will be accomplished before the final plat application is submitted.**

#### Findings of Fact

1. An existing 60' utility and irrigation easement exists along the East boundary for the Supply Ditch (Subdivision Application)

#### Conclusions of Law

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii), the subdivider is required to establish ditch easements in the subdivision that:
  - (i) 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;
  - (ii) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
  - (iii) 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. Based on the required easement, the subdivision proposal will conform with the provisions of 76-3-504(1)(k), MCA. (Staff Determination)

### **COMPLIANCE WITH APPLICABLE REGULATIONS**

Section 4-10(B) of the RCSR states that in approving, conditionally approving, or denying a preliminary plat application and preliminary plat, the BCC shall ensure the preliminary plat application complies with:

### **A. These regulations, including, but not limited to, the standards set forth in Chapter 12.**

#### Findings of Fact

1. The lot layout, as indicated on the preliminary plat, meets the lot design standards in Chapter 12 of the RCSR. (Preliminary Plat)
2. This development proposal has followed the necessary application procedures and has been reviewed within the procedures provided in Chapter 4 of the Ravalli County Subdivision Regulations. (Subdivision File and Staff Determination)
3. The application includes all necessary and applicable information sufficient for public review. (Staff Determination)

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR. (Staff Determination)
2. The procedures for the application and review of this proposed subdivision, as outlined in Chapter 4 of the RCSR, have been followed. (Staff Determination)

**B. Any applicable zoning regulations.**

Findings of Fact

1. The unincorporated areas of Ravalli County are not zoned, excepting voluntary zoning districts. (Ravalli County Clerk & Recorder's Office)
2. The property is not within one of Ravalli County's adopted voluntary zoning districts. (Subdivision Application – Subdivision Questionnaire; Ravalli County Clerk & Recorder's Office; Ravalli County GIS)

Conclusion of Law

There are no zoning regulations that apply to the subject property. (Staff Determination)

**C. Existing covenants and/or deed restrictions.**

Findings of Fact

1. The Declaration of Restrictive covenants for the subdivision, recorded Book 199, Page 667 and amended in Book 201, Page 110 establishes a minimum of 2 acres for a residence. Amended Covenants as per Book 232, Page 274 changed the size limit from 2 acres to 1.75 acres. (Subdivision Application, Ravalli County Clerk and Recorder's Office)
2. The proposed Lots are 1.8 acres or larger. (Preliminary Plat)

Conclusion of Law

The proposed lots, as proposed, will meet the use and size restrictions established in the covenants. (Staff Determination)

**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 (Floodplain, 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. The subdivider's representative was made aware of the applicable regulations at the pre-application conference. (Subdivision File)
3. Prior to final plat approval, the subdivider is required to submit applicable permits and evidence that they have met applicable regulations. (RCSR Appendices C and D)

Conclusions of Law

1. Prior to final plat approval, the subdivider is required to submit applicable permits and evidence that they have met applicable regulations. (RCSR Appendices C and D)
2. With the conditions of approval, requirements of final plat approval, and requirements of final plat application approval, the application will meet all of the applicable regulations. (Staff Determination)



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

**CRITERION 1: EFFECTS ON ADJACENT AGRICULTURAL OPERATIONS**

Findings of Fact:

1. The subject property is classified for tax purposes as Residential Rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
2. Adjacent properties to West, North and East are subdivided and have residential structures built or being built on them. (Ravalli County GIS, Site Visit)
3. There is an approximate 40 acre parcel near the South of the property that is used for agricultural activities. (Site Visit)
4. To mitigate the impacts on adjacent agricultural operations, a “Notification of Proximity to Agricultural Operations” will be filed along with the subdivision. (*Condition*)
5. According to the newest NRCS Web Soil Survey data, there are no soils on the property listed as prime farmland or farmland of statewide importance. (Subdivision File)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on agriculture. (MCA 76-3-608(3), RCSR Section 4-7(B)(5)(a))
2. Allowing a subdivision with existing and proposed residential development, on land that is not classified as prime farmland or farmland of statewide importance, benefits the conservation of existing prime farm soils elsewhere in the County. (Staff Determination)
3. This proposal is to separate both existing and proposed home sites onto 1.8+ acre individual lots in an area largely characterized by rural residential development. Homesites on the proposed lots will be located at least 500-feet away from any adjacent agricultural activities. Those activities, therefore, will not be adversely impacted by the proposal. (Staff Determination)

Overall Adjacent Agricultural Operations Conclusion

4. With the mitigating conditions of approval, requirements of final plat approval, requirements of final plat application approval, and existing and proposed residential development to be located on the lots, identified potentially significant adverse impacts of the subdivision on adjacent agricultural operations will be sufficiently mitigated. (Staff Determination)

**CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES**

Findings of Fact

1. There are no surface water rights. (Subdivision Application)
2. A 60’ irrigation and utility easement exists along the East boundary for the existing Supply Ditch.(Subdivision Application)
3. To notify future property owners, and mitigate potential impacts on agricultural water user facilities, a notification of the irrigation pipelines and ditches and associated easements shall be filed with the final plat. (*Condition*)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on agricultural water user facilities. (MCA 76-3-608(3), RCSR Section 4-7(B)(5)(b))
2. With Conditions of this report and requirements of final plat approval, the proposed subdivision will comply with 76-3-504(1)(j) & 76-3-504(1)(k), MCA. (Staff Determination)

Overall Agricultural Water User Facilities Conclusion

3. With the conditions of approval, requirements of final plat approval, and requirements of final plat application approval, identified potentially significant adverse impacts of the subdivision on agricultural water user facilities will be sufficiently mitigated. (Staff Determination)

### **CRITERION 3: EFFECTS ON LOCAL SERVICES**

#### **Findings of Fact:**

##### **Fire District**

1. The subdivision is located within the Three Mile Rural Volunteer Fire District. (Subdivision Application – Subdivision Questionnaire; Ravalli County GIS Data)
2. The Three-Mile Rural Volunteer Fire District has a station approximately 3 miles from the proposed subdivision. (Ravalli County GIS)
3. The Three-Mile Rural Volunteer Fire District, as a member of the Ravalli County Fire Council, has adopted Fire Protection Standards (FPS), which address access, posting of addresses, and on-site water supply requirements. The Fire Protection Standards also state that in lieu of an on-site water supply, a cash contribution of \$900 per new lot is acceptable. (Exhibit)
4. The existing and proposed access of Overlook Trail and the interior subdivision road will provide emergency access to the 3 proposed lots. (Subdivision Preliminary Plat)
5. The Ravalli County Planning Department sent notification letters to the Three-Mile Rural Volunteer Fire District requesting comments on the proposal; however, no agency comments have been received to date. (Subdivision File)

##### **School District**

6. With this subdivision, it is estimated that 1 school-aged child will be added to the Stevensville School District, given the proposed 2 new single-family residences. (Subdivision Application)
7. The Ravalli County Planning Department sent notification letters to the Stevensville School District requesting comments on the proposal; however, no comments have been received from the District to date. (Subdivision File)
8. Taxes from new residents may not be immediately available to School Districts. There is currently no known available data on the average amount of time between when additional students from new residences will enroll in the School District, and when School Districts receive tax money from the new residences. Because there may be a lag in the time services are provided and taxes are collected, the subdivider has proposed a \$250 per new lot mitigation contribution to the Stevensville School District. (Staff Determination, Mitigating Conditions)

##### **Public Safety Services**

9. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Subdivision Application – Subdivision Questionnaire)
10. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on August 21, 2018; however, no comments have been received to date. (Subdivision File)
11. The average number of people per household in Ravalli County is 2.7. This subdivision proposal has the potential to add approximately 2.7 people. (Census 2010 and Staff Determination)
12. The developer has proposed a \$250 per new lot mitigation contribution to Ravalli County Public Safety Services.

##### **Emergency Services**

13. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department, and, potentially, Missoula Emergency Services, Inc., as an alternative. Marcus Daly Hospital and Missoula Emergency Services were contacted on August 21, 2018; however, no comments have been received to date. (Subdivision File)

14. Marcus Daly Memorial Hospital and Missoula Emergency Services are private, non-governmental entities. (Staff Determination)

#### Roads

15. It is estimated that this subdivision will generate an increase of 16 vehicular trips per day, given the 2 proposed new residences on 2 of the lots, and estimates taken from Trip Generation, 7<sup>th</sup> Edition. (Subdivision Application-Summary of Probable Impacts)
16. The property is accessed by Overlook Trail, a private roadway, which in turn is accessed by Eastside Highway, a State-maintained roadway. (Subdivision Application)

#### Water and Wastewater Districts

17. The existing residence is already connected to an individual wells and septic systems, and the proposed new residences will be connected to an individual wells and septic systems. (Subdivision Application)

#### Solid Waste Services

18. Bitter Root Disposal provides service to this site. (Site Visit)
19. Notification letters were sent to Bitter Root Disposal requesting comments; however, no comments have been received to date. (Subdivision File)

#### Postal Service

20. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU), and that the locations of the boxes be approved by the USPS (Exhibit A-4).
21. This subdivision is proposing 3 lots. (Preliminary Plat)

#### Utilities

22. There is an existing residence with existing utilities. The two new residences will be serviced by utilities installed within the existing road and utility easement. (Subdivision Application and Preliminary Plat)
23. The proposed subdivision will be served by NorthWestern Energy and CenturyLink Communications. (Subdivision Application – Subdivision Questionnaire)
24. Notification letters were sent to NorthWestern Energy, Ravalli Electric Cooperative, and CenturyLink Communications requesting comments. Neither agency has offered comments to date. (Subdivision File)

#### Conclusions of Law

1. A subdivision proposal must be reviewed for its impacts on local services. (MCA 76-3-608(3), RCSR Section 4-7(B)(5)(c))

#### Fire District

2. Because the subject property is located within the Three-Mile Rural Volunteer Fire District, the proposal complies with RCSR Section 12-9(F)(2). (Staff Determination)
3. Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to local services, pertaining to the fire district. (Staff Determination, Mitigating Condition)

#### School District

4. Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to local services, pertaining to schools. (Staff Determination, Mitigating Condition)

#### Public Safety Services

5. Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to local services, pertaining to public safety services. (Staff Determination, Mitigating Condition)

#### Emergency Medical Services

6. No potentially significant adverse impacts on local services, pertaining to emergency medical services, have been identified through staff review. (Staff Determination)

#### Roads

7. Based on the lot configurations and road plans, all lots will have legal and physical access. (Staff Determination)

#### Water and Wastewater Districts

8. The subdivider has provided minimum necessary information for public review, as required by 76-3-622, MCA. (Staff Determination, RCEHD Checklist)

#### Solid Waste Services

9. Bitter Root Disposal will continue to provide solid waste disposal services to the property after the subdivision. Bitter Root Disposal was notified, and no comments were received. (Subdivision File)

#### Mail Delivery Services

10. Authority to approve mailboxes rests with the U.S. Postal Service, and through its local post offices. The applicant shall be required to install mail service facilities in accordance with local and federal Postal Service policy. (RCSR Section 12-9(E))

#### Utilities

11. Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement)
12. The subdivider shall submit utility availability certifications, prior to final plat approval. (Final Plat Application Requirement)

#### Overall Local Services Conclusion

13. Based on the findings of fact, conclusions of law, and subject to the conditions, requirements of final plat approval, and requirements of final plat application approval, identified potentially significant adverse impacts of the subdivision on local services will be sufficiently mitigated. (Staff Determination)

### **CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT**

#### Findings of Fact:

##### Surface Water Features

1. There are no existing natural surface water features within the subject property boundary. (Preliminary Plat, Site Visit)
2. There are no wetlands or other riparian areas within the subject property boundary. (Preliminary Plat, Site Visit)

##### Floodplain

3. There are no 100-year flood fringe or floodway areas within the subject property boundary. The closest FEMA-mapped floodplain boundary is over 1 mile to the west, associated with the Bitterroot River. (Ravalli County GIS, Subdivision Application Questionnaire)
4. No subdivision design criteria are required to sufficiently mitigate potentially significant adverse impacts on the natural environment, associated with the FEMA-mapped floodplain. (Staff Determination)

5. No potentially significant adverse impacts on the natural environment, associated with the floodplain, have been identified through review. (Staff Determination)

#### Groundwater Quality

6. The subdivider is proposing continued use of the existing individual well and septic systems on proposed Lot 2 and proposes new well and septic systems for Lots 1 & 3. (Subdivision Application, Preliminary Plat)
7. The subdivider submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department (RCEH) provided documentation indicating that they have received adequate information for local subdivision review to occur. (Subdivision File – RCEH review checklist)

#### Air Quality

8. This proposed subdivision would add two new residences to an area of existing rural residential and agricultural uses. (Subdivision Preliminary Plat and Ravalli County GIS)
9. The Montana Department of Environmental Quality (DEQ) has reviewed the PM<sub>2.5</sub> (particulate matter <= 2.5 micron) data collected in 2007 and incorporated it into the PM<sub>2.5</sub> dataset from the previous three years (2004-2006). As part of that analysis, DEQ identified several communities that continue to experience poor air quality during certain time periods each year. Those communities are located in the following counties: Lincoln, Missoula, Silver Bow, Ravalli, Gallatin, Lewis & Clark, Flathead, Sanders, Yellowstone, and Cascade.
10. Sources of particulate from this subdivision could include vehicles, wood-burning stoves, and open burning. (Staff Determination)

#### Light Pollution

11. The addition of one new residential lot, in an area that currently has low-density development, has limited potential to create light pollution. Sky glow, glare, light trespass into neighbors' homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)

#### Vegetation

12. The subdivider submitted a Ravalli County Subdivision Noxious Weed Evaluation Form, in accordance with the element submission requirements of the RCSR. (Subdivision Application – Noxious Weed Evaluation)

#### Noise

13. The proposed subdivision would separate existing residential uses onto individual lots, in an area of existing residential and commercial uses. (Preliminary Plat, Ravalli County GIS, Site Visit)
14. No potentially significant adverse impacts on the natural environment, pertaining to light pollution, have been identified through review. (Staff Determination)

#### Historical/Archeological Sites

15. A letter from Damon Murdo of the State Historic Preservation Office states that there are no known sites of historical significance on the property with the exception of the Supply Ditch, and a cultural resource inventory is unwarranted at this time. (Subdivision Application, Exhibit)

#### Conclusions of Law:

A subdivision proposal must be reviewed for its impacts on the natural environment. (MCA 76-3-608(3), RCSR Section 4-7(B)(5)(d))

#### Surface Water Features

1. Based on a lack of surface water features in proximity to the proposed subdivision, there should be no impact associated with surface water features. (Staff Determination)

#### Floodplain

2. No potentially significant adverse impacts on the natural environment, associated with the floodplain, have been identified through review. (Staff Determination)

#### Groundwater Quality

3. The initial RCEH submission indicates that the site should be suitable for use of the existing and proposed individual wells and septic systems. This will be verified with the submission of the final RCEH approval of the subdivision. (Staff Determination and Final Plat Application Requirement)

#### Air Quality

4. No potentially significant adverse impacts on the natural environment, pertaining to air quality, have been identified through review. (Staff Determination)

#### Light Pollution

5. No potentially significant adverse impacts on the natural environment, pertaining to light pollution, have been identified through review. (Staff Determination)

#### Vegetation

6. Impacts from this subdivision on natural vegetation will be minimal, given the existing conditions and lack of vegetative species of concern on the property. The impacts on weeds will be sufficiently mitigated with implementation of an approved weed management plan. (Staff Determination)

#### Noise

7. No potentially significant adverse impacts on the natural environment, pertaining to noise pollution, have been identified through review. (Staff Determination)

#### Historical/Archaeological Sites

8. No potentially significant adverse impacts on the natural environment, pertaining to historical/archaeological sites, have been identified through review. (Staff Determination)

#### Overall Natural Environment Conclusion

9. Based on the findings of fact and conclusions of law, and subject to the conditions, requirements of final plat approval, and requirements of final plat application approval, identified potentially significant adverse impacts of the subdivision on the natural environment will be sufficiently mitigated. (Staff Determination)

### **CRITERION 5: EFFECTS ON WILDLIFE**

#### Findings of Fact:

1. Notification letters were sent to Montana Fish, Wildlife, & Parks (FWP) requesting comments. No correspondence has been received to date. (Subdivision File)
2. At the time of preliminary plat submission and according to MNHP, American Bittern, Great Blue Heron, Black Crowned Night Heron, Bald Eagle, Black Necked Stilt, Lewis Woodpecker, Pileated Woodpecker, Brown Creeper, Veery, Bobolink, Evening Gosbeak, Westslope Cutthroat, Little Brown Myotis and Bat Roost were identified as species of concern within the same section as the proposed subdivision. (Subdivision Application – MNHP Report)
3. The subdivider submitted a letter to the Planning Department and included descriptions in the Summary of Probable Impacts, illustrating the absence of each of the above species and their habitats on the property at the present time. (Subdivision File)

#### Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on wildlife. (MCA 76-3-608(3), RCSR Section

4-7(B)(5)(e))

2. The Planning Department has found that the requested “Living with Wildlife” covenants are better suited to be recorded as part of the Notifications Document, as the items listed within the document are more closely identified as recommendations for landowners, rather than restrictions. (Staff Determination)

#### Overall Wildlife Conclusion

3. Based on the findings within the summary of probable impacts, recommended mitigating conditions of approval, and final plat requirements, identified potentially significant adverse impacts of the subdivision on wildlife will be sufficiently mitigated. (Staff Determination)

### **CRITERION 6: EFFECTS ON WILDLIFE HABITAT**

#### Findings of Fact:

1. Notification letters were sent to FWP requesting comments. No correspondence has been received to date. (Subdivision File)
2. At the time of preliminary plat submission and according to MNHP, , American Bittern, Great Blue Heron, Black Crowned Night Heron, Bald Eagle, Black Necked Stilt, Lewis Woodpecker, Pileated Woodpecker, Brown Creeper, Veery, Bobolink, Evening Gosbeak, Westslope Cutthroat, Little Brown Myotis and Bat Roost were identified as species of concern within the same section as the proposed subdivision. (Subdivision Application – MNHP Report)
3. The subdivider’s consultant submitted a letter to the Planning Department and included descriptions in the Summary of Probable Impacts, illustrating the absence of each of the above species and their habitats on the property at the present time. (Subdivision File)

#### Conclusion of Law:

1. A subdivision proposal must be reviewed for its impacts on wildlife habitat. (MCA 76-3-608(3), RCSR Section 4-7(B)(5)(f))

#### Overall Wildlife Habitat Conclusion

2. Based on the findings within the summary of probable impacts, recommended mitigating conditions of approval, and final plat requirements, potentially significant adverse impacts of the subdivision on wildlife habitat will be sufficiently mitigated. (Staff Determination)

### **CRITERION 7: EFFECTS ON PUBLIC HEALTH & SAFETY**

#### Findings of Fact:

##### Traffic Safety

1. Each proposed lot will be accessed from the interior private roadway, via Overlook Trail. (Subdivision Preliminary Plat and Ravalli County GIS)

##### Emergency Vehicle Access and Response Time

2. The proposed subdivision will be served by the Three Mile Rural Volunteer Fire District, the Ravalli County Sheriff’s Office, Marcus Daly Memorial Hospital EMS Department, and Missoula Emergency Services as an alternative. (Subdivision Application)
3. Notification letters were sent to the Three Mile Rural Volunteer Fire District, Ravalli County Sheriff’s Office, Marcus Daly Memorial Hospital EMS Department, and Missoula Emergency Services requesting comments; however, no comments have been received to date. (Subdivision File)

##### Water and Wastewater

4. The subdivider is proposing use of the existing individual wells and septic systems on Lot 2, and the proposed individual well and septic systems on Lots 3 & 4. The subdivider submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided



documentation indicating that they have received adequate information for local subdivision review to occur. (Subdivision Application)

#### Natural and Man-Made Hazards

5. 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)
6. The Supply Ditch presents a potential hazard to residential use. A fence shall be required along the Supply Ditch as a condition of final plat (Subdivision Application, Staff Determination, Conditions)

#### Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on public health and safety. (MCA 76-3-608(3), RCSR Section 4-7(B)(5)(g))

#### Traffic Safety

2. The subdivision will add an additional 2 residences on an existing road system which has 12 existing residences on it. The road system will be improved to county standard either with compacted recycled asphalt or pavement, depending on the variance application decision. (Preliminary Plat, Staff Determination)

#### Emergency Vehicle Access and Response Time

3. In accordance with Ravalli County Subdivision Regulation Design Standards and Three-mile Volunteer Rural Fire Department “Fire Protection Standards”, all roads and driveways providing access to and within the proposed subdivision will meet County and Fire District standards, which will ensure adequate emergency vehicle access. (Staff Determination)

#### Water and Wastewater

4. In accompaniment to the preliminary plat submission, the subdivider is required to submit water and sanitation information in accordance with the requirements outlined within MCA 76-3-622(2).
5. The subdivider is required to submit an MDEQ Certificate of Subdivision Approval, or RCEH approval, prior to final plat approval. (Final Plat Application Requirement 11)

#### Natural and Man-made Hazards

6. Radon exposure risks can be minimized through the mitigating conditions of approval. (Staff Determination)
7. The supply ditch presents a hazard for residential uses. The developer is proposing a woven wire fence along the Supply Ditch on the Easterly edge of the subdivision. (Summary of probable impacts, Conditions)

#### Overall Public Health and Safety Conclusion

8. Based on the findings of fact and conclusions of law, and subject to the conditions of approval, requirements of final plat approval, and requirements of final plat application approval, potentially significant adverse impacts of the subdivision on public health and safety will be sufficiently mitigated. (Staff Determination)

### **3. COMPLIANCE WITH CORE APPLICATION COMPONENTS**

Section 4-10(C) of the RCSR states that in making its decision to approve, conditionally approve, or deny a proposed subdivision, the BCC shall consider and weigh the following, as applicable:

#### **A. The Preliminary Plat Application.**

##### **Finding of Fact**

1. A preliminary plat application and preliminary plat are required to be submitted and reviewed for all subdivision proposals. (RCSR Section 2-2)

Conclusion of Law

1. The preliminary plat application and preliminary plat have been reviewed in conformance with the Ravalli County Subdivision Regulations, and relevant findings of fact and conclusions of law offered, as detailed in previous sections of this report. (Staff Determination)

**B. The Summary of Probable Impacts (RCSR Appendix G).**

Findings of Fact

1. 1. A Summary of Probable Impacts assessment is required to be submitted for all subdivision proposals. (RCSR Appendix G(3))
2. 2. A Summary of Probable Impacts assessment was submitted by the applicant, and closely reviewed for potentially significant adverse impacts on the seven subdivision review criteria. (Subdivision Application, Staff Determination)
3. 3. This subdivision proposal is for a 3-lot minor subdivision. (Subdivision Application)
4. 4. Potentially significant adverse impacts on the seven subdivision review criteria were identified in the review process. (Staff Determination)
5. 5. Identified potentially significant adverse impacts to the seven subdivision review criteria will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

Conclusions of Law

1. 1. The submitted Summary of Probable Impacts assessment complies with the requirements of the RCSR, including Appendix G. (Staff Determination)
2. 2. Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to the seven subdivision review criteria. (Staff Determination)

**C. The Applicant's Expressed Preference for Mitigation.**

Findings of Fact

1. 1. The applicant of all subdivisions is encouraged to submit comments on the Planning Staff's report, and express any preferences for mitigation that have not already been addressed in the submitted application materials. (RCSR Section 4-10(C)(3)).
2. 2. No preferences for mitigation, beyond those addressed in the submitted application materials, have been submitted to Planning to date. (Subdivision File)

Conclusion of Law

1. The subdivider was consulted with, and subdivider's expressed preferences were given due weight and consideration, as required by § 76-3-608(5)(b), MCA. (Staff Determination)

**D. Any officially adopted Growth Policy, which shall be considered as one factor and shall not be the sole basis for any decision.**

Finding of Fact

1. Ravalli County does not have an officially adopted Growth Policy. (Staff Determination)

Conclusion of Law

1. Since Ravalli County has no officially adopted Growth Policy, no related provisions were considered during review of this subdivision proposal. (Staff Determination)

**Comments, Credible Evidence, and Discussions at the Public Meeting(s).**

Findings of Fact

1. The Ravalli County Board of County Commissioners' (BCC) Public Meeting procedures allow for the consideration of public and agency comments, credible evidence, and Board discussions, in analyzing the subdivision application materials and issuing a decision on the subdivision proposal. (RCSR Section 4-10(C)(5))
2. No new information was presented at the public meeting. (Staff Determination)

Conclusions of Law

1. The BCC's consideration of public and agency comments, credible evidence, and Board discussions, in reviewing the subdivision application materials, will assist in issuing a well-informed decision on the subdivision proposal. (Staff Determination)
2. The public had a reasonable opportunity to examine and comment on the application and all pertinent information. No additional meetings or opportunity to examine additional information is necessary, because no new information was presented at the public meeting. (Staff Determination)

**E. The Planning Department's Final Staff Report and Recommendations.**

Findings of Fact

1. The Planning Department must prepare a final staff report and recommendation for the BCC's review of the subdivision proposal, based on the requirements in RCSR Section 4-10, prior to the BCC's Public Meeting. (RCSR Section 4-5(B))
2. The Planning Department recommends conditional approval of this subdivision proposal, based on the findings of fact, conclusions of law, and recommended conditions of approval in this staff report. (Staff Determination)

Conclusion of Law

1. The BCC shall consider this final staff report and recommendation, compiled by Planning Department Staff, prior to issuing a decision on the subdivision proposal. (Staff Determination)

**F. The Planning Board's Comments and Recommendations.**

Findings of Fact

1. The Planning Department must incorporate any modifications into the final staff report, as recommended by the Planning Board through the Planning Board's Public Meeting review procedures. (RCSR Section 4-10(C)(7)).
2. RCSR Section 4-5(C) states that Planning Board review is optional for minor subdivisions. The Planning Board's Subdivision Review Process document outlines the criteria the Planning Staff is to use in determining whether or not the Planning Board should review a development proposal. Planning Staff determined that Planning Board review was not required for this subdivision proposal, based upon the following:
  - As mitigated, Planning Staff found that this proposal would not result in potentially significant adverse impacts to the seven subdivision review criteria.
  - There are 3 lots proposed.
  - The property contains less than 100 acres.
  - Planning Staff did not recommend denial of the subdivision proposal.

Conclusion of Law

1. Planning Board review is not required for this proposal. (Staff Determination)

**G. Any Additional Information Authorized by Law.**

Finding of Fact

1. The BCC, during its Public Hearing, shall consider any additional information authorized by law. (RCSR Section 4-10(C)(8))

Conclusion of Law

1. Prior to issuing a decision on the subdivision proposal, the BCC shall consider any additional information authorized by law that is relevant to the proposal. (Staff Determination)