



# Barstad AP Lot 15-A, AP 352, Block 8, Sunnyside Orchards THREE-LOT MINOR SUBDIVISION

## FINAL STAFF REPORT FOR RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

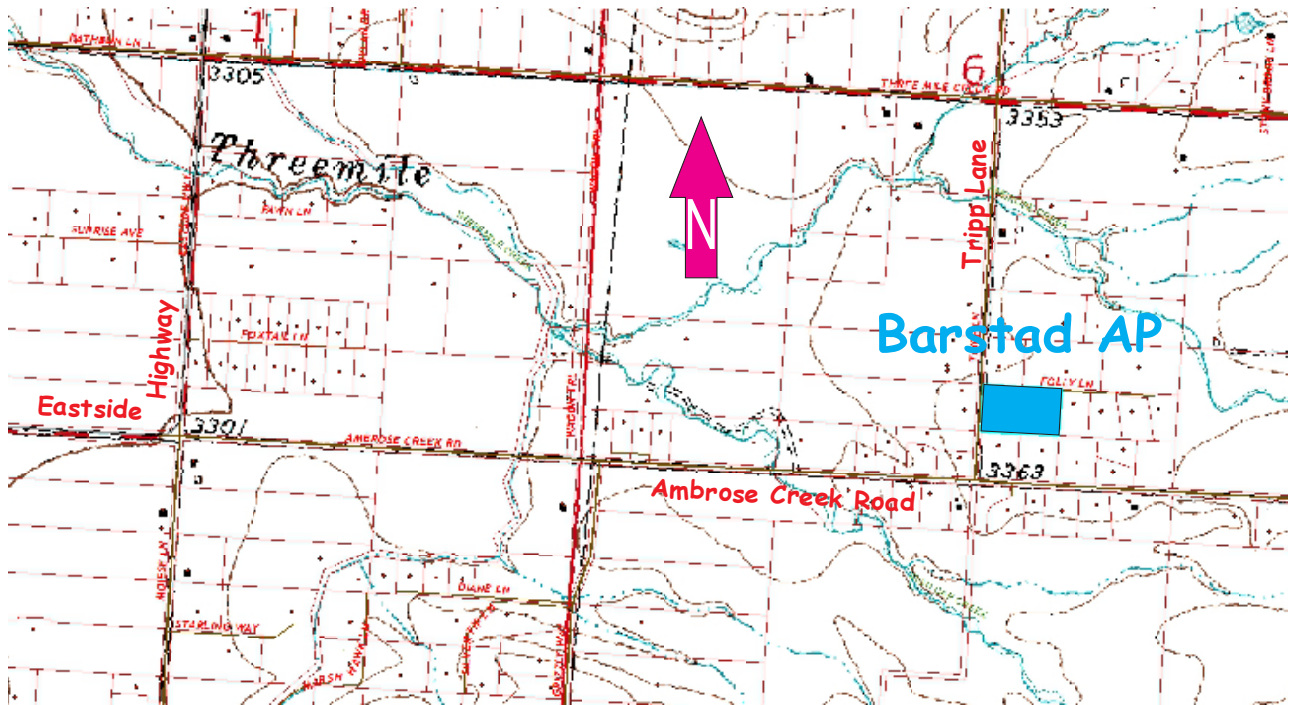
**CASE PLANNER:** Terry Nelson/Brian Wilkinson

**PUBLIC MEETING:** BCC Public Meeting: Friday, May 31<sup>st</sup>, 2019  
Deadline for BCC action  
(35 working-days): June 18<sup>th</sup>, 2019

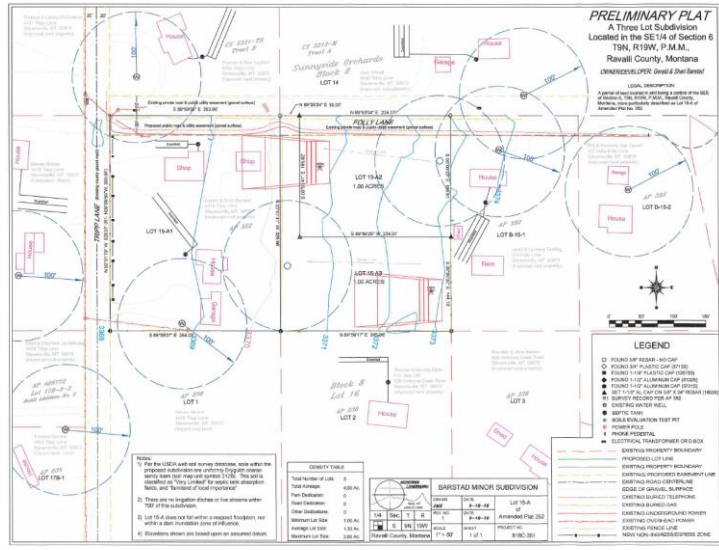
**SUBDIVIDERS:** Gerald Barstad  
4414 Tripp Lane  
Stevensville, MT 59870

**REPRESENTATIVE:** RAM Engineering, Ron Uemura  
P.O. Box 2130  
Hamilton, MT 59840

**LOCATION OF REQUEST:** The subdivision property is located approximately 330 feet north of the intersection of Ambrose Creek Road and Tripp Lane., Northeast of Stevensville in the Three Mile area.  
(See Location Map, below).



Location Map (Source Data: Ravalli County GIS Department)



**LEGAL DESCRIPTION OF PROPERTY:**

Lot 15-A, Amended Subdivision Plat No. 352, Block 8, Sunnyside Orchards, also a portion of the SW¼ of Section 6, T9N, R19W, P.M.M., Ravalli County, Montana.

**APPLICATION INFORMATION:**

The subdivision application was deemed sufficient for public review on May 7<sup>th</sup>, 2019. Agencies were notified of the subdivision on May 15<sup>th</sup>, 2019. Comments received from agencies are in the staff report. **This subdivision is being reviewed under the Ravalli County Subdivision Regulations (RCSR) amended June 4, 2012.**

**LEGAL NOTIFICATION:**

Notice of the project was posted on the property on May 15<sup>th</sup>, 2019 and property owners adjacent to, and within 300’ of, the property, in addition to the applicant, were notified by regular mail dated May 15<sup>th</sup>, 2019. A legal notice was placed in the Ravalli Republic on May 15<sup>th</sup>, 2019. No public comments have been submitted to date.

**DEVELOPMENT PATTERN:**

Subject property:	Residential
North:	Residential
South:	Residential
East:	Residential
West:	Residential/Agricultural

**INTRODUCTION**

AP 15-A Amended Subdivision Plat No. 352, Block 8, Sunnyside Orchards Subdivision is a proposed 3-lot minor subdivision on 4.00 acres. The applicant is Gerald Barstad represented by Ron Uemura of RAM Engineering. The subdivision is located on at 4414 Tripp Lane, Stevensville, to the Northeast of the intersection of Ambrose Creek Road and Tripp Lane. The subdivision is located within the SW¼ of Section 6, T9N, R19W, P.M.M., Ravalli County, Montana. Currently, direct access to the property is from two existing driveways and Folly Lane off of Tripp Lane. The property is located within the Lone Rock and Stevensville School District and the Three Mile Rural Fire District. The proposed lots will be served by individual septsics and existing individual wells. The subdivision is anticipated to add 1 new child to the Lone Rock and Stevensville School District and 16 new vehicular trips per day to the road system.

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

## RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

### Barstad AP Lot 15-A, AP 352, Block 8, Sunnyside Orchards THREE LOT MINOR SUBDIVISION

#### **PLANNING STAFF RECOMMENDED MOTION**

That the Barstad AP Lot 15-A, AP 352, Block 8, Sunnyside Orchards THREE LOT MINOR SUBDIVISION preliminary plat application and preliminary plat 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 MITIGATING CONDITIONS OF APPROVAL**

*The following conditions have been recommended to mitigate any potentially significant adverse impacts 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, and attachments listed below, shall be included in the submission of the final plat to the Planning Department, and filed with the final plat (Note: The italicized Ravalli County Subdivision Regulations citations following each notification are for reference only, and need not be included in the required Notifications Document):

***Notification of Limitation of Access onto Roadways Abutting this Subdivision.*** A "no-ingress/egress" restriction exists along the Ridge Road frontage with this subdivision, except the existing accesses, as shown on the final plat. This limitation of access may be lifted or amended only with the approval of the Ravalli County Board of County Commissioners. (*RCSR Section 4-10(B)(5)(c), Effects on Local Services, and Section 4-10(B)(5)(g), Effects on Public Health and Safety*)

***Notification of Seasonal Open Burning.*** 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 4-10(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 4-10(B)(5)(g), Effects on Public Health and Safety*)

***Notification Regarding Junk Vehicles.*** Junk vehicles are required to be removed, shielded, or repaired, in accordance with the Montana Motor Vehicle Recycling and Disposal Act, Title 75, Chapter 10, Part 5, MCA. (*RCSR Section 4-10(B)(5)(g), Effects on Public Health and Safety*)

**Notification of 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, gardens, 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. **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, 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 animal-resistant containers, or indoors to avoid attracting wildlife, such as raccoon and black bear. If stored indoors, it is best not to set garbage cans out until the morning of garbage pickup; bring cans back indoors by the end of the day.
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer, wild turkey or other wildlife, including during the 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, etc.), 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.
- e. Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- f. **Birdseed** in bird feeders attracts bears. If used, bird feeders should: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) 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.
- g. **Pets** must be kept indoors, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and/or 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 be held guilty (§ 87-3-124, MCA).
- h. **Pet food and livestock feed** should be stored indoors, in closed sheds, or in bear-resistant containers, in order to avoid attracting wildlife, such as bears, mountain lions, skunks, and raccoons. **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 property.

- i. **Barbecue grills** should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife. (Due to the potential hazard of fire and explosion, propane cylinders for gas-fueled grills should be disconnected and kept outdoors. Under no circumstances should propane cylinders be stored indoors.)
- j. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement. Contact FWP for information, and/or a brochure, on building fences with wildlife in mind.
- k. **Compost piles** can attract skunks and bears. If used, they should be kept in wildlife-resistant containers or structures. 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. (Due to the potential fire hazard associated with decomposition of organic materials, compost piles should be kept at least 10 feet from structures.)
- l. **Apiaries (bee hives)** could attract bears in this area. (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.)
- m. These “living with wildlife” covenants cannot be altered or eliminated without the concurrence of the governing body (County Commissioners).

*(RCSR Section 4-10(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 (Note: The italicized Ravalli County Subdivision Regulations citations following each covenant section are for reference only, and need not be included in the required Covenants Document):

**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 4-10(B)(5)(a), Effects on Agriculture; (d), Effects on Natural Environment; and (g), Effects on Public Health and Safety)*

**Required Posting of County-Issued Addresses for Lots within this Subdivision.** The Three Mile Rural 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 4-10(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety)*

**Access Requirements for Lots within this Subdivision.** Three Mile Rural 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 20' with 1' shoulders, a vertical clearance of 13'6", and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Victor Rural Fire District for further information. *(RCSR Section 4-10(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 4-10(B)(5)(d), Effects on Natural Environment)*

**Installation of Wood Stoves.** If wood-burning stoves are to be used, lot owners shall install EPA-certified wood stoves to reduce air pollution. It is recommended that wood-burning stoves not be used as the primary heat source. More information is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative



Energy Systems Credit for the cost of purchasing and installing a low-emission wood or biomass combustion device, such as a pellet or wood stove. (RCSR Section 4-10(B)(5)(d), *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. (RCSR Section 4-10(B)(5), *Effects on all seven criteria*)

3. **RSID/SID Waiver:** The subdividers shall 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, a community water system, 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. This waiver will expire 20 years after the date the final plat is filed with the Ravalli County Clerk and Recorder.” (RCSR Section 4-10(B)(5)(c), *Effects on Local Services; (g), Effects on Public Health & Safety; and 76-3-608(7), MCA*)
4. **Addresses:** The subdivider shall provide evidence with the final plat submission that they have applied for County-issued addresses with the Clerk and Recorder’s Office for each lot within this subdivision. Physical address numbers may be picked up at the Clerk and Recorder’s Office only after the final subdivision plat is filed, new lots created, and new Tax ID numbers are issued. (RCSR Section 4-10(B)(5)(c), *Effects on Local Services; and (g), Effects on Public Health & Safety*)
5. **Fire Suppression:** Prior to final plat approval, the subdivider shall provide a receipt for payment of \$900 per new lot to the Three Mile Rural Fire Department. (RCSR Section 4-10(B)(5)(c), *Effects on Local Services; and (g), Effects on Public Health & Safety*)
6. **School District Mitigation:** The subdivider shall provide a receipt for payment of \$125 per lot to the Lone Rock School District and \$125 per lot to the Stevensville School District. (RCSR Section 3-7(B)(5)(c), *Effects on Local Services*)
7. **Public Safety Services Mitigation:** The subdivider shall provide a receipt for payment of \$150 per lot to the Ravalli County Treasurer for Public Safety Services. (Sheriff, E-911, DES.) (RCSR Section 4-10(B)(5)(c), *Effects on Local Services; and (g), Effects on Public Health & Safety*)

#### **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 one mylar 18” x 24” or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivision 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. **Please note** that the final plat must be reviewed by the Ravalli County Geographic Information Systems (GIS) Department, prior to filing with the Clerk and Recorder. To help expedite the process, it is recommended that the subdivider email the plat to GIS Department Director Ken Miller at [kmiller@rc.mt.gov](mailto:kmiller@rc.mt.gov), and complete any required revisions, prior to submitting the final plat and accompanying documents to the Planning Department for review. Please be advised that failure to submit the plat to GIS for review may delay its recording, as the Clerk and Recorder’s Office would then need to submit the survey for review, as time permits.
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 more than one (1) year prior to the date of final plat application submission.
11. The MDEQ Certificate of Subdivision Approval or RCEHD 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 RCRBD and MDOT, 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, U.S. Army Corps of Engineers, and/or the Ravalli County Floodplain Program.~~

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 pro-rata share has been paid, if required.

31. Evidence that improvements have been made 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](#).

32. Evidence that a Collection Box Unit (CBU) has been installed, in accordance with local and federal Postal Service Policy, or a written approval from the local Post Office that a CBU is not necessary.

### **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), utility easements, and irrigation easements.

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 ditches/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 RCEHD 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 MDOT State Highway access or encroachment permit, or a written approval from MDOT that a permit is not necessary, 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

### **1. 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.**

##### Findings of Fact

1. Ravalli Electric Cooperative provides electric service to the subdivision lots, Northwestern Energy provides Natural Gas Service, and CenturyLink Communications, telephone service. (Subdivision Questionnaire, Summary of Probable Impacts)
2. Existing phone, electric, and gas lines are locating to and within this subdivision. Easements for these utilities are shown on the preliminary plat and shall be included on the Final Plat. (Preliminary Plat)

Conclusions of Law

1. The preliminary plat and associated application materials present credible evidence that utility easements will serve the subdivision. (Staff Determination)
2. With a requirement of final plat approval, the proposed subdivision will provide for public utility easements. (Staff Determination)

**B. Requirement that (i) the proposed subdivision provides physical and legal access to each lot; (ii) the preliminary plat depicts access; and (iii) each instrument transferring title to a subdivision lot includes access appurtenant to the legal description.**

Findings of Fact

1. The subdivision property gains legal and physical access from Ridge Road, a County-maintained roadway, on the property's south side. (Preliminary Plat, Ravalli County GIS)
2. There are no physical obstructions preventing access from Ridge Road to the existing driveways. (Ravalli County GIS)

Conclusion of Law

The preliminary plat and associated application materials present credible evidence that there is legal and physical access to the subdivision property. (Staff Determination)

**C. Requirement that applicant will install required improvements before final plat approval, or that applicant will guarantee their installation after final plat approval, as provided by Appendix I of Ravalli County Subdivision regulations.**

Finding of Fact

All improvements, including structures, driveways, and utilities, are existing, and no additional improvements are proposed for the subdivision. (Subdivision Application, Preliminary Plat, Ravalli County GIS)

Conclusion of Law

Since the necessary improvements are already existing and installed, no further improvements are required to be installed for this subdivision. (Staff Determination)

**D. Requirement under 76-3-504(1)(j), MCA, that applicant reserve all or a portion of the appropriated water rights, establish a landowner's water use agreement, or sever all surface water rights.**

Findings of Fact

1. The proposed lots associated with this subdivision are each less than 5 acres. Section 76-3-504(1)(j), MCA, applies when a subdivision property with water rights creates parcels with lot sizes averaging less than 5 acres. (Staff Calculation, Staff Determination)
2. No water rights are appurtenant to the subdivision property. The property is not entitled to water from an organized ditch company. (DNRC Water Rights Query Webpage, Subdivision Questionnaire, Summary of Probable Impacts)

Conclusion of Law

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

**E. Requirement under 76-3-504(1)(k), MCA, pertaining to ditch easements and potential buyer notification.**

Finding of Fact

No irrigation ditches are located within, nor in proximity to, the subdivision property boundaries. (Ravalli County GIS, Preliminary Plat, Subdivision Questionnaire, Summary of Probable Impacts, Site Visit)

Conclusion of Law

Since no irrigation ditches are located within, or near, the subdivision property boundaries, the requirements of 76-3-504(1)(k), MCA, do not apply to this subdivision proposal. (BCC Determination)

## **2. 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. The Ravalli County Subdivision Regulations, including, but not limited to, the Design and Development 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 subdivision proposal has followed the necessary application procedures, and has been reviewed within the procedures provided in Chapters 2 and 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 applicable substantive requirements in the RCSR. (Staff Determination)
2. The procedures for the application and review of this proposed subdivision have been followed. (Staff Determination)

### **B. Any applicable zoning regulations.**

#### Finding of Fact

There are no applicable zoning regulations affecting the proposed subdivision. (Staff Determination)

#### Conclusion of Law

Compliance with zoning regulations is not applicable for this proposal. (Staff Determination)

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

#### Finding of Fact

There are no existing covenants or deed restrictions on this property. (Subdivision Questionnaire, Ravalli County Clerk and Recorder's Office)

#### Conclusion of Law

Compliance with existing covenants or deed restrictions is not applicable for this proposal. (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 (MDEQ 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 applicant was made aware of the applicable regulations at the pre-application conference held on August 23<sup>rd</sup>, 2018. (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)

#### Conclusion of Law

With the mitigating 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. Requirements of the MSPA, including, but not limited to, an evaluation of the impacts of the subdivision on the following criteria:**

**1. CRITERION 1: EFFECTS ON AGRICULTURE**

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. The surrounding properties within 300 feet of the subject property are all classified as Residential Rural or Rural Farmstead. The surrounding properties range in size from 1 to 10 acres. (Montana Cadastral Database, Ravalli County GIS)
3. The subject property is not currently in agricultural production. (Subdivision File-Summary of Probable Impacts, Site Visit, Ravalli County GIS)
4. 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)
5. The subdivision property is comprised of “Drygulch coarse sandy loam” soil (Map Unit Symbol 312B.) This soil is classified as Farmland of Local Importance. (Subdivision Application-NRCS Web Soil Survey data)
6. Potentially significant adverse impacts on agriculture, specifically, those associated with weeds, have been identified through review. (Staff Determination)
7. Identified potentially significant adverse impacts on agriculture will be sufficiently mitigated, by compliance with conditions of subdivision approval. (Staff Determination, Mitigating Condition, Final Plat Application Requirement)

Conclusion of Law

Compliance with the conditions of subdivision approval will sufficiently mitigate identified potentially significant adverse impacts to agriculture. (Staff Determination, Mitigating Condition, Final Plat Application Requirement)

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

Findings of Fact

1. No water rights are appurtenant to the subdivision property. The property is not entitled to water from an organized ditch company. (DNRC Water Rights Query Webpage, Subdivision Questionnaire, Summary of Probable Impacts)
2. No irrigation ditches are located within, nor in proximity to, the subdivision property boundaries. (Ravalli County GIS, Preliminary Plat, Subdivision Questionnaire, Summary of Probable Impacts, Site Visit)
3. No potentially significant adverse impacts on agricultural water user facilities have been identified through staff review. (BCC Determination)

Conclusion of Law

No potentially significant adverse impacts on agricultural water user facilities have been identified through the review process. (BCC Determination)

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

Findings of Fact

Fire District

- 1.1 The subdivision is located within the Three Mile Rural Fire District. (Ravalli County GIS)
- 1.2 The Three Mile Rural Fire District has a station approximately 2.7 miles to the east of the proposed subdivision. (Ravalli County GIS, Subdivision Questionnaire)
- 1.3 The Three Mile Rural 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 is acceptable
- 1.4 The Ravalli County Planning Department sent notification letters to the Three Mile Rural Fire District, requesting comments on the proposal; no comments have been received to date. (Subdivision File)
- 1.5 The subdivider has proposed to pay mitigation fees of \$900 per new lot to the Three Mile Fire District. (Phone call to RAM Engineering 5-7-2019)

- 1.6 Potentially significant adverse impacts on local services, pertaining to the Three Mile Rural Fire District, have been identified through review. (Staff Determination)
- 1.7 Identified potentially significant adverse impacts on local services, pertaining to the Three Mile Rural Fire District, will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

#### School District

- 2.1 With this subdivision, it is estimated that one (1) school-aged child will be added to the Lone Rock and Stevensville School Districts. (Subdivision Questionnaire, Staff Determination)
- 2.2 The Ravalli County Planning Department sent notification letters to the Lone Rock and Stevensville School Districts, requesting comments on the proposal; no comments have been received to date. (Subdivision File)
- 2.3 The subdivider has proposed to pay \$250 per new lot mitigation fees to the Lone Rock and Stevensville School Districts, no amount has been agreed to yet. (Phone call to RAM Engineering 5-7-2019)
- 2.4 No potentially significant adverse impacts on local services, pertaining to the Lone Rock and Stevensville School Districts, have been identified through staff review. (Staff Determination)

#### Public Safety Services

- 3.1 The Ravalli County Sheriff's Office provides law enforcement services to this area. (Subdivision Questionnaire, Staff Determination)
- 3.2 Notification letters were sent to the Ravalli County Sheriff's Office, requesting comments; no comments have been received to date. (Subdivision File)
- 3.3 The subdivider has proposed to pay \$150 per new lot mitigation fees to Public Safety Services. (Phone call to RAM Engineering 5-7-2019)
- 3.4 Potentially significant adverse impacts on local services, pertaining to Public Safety Services, have been identified through review. (Staff Determination)
- 3.5 Identified potentially significant adverse impacts on local services, pertaining to public safety services, will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

#### Emergency Medical Services

- 4.1 Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. Marcus Daly Hospital was notified of this subdivision; no comments have been received to date. (Subdivision File)
- 4.2 Marcus Daly Memorial Hospital is not funded by local taxes. (Staff Determination)
- 4.3 No potentially significant adverse impacts on local services, pertaining to emergency medical services, have been identified through staff review. (Staff Determination)

#### Roads

##### Roads

- 5.1 This subdivision, at build-out, is expected to generate an additional 16 daily vehicular trips to the road network for two new single-family residences, based on estimates taken from Trip Generation, 7<sup>th</sup> Edition. (Summary of Probable Impacts)
- 5.2 The new lots are accessed by Folly Lane, a privately-maintained roadway. (Preliminary Plat, Ravalli County GIS, Site Visit)
- 5.3 The subdivision property's frontage with Tripp Lane, a county maintained roadway along the property's west boundary, is proposed to be encumbered with a no-ingress/egress zone except for the existing accesses for the existing improvement on Lot 1 and the access onto Folly Lane. (Preliminary Plat, Ravalli County GIS)
- 5.4 A letter from Ravalli County Road and Bridge Department (RCRBD) Administrator John Horat to consulting Engineer Ron Uemura of RAM Engineering was received by Planning March 5<sup>th</sup>, 2019. (Subdivision Application)
- 5.5 A Traffic Impact Analysis (TIA) for the property was prepared by the subdivider's consulting engineer. Primary findings within the TIA indicate that no significant transportation impacts are anticipated. (Subdivision Application-Traffic Impact Analysis)
- 5.6 The TIA was approved by RCRBD Administrator John Horat, in consultation with Professional Consultants, Inc., in a letter to Planning. The pro-rata fee, calculated by RCRBD on August 29, 2018 is \$5238
- 5.7 The subdivider has submitted a preliminary Roadway Maintenance Agreement for Folly Lane, which applies to the two new lots. A final Roadway Maintenance Agreement must be filed with the final plat. (Subdivision Application, Final Plat Application Requirement)

- 5.8 Potentially significant adverse impacts on local services, pertaining to roads, have been identified through review. (BCC Determination)
- 5.9 Identified potentially significant adverse impacts on local services, pertaining to roads, will be sufficiently mitigated, by compliance with the conditions of final plat approval. (BCC Determination)

#### Water and Wastewater Districts

- 6.1 The applicant proposes to meet the requirement of providing domestic water through existing and proposed individual wells, and proposes to meet the requirement of providing wastewater and sewage treatment through existing and proposed septic. (Subdivision Questionnaire, Summary of Probable Impacts, Preliminary Plat)
- 6.2 MDEQ is the reviewing authority for water and wastewater provisions. (Staff Determination)
- 6.3 The subdivider submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department (RCEHD), contracting with MDEQ, provided documentation indicating that they have received adequate information for local subdivision review to occur. (Subdivision File – RCEHD review checklist)
- 6.4 The property was previously approved through DEQ and RCEHD for the existing residence. The septic permit was issued in 1979 as permit no. 1352 and DEQ approval no. 1463. (Subdivision Application)
- 6.5 Potentially significant adverse impacts on local services, pertaining to water and wastewater districts, have been identified through review. (Staff Determination)
- 6.6 Identified potentially significant adverse impacts on local services, pertaining to water and wastewater districts, will be sufficiently mitigated, by compliance with the conditions of final plat approval, and by compliance with MDEQ rules and regulations. (Staff Determination)

#### Solid Waste Services

- 7.1 Bitter Root Disposal services the area. (Staff Determination)
- 7.2 Notification letters were sent to Bitter Root Disposal, requesting comments; no comments have been received to date. (Subdivision File)
- 7.3 Bitter Root Disposal is a private service provider, and is not funded by local taxes. (Staff Determination)
- 7.4 No potentially significant adverse impacts on local services, pertaining to solid waste services, have been identified through staff review. (Staff Determination)

#### Postal Service

- 8.1 The United States Postal Service (USPS), through the Victor Post Office, services the area. (Staff Determination)
- 8.2 The 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-2)
- 8.3 This subdivision will contain two (2) lots. (Subdivision Application, Preliminary Plat)
- 8.4 A condition of approval will require evidence that a Collection Box Unit (CBU) has been installed, in accordance with local and federal Postal Service Policy, or a written approval from the local Post Office that a CBU is not necessary. (Final Plat Application Requirement)
- 8.5 No potentially significant adverse impacts on local services, pertaining to postal service, have been identified through staff review. (Staff Determination)

#### Utilities

- 9.1 NorthWestern Energy is proposed to provide natural gas service to the subdivision lots,. Ravalli Electric Coop provides electricity, and CenturyLink Communications provides telephone service. (Subdivision Questionnaire, Summary of Probable Impacts)
- 9.2 Existing phone, electric, and gas lines are located along the edge and within the subdivision. Easements for these utilities are shown on the preliminary plat and will be shown on the final plat. (Preliminary Plat,)
- 9.3 Notification letters were sent to Ravalli Electric Coop, CenturyLink Communications and NorthWestern Energy, requesting comments; no comments have been received to date. (Subdivision File)
- 9.4 Potentially significant adverse impacts on local services, pertaining to utilities, have been identified through review. (Staff Determination)
- 9.5 Identified potentially significant adverse impacts on local services, pertaining to utilities, will be sufficiently mitigated, by compliance with the conditions of final plat approval, and the provision for public utility easements. (Staff Determination)

## Conclusions of Law

### Fire District

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

### School District

- 2.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to local services, pertaining to Stevensville and Lone Rock Schools. (Staff Determination, Mitigating Condition)

### Public Safety Services

- 3.1 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

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

### Roads

- 5.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to local services, pertaining to roads. (Staff Determination, Mitigating Conditions, Final Plat Requirements)

### Water and Wastewater Districts

- 6.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to local services, pertaining to water and wastewater districts. (Staff Determination, Final Plat Application)

### Solid Waste Services

- 7.1 No potentially significant adverse impacts on local services, pertaining to solid waste services, have been identified through staff review. (Staff Determination)

### Postal Service

- 8.1 No potentially significant adverse impacts on local services, pertaining to postal service, have been identified through staff review. (Staff Determination)

### Utilities

- 9.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to local services, pertaining to utilities. (Staff Determination, Final Plat Application Requirement, Final Plat Requirement)

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

### Findings of Fact

#### Surface Water Features

- 1.1 There are no surface water features within, nor within proximity to, the subdivision property boundaries. (Ravalli County GIS, Site Visit, Subdivision Questionnaire)
- 1.2 No potentially significant adverse impacts on the natural environment, pertaining to surface water features, have been identified through review. (Staff Determination)

## Floodplain

- 2.1 There are no 100-year floodfringe or floodway areas within the subject property boundary. The closest FEMA-mapped floodplain boundary is a little more than ¼ mile to the Northwest, associated with Three Miler Creek. (Ravalli County GIS, Subdivision Application Questionnaire)
- 2.2 Ambrose Creek is within 1000 feet horizontally and 10 feet horizontal. A flood determination was completed by the consulting engineer showing that Ambrose Creek flooding should not affect this property. (subdivision application)
- 2.3 No subdivision design criteria are required to sufficiently mitigate potentially significant adverse impacts on the natural environment, associated with the FEMA-mapped floodplain or Ambrose Creek. (Staff Determination)
- 2.4 No potentially significant adverse impacts on the natural environment, associated with the floodplain, have been identified through review. (Staff Determination)

## Groundwater Quality

- 3.1 The applicant proposes to meet the requirement of providing domestic water through existing individual wells, and proposes to meet the requirement of providing wastewater and sewage treatment through existing and proposed individual septics. (Subdivision Questionnaire, Summary of Probable Impacts, Preliminary Plat)
- 3.2 MDEQ is the reviewing authority for water and wastewater provisions. (Staff Determination)
- 3.3 The subdivider submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department (RCEHD), contracting with MDEQ, provided documentation indicating that they have received adequate information for local subdivision review to occur. (Subdivision File – RCEHD review checklist)
- 3.4 Potentially significant adverse impacts on the natural environment, pertaining to groundwater quality, have been identified through review. (Staff Determination)
- 3.5 Identified potentially significant adverse impacts on the natural environment, pertaining to groundwater quality, will be sufficiently mitigated, by compliance with the conditions of final plat approval, and by compliance with MDEQ rules and regulations. (Staff Determination)

## Air Quality

- 4.1 The proposed subdivision would separate existing residential uses onto individual lots, in an area of existing residential uses within the three mile area. (Preliminary Plat, Ravalli County GIS, Site Visit)
- 4.2 MDEQ has reviewed the PM2.5 (particulate matter <= 2.5 micron) data collected in 2007 and incorporated it into the PM2.5 dataset from the previous three years (2004-2006). As part of that analysis, MDEQ 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. (MDEQ Study)
- 4.3 Sources of particulate from this subdivision could include vehicles, wood-burning stoves, and open burning. (Staff Determination)
- 4.4 No potentially significant adverse impacts on the natural environment, associated with air quality, have been identified through review. (Staff Determination)

## Light Pollution

- 5.1 The proposed subdivision would separate existing residential uses onto individual lots, in an area of existing rural residential uses within the three mile community. (Preliminary Plat, Ravalli County GIS, Site Visit)
- 5.2 Sky glow, glare, light trespass into neighbors' homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)
- 5.3 No potentially significant adverse impacts on the natural environment, associated with light pollution, have been identified through review. (Staff Determination)

## Vegetation

- 6.1 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)
- 6.2 The subdivision property consists of a few trees and shrubs amidst the existing development. (Site Visit, Ravalli County GIS, Summary of Probable Impacts)
- 6.3 Potentially significant adverse impacts on the natural environment, pertaining to vegetation, have been identified through staff review. (Staff Determination)



6.4 Identified potentially significant adverse impacts on the natural environment, pertaining to vegetation, will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

#### Noise

7.1 The creation of these lots has the potential to create noise pollution. (Staff Determination)

7.2 The existing covenants have restrictions on noise. (BCC Hearing, Subdivision application)

7.3 The subdivision property is located outside of the 65 DNL noise contour, as identified on the current Airport Layout Plan for the Ravalli County airport. (Ravalli County GIS)

7.4 Future construction activities within the subdivision will generate increased noise levels. (Staff Determination)

7.5 Potentially significant adverse impacts on the natural environment, pertaining to noise pollution, have been identified through review. (Staff Determination)

7.6 Identified potentially significant adverse impacts on the natural environment, pertaining to noise pollution, will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

#### Historical/Archaeological Sites

8.1 A letter from Damon Murdo of the Montana State Historic Preservation Office (SHPO) indicates that there are no previously recorded cultural sites within the search locale. The letter states that as long as there is no disturbance or alteration to structures over 50 years of age, there is a low likelihood that cultural properties will be impacted, and that a cultural resource inventory is unwarranted at this time. (Subdivision Application-SHPO Letter)

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

#### Conclusions of Law

##### Surface Water Features

1.1 No potentially significant adverse impacts on the natural environment, pertaining to surface water features, have been identified through review. (Staff Determination)

##### Floodplain

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

##### Groundwater Quality

3.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts on the natural environment, pertaining to groundwater quality. (Staff Determination, Final Plat Application Requirement 11)

##### Air Quality

4.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts on the natural environment, pertaining to air quality. (Staff Determination)

##### Light Pollution

5.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts on the natural environment, pertaining to light pollution. (Staff Determination)

##### Vegetation

6.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to the natural environment, pertaining to vegetation. (Staff Determination, Mitigating Condition, Final Plat Application Requirement)

#### Noise

7.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts on the natural environment, pertaining to noise pollution. (Staff Determination)

#### Historical/Archaeological Sites

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

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

### Findings of Fact

1. Notification letters were sent to Montana Fish, Wildlife, & Parks (MFWP), requesting comments; no comments have been received to date. (Subdivision File)
2. MFWP's "Living with Wildlife" covenants are better suited to be recorded as part of the Notifications Document, as the items listed within the document are interpreted to be recommendations for landowners, rather than restrictions. (Staff Determination)
3. An email to the applicant from MNHP's Bryce Maxwell identifies the Lewis' Woodpecker, Black Crowned Night Heron, Great Blue Heron, Bald Eagle, American Bittern, Veery, Preble's Shrew, Bobolink, Little Brown Myotis, Townsend's Big Eared Bat, Evening Grosbeak, Pileated Woodpecker, Long Billed Curlew, Cassin's Finch, Black Neck Stilt, Clark's Nutcracker, Varied Thrush, Pacific Wren & Brown Creeper as species' of concern within the same PLSS section as the proposed subdivision. (Subdivision Application-MNHP Report)
4. The applicant represented the absence of each of the above species' on the property in the submitted Summary of Probable Impacts document, citing the urbanization of the area. (Summary of Probable Impacts)
5. Planning Staff did not locate the above species' of concern on a field visit to the property. (Site Visit)
6. Potentially significant adverse impacts on wildlife have been identified through review. (Staff Determination)
7. Identified potentially significant adverse impacts on wildlife will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

### Conclusion of Law

Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to wildlife. (Staff Determination, Mitigating Condition)

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

### Findings of Fact

1. Notification letters were sent to Montana Fish, Wildlife, & Parks (MFWP), requesting comments on December 20th, 2017; no comments have been received to date. (Subdivision File)
2. MFWP's "Living with Wildlife" covenants are better suited to be recorded as part of the Notifications Document, as the items listed within the document are interpreted to be recommendations for landowners, rather than restrictions. (Staff Determination)
3. An email to the applicant from MNHP's Bryce Maxwell identifies the Lewis' Woodpecker, Black Crowned Night Heron, Great Blue Heron, Bald Eagle, American Bittern, Veery, Preble's Shrew, Bobolink, Little Brown Myotis, Townsend's Big Eared Bat, Evening Grosbeak, Pileated Woodpecker, Long Billed Curlew, Cassin's Finch, Black Neck Stilt, Clark's Nutcracker, Varied Thrush, Pacific Wren & Brown Creeper as species' of concern within the same PLSS section as the proposed subdivision. (Subdivision Application-MNHP Report)
4. The applicant represented the absence of each of the above species' on the property in the submitted Summary of Probable Impacts document, citing the urbanization of the area. (Summary of Probable Impacts)
5. Planning Staff did not locate the above species' of concern on field visit to the property. (Site Visit)
6. Potentially significant adverse impacts on wildlife habitat have been identified through review. (Staff Determination)
7. Identified potentially significant adverse impacts on wildlife habitat will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

### Conclusion of Law

Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to wildlife habitat. (Staff Determination, Mitigating Condition)

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

### Findings of Fact

Traffic Safety

- 1.1 The property is accessed by Tripp Lane., a County-maintained roadway. (Preliminary Plat, Ravalli County GIS, Site Visit)
- 1.2 The subdivision property's frontage with Tripp Lane is proposed to be encumbered with a "No-Ingress/Egress Zone", excepting the existing access points. (Preliminary Plat)
- 1.3 A letter from Ravalli County Road and Bridge Department (RCRBD) Administrator John Horat to consulting Engineer Ron Uemura of RAM Engineering was received by Planning March 5<sup>th</sup>, 2019. (Subdivision Application)
- 1.4 A Traffic Impact Analysis (TIA) for the property was prepared by the subdivider's consulting engineer. Primary findings within the TIA indicate that no significant transportation impacts are anticipated. (Subdivision Application-Traffic Impact Analysis)
- 1.5 The TIA was approved by RCRBD Administrator John Horat, in consultation with Professional Consultants, Inc., in a letter to Planning. The pro-rata fee, calculated by RCRBD on August 29, 2018 is \$5238
- 1.6 Identified potentially significant adverse impacts on public health and safety, pertaining to traffic safety, will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

#### Emergency Vehicle Access and Response Time

- 2.1 The proposed subdivision lots' +direct access onto Ridge Road will allow for emergency vehicle access. (Preliminary Plat)
- 2.2 The proposed subdivision will be served by the Three Mile Rural Fire District, Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Subdivision Application)
- 2.3 Notification letters were sent to the Three Mile Rural Fire District, Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department, requesting comments on December 20<sup>th</sup>, 2017; no comments have been received to date. (Subdivision File)
- 2.4 Marcus Daly Memorial Hospital is not funded by local taxes. (Staff Determination)
- 2.5 Potentially significant adverse impacts on public health and safety, pertaining to emergency vehicle access and response time, have been identified through review. (Staff Determination)
- 2.6 Identified potentially significant adverse impacts on public health and safety, pertaining to emergency vehicle access and response time, will be sufficiently mitigated, by compliance with the conditions of final plat approval, and negotiations with the BCC to sufficiently mitigate identified impacts to public safety services and the Florence Rural Fire District. (Staff Determination)

#### Water and Wastewater

- 3.1 The applicant proposes to meet the requirement of providing domestic water through individual wells, and proposes to meet the requirement of providing individual septic system locations for each lot. (Subdivision Application, Preliminary Plat)
- 3.2 DNRC has preliminarily approved the individual wells for the proposed wells. (Subdivision file)
- 3.3 MDEQ is the reviewing authority for well and septic proposals. (Staff Determination)
- 3.4 The subdivider submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department (RCEHD), contracting with MDEQ, provided documentation indicating that they have received adequate information for local subdivision review to occur. (Subdivision File – RCEHD review checklist)
- 3.5 Potentially significant adverse impacts on public health and safety, pertaining to water and wastewater, have been identified through review. (Staff Determination)
- 3.6 Identified potentially significant adverse impacts on public health and safety, pertaining to water and wastewater, will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

#### Natural and Manmade Hazards

- 4.1 There is a potential for radon in Ravalli County. (MDEQ)
- 4.2 Potentially significant adverse impacts on public health and safety, pertaining to natural and manmade hazards, have been identified through review. (Staff Determination)
- 4.3 Identified potentially significant adverse impacts on public health and safety, pertaining to natural and manmade hazards, will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

#### Conclusions of Law

### Traffic Safety

- 1.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts on public health and safety, pertaining to traffic safety. (Staff Determination, Mitigating Condition, Final Plat Requirements)

### Emergency Vehicle Access and Response Time

- 2.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts on public health and safety, pertaining to emergency vehicle access and response time. (Staff Determination, Mitigating Conditions)

### Water and Wastewater

- 3.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts on public health and safety, pertaining to water and wastewater. (Staff Determination, Final Plat Application Requirement)

### Natural and Manmade Hazards

- 4.1 Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts on public health and safety, pertaining to natural and manmade hazards. (Staff Determination, Mitigating Condition)

## **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

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

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. A Summary of Probable Impacts assessment is required to be submitted for all subdivision proposals. (RCSR Appendix G(3))
2. A Summary of Probable Impacts assessment, prepared by the subdivider's consultant, RAM Engineering, was submitted by the consultant, and closely reviewed for potentially significant adverse impacts on the seven subdivision review criteria. (Subdivision Application, Staff Determination)
3. This subdivision proposal is for a 3-lot minor subdivision. (Subdivision Application)
4. Potentially significant adverse impacts on the seven subdivision review criteria, were identified in the review process. (Staff Determination)
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. The submitted Summary of Probable Impacts assessment complies with the requirements of the RCSR, including Appendix G. (Staff Determination)
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. 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. Preferences for mitigation have been proposed as outlined in this report. (Phone call with RAM engineering 5-7-2019)

#### Conclusion of Law

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

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

#### Conclusion of Law

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

### **E. 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)

### **F. 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

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)

### **G. 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 three lots proposed.
- The property contains less than 100 acres.
- Planning Staff did not recommend denial of the subdivision proposal.

Conclusion of Law

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

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

Finding of Fact

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

Conclusion of Law

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)