



## **PRELIMINARY PLAT DECISION KIERIG TWO-LOT MINOR SUBDIVISION**

The Kierig Minor Subdivision property is identified as Lot 2B, Amended Plat # 975, (Tax ID [Parcel] #635700), located in the Northeast  $\frac{1}{4}$  of Section 16, Township 5 North, Range 20 West, P.M.M., Ravalli County, Montana. The review of the plat was conducted in conformity with Ravalli County Subdivision Regulations (RCSR), as amended June 4, 2012, MCA §§ 76-3-504, 76-3-601 through 609, and 76-3-620, as applicable.

### **Ravalli County Planning Board Recommendation**

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, based on the following findings:

- As mitigated, Planning Staff found that this proposal would not result in potentially significant adverse impacts to the seven review criteria.
- There are two lots proposed.
- The property contains less than 100 acres (13.00 acres particularly).
- Planning Staff did not recommend denial of the subdivision proposal.

### **Ravalli County Board of County Commissioners Public Meeting and Decision**

The Ravalli County Board of County Commissioners (BCC) held a Public Hearing on May 2<sup>nd</sup>, 2019. Commissioners Greg Chilcott, Chris Hoffman and Jeff Burrows were present for the meeting. During the Public Hearing, the BCC considered the preliminary plat application and preliminary plat, accompanying supplements, written agency comments, the Planning Staff's report, and other related information presented. Two comments were received from the landowners with complaints about storage capacity requirements for septic, as well as a request for deferment of mitigation fees upon selling of the parcel. One comment was received from the local Fire District. The BCC evaluated all the presented information, according to the Ravalli County Subdivision Regulations, and the criteria set forth in MCA §§ 76-3-504, and 76-3-601 through 609, as applicable.

### **Subdivision Decision**

During the public meeting, based on the subdivision application and file, the subdivider's expressed preference for mitigation, agency comments, credible evidence and discussions, the Planning Department's staff report and recommendation, and additional information authorized by law, the BCC accepted the findings of fact, conclusions of law, and recommended conditions

of approval in the Staff Report, while amending the staff report as necessary during the public hearing. Those items are set forth herein.

**Mitigating Conditions of Approval, Final Plat Requirements, and Final Plat Application Requirements**

The BCC concurred that the Mitigating Conditions and Requirements of Approval will sufficiently mitigate identified potentially significant adverse impacts on the seven subdivision review criteria, based upon the findings of fact, conclusions of law, evidence within the preliminary plat application, and outlined within the Planning Department Staff Report. No BCC member found that the conditions or requirements of approval were inadequately addressed, with the recommended amendments. (BCC Public Hearing)

**Prerequisites to Approval (RCSR Section 4-10(A))**

Commissioner Jeff Burrows moved that based upon the findings of fact and conclusions of law, the evidence within the Preliminary Plat Application, and as outlined within the Planning Department Staff Report, that all requirements of Compliance with Prerequisites to Approval, items A-E have been met. Seconded by Commissioner Greg Chilcott. Public comment on motion: none. Discussion: none. All voted "aye" (2-0). (BCC Public Hearing)

**Applicable Regulations, excepting the 7 Subdivision Review Criteria (RCSR Sec. 4-10(B)(1-4))**

Commissioner Jeff Burrows moved that based upon the findings of fact and conclusions of law, the evidence within the Preliminary Plat Application, and as outlined within the Planning Department Staff Report, that all requirements of the Compliance with Applicable Regulations, items A-D, have been met. Seconded by Commissioner Greg Chilcott. Public comment on motion: none. Discussion: none. All voted "aye" (2-0). (BCC Public Hearing)

**Applicable Regulations, addressing the 7 Subdivision Review Criteria (RCSR Sec. 4-10(B)(5))**

1. **Agriculture:** Commissioner Jeff Burrows moved that based upon the findings of fact and conclusions of law, and as subject to the conditions and requirements of approval, the identified potentially significant adverse impacts of the subdivision on agriculture will be sufficiently mitigated. Seconded by Commissioner Greg Chilcott. Public comment on motion: none. Discussion: none. All voted "aye" (2-0). (BCC Public Hearing )
2. **Agricultural Water User Facilities:** Commissioner Jeff Burrows moved that based upon the findings of fact and conclusions of law, and as subject to the conditions and requirements of approval, the identified potentially significant adverse impacts of the subdivision on agricultural water user facilities will be sufficiently mitigated. Seconded by Commissioner Greg Chilcott. Public comment on motion: none. Discussion: none. All voted "aye" (2-0). (BCC Public Hearing )
3. **Local Services:** Commissioner Jeff Burrows moved that based upon the findings of fact and conclusions of law, and as subject to the conditions and requirements of approval, the identified potentially significant adverse impacts of the subdivision on local services will be sufficiently mitigated, as amended today. Seconded by Commissioner Greg Chilcott. Public comment on motion: none. Discussion: none. All voted "aye" (2-0). (BCC Public Hearing )
4. **Natural Environment:** Commissioner Jeff Burrows moved that based upon the findings of fact and conclusions of law, and as subject to the conditions and requirements of approval, the identified potentially significant adverse impacts of the subdivision on the natural environment will be sufficiently mitigated as amended today. Seconded by Commissioner Greg Chilcott. Public comment on motion: none. Discussion: none. All voted "aye" (2-0). (BCC Public Hearing )

5. **Wildlife:** Commissioner Jeff Burrows moved that based upon the findings of fact and conclusions of law, and as subject to the conditions and requirements of approval, the identified potentially significant adverse impacts of the subdivision on wildlife will be sufficiently mitigated. Seconded by Commissioner Greg Chilcott. Public comment on motion: none. Discussion: none. All voted "aye" (2-0). (BCC Public Hearing)
6. **Wildlife Habitat:** Commissioner Jeff Burrows moved that based upon the findings of fact and conclusions of law, and as subject to the conditions and requirements of approval, the identified potentially significant adverse impacts of the subdivision on wildlife habitat will be sufficiently mitigated. Seconded by Commissioner Greg Chilcott. Public comment on motion: none. Discussion: none. All voted "aye" (2-0). (BCC Public Hearing)
7. **Public Health and Safety:** Commissioner Jeff Burrows moved that based upon the findings of fact and conclusions of law, and as subject to the conditions and requirements of approval, the identified potentially significantly adverse impacts of the subdivision on public health and safety will be sufficiently mitigated, as amended today. Seconded by Commissioner Greg Chilcott. Public comment on motion: none. Discussion: none. All voted "aye" (2-0). (BCC Public Hearing )

#### **Core Application Components (Section 4-10(C))**

Commissioner Jeff Burrows moved that based upon the findings of fact and conclusions of law, the evidence within the Preliminary Plat Application, as outlined within the Planning Department Staff Report, that compliance with all the requirements of Core Application Components, items A-H have been met, as amended today. Seconded by Commissioner Greg Chilcott. Public comment on motion: none. Discussion: none. All voted "aye" (2-0).  
(BCC Public Hearing)

#### **Final Vote**

After BCC deliberation and consideration of the subdivision preliminary plat application and preliminary plat, the following motion was made:

**Commissioner Jeff Burrows moved that the Kierig 2 lot minor subdivision be conditionally approved, based upon the findings of fact and conclusions of law within the staff report and subject to the mitigating conditions, final plat requirements and final plat application requirements within the staff report, as amended here today. Seconded by Commissioner Greg Chilcott. Public comment on motion: none. Discussion: none. All voted "aye" (2-0).**

#### **Preliminary Plat Decision Summary**

The BCC hereby issues this written Preliminary Plat Decision, to be provided to the applicant and made available to the public, which identifies all applicable laws and regulations used in reaching the decision, provides the facts and conclusions the BCC relied upon in making its decision, references documents, testimony, and other materials that form the basis of the decision, and provides the conditions that apply to the preliminary plat of the Kierig Minor Subdivision that must be satisfied before the final plat may be approved. This decision is issued pursuant to 76-3-620 MCA.

**BOARD OF COUNTY COMMISSIONERS'  
FINDINGS AND CONCLUSIONS  
KIERIG TWO-LOT MINOR SUBDIVISION**

**SUBDIVISION REPORT**

The Kierig Minor Subdivision is a 2 lot minor subdivision proposed on 13.00 acres.

**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 Co-Op provides electric service to the existing home (Lot 2-B). (Subdivision Questionnaire)
2. CenturyLink provides phone service to the existing home (Lot 2-B).
3. The applicant states no new utility easements are required.
4. When the need for phone and electric service arises, both utilities are in the ROW of North Shoshone Loop, which fronts both lots.
5. A condition of approval will require a completed and signed Utility Availability Certification form from a telephone service provider, in addition to electric service. (Final Plat Application Requirement)

Conclusion of Law

The preliminary plat and associated application materials present credible evidence that utility easements will serve the subdivision. (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.**

Finding of Fact

1. Lot 2-B-2 has an existing access from North Shoshone Loop. (Preliminary Plat, Ravalli County GIS, Site Visit)
2. Lot 2-B-1 has applied for a proposed access from North Shoshone Loop and will require approval from the Ravalli County Road and Bridge Department. (Preliminary Plat, Site Visit)

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

1. The required improvements for this subdivision include the construction of the access to Lot 2-B-1 to County Road Department standards.
2. The applicant must document, and certify, compliance with these requirements, prior to final plat approval. (Staff Determination)

Conclusion of Law

Installation of improvements, as required, or an acceptable guarantee of installation following final plat approval, will adequately ensure compliance. (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.**

Finding of Fact

1. 13.04 acres of the existing 13.04 acre property each receives 6/10 of an acre foot from Daly Irrigation District when water is available. (Staff Calculation, Staff Determination)
2. Each lot (2-B-1 and 2-B-2) will continue to receive 6/10 of an acre foot per acre of eligible ground.
3. Since the water shares are administered through Daly Ditches Irrigation District, a Master Irrigation Plan for the proposed allocations is not required. Nevertheless, the subdivider has submitted a draft Master Irrigation Plan, and will submit a finalized version at the time of final plat filing. (Staff Determination, Summary of Probable Impacts, Subdivision File)

Conclusion of Law

A condition of subdivision approval will ensure final approval of irrigation surface water share allocations from Daly Ditches Irrigation District, consistent with the requirements of 76-3-504(1)(j), MCA. (Staff Determination, Final Plat Application Requirement)

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

Finding of Fact

1. Daly Ditches Irrigation District provides the subdivision property with irrigation water via ditch, located along the southern edge of the property. (Subdivision Questionnaire, Summary of Probable Impacts, Preliminary Plat)
2. The final plat shall show a 15' wide irrigation easement along the southern boundary of Lot 2-B-2 where the access road for the ditch is within the subject property, consistent with BCC requirements for recent subdivision proposals. (Staff Determination, Mitigating Condition, Final Plat Requirement)
3. An irrigation easement document, addressing unobstructed use and maintenance of the ditch for the benefit of downstream water users, will be made a condition of subdivision approval. (Mitigating Condition)
4. Notifications to Future Property Owners, addressing irrigation facilities and easements, will be made a condition of subdivision approval. (Mitigating Condition)

Conclusion of Law

With conditions of approval requiring irrigation easements be shown on the final plat, an irrigation easement document filed with the plat, as well as a notification addressing irrigation facilities, the requirements of 76-3-504(1)(k), MCA will be met, ensuring that downstream water users are protected. (Staff Determination, Mitigating Conditions, Final Plat Requirement)

**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.**

Finding 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)

### Conclusion 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

1. A search of the title report showed no deed restrictions. (Ravalli County Clerk and Recorder's Office)
2. Covenants per Document No. 449618 have Development Standards including the *Control of Noxious Weeds*, the *Notification of Irrigation Ditch/Pipeline Easement*, and *Limitation of Access onto County or State Road*.
3. The subdivision property contains water shares through the Daly Ditches Irrigation District, as set forth in previous sections of this report. (Staff Determination, Subdivision File)

#### Conclusion of Law

No deed restrictions were discovered presenting any concerns with the subdivision proposal. The covenants are compatible with the proposed development (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 (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 15<sup>th</sup>, 2019. (Subdivision File)
3. Prior to final plat approval, the subdividers are 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**

##### Finding of Fact

1. The subject property is classified for tax purposes as Farmstead 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 classified as Vacant and Improved Land Rural to the north, east, and west, as well as Improved Property Rural to the south. The surrounding properties range in size from approximately 1 acre to 3.75 acres. (Montana Cadastral Database, Ravalli County GIS)
3. The subject property is currently in agricultural production. (Subdivision File-Summary of Probable Impacts, Site Visit, Ravalli County GIS)
4. The subdivision property has areas comprised of "Fairway, sodic-Overwhich complex" (145A), which are rated as "Somewhat poorly drained" and "Moderate available water storage" for Septic Tank Absorption Fields. There are also areas of "Lolo gravelly loam" (178C), which is rated as "Well drained" and "Low available water storage" for Septic Tank Absorption Fields. (Subdivision Application-Web Soils Survey, Preliminary Plat). (Subdivision Application-NRCS Web Soil Survey data)
5. Agricultural activities do not appear to occur in proximity to the development project. (Ravalli County GIS, Mitigating Condition 1)
6. The subdivision will be located in an area already impacted by rural residential development in all directions, and is adjacent to North Shoshone Loop, a county built and maintained roadway. (Site Visit, Ravalli County GIS, Subdivision Questionnaire)
7. The subdivider provided a Ravalli County Subdivision *Ground Disturbance, Revegetation and Noxious Weed Plan*, in accordance with the element submission requirements of the RCSR. (Subdivision Application – Noxious Weed Evaluation)
8. There are no potentially significant adverse impacts on agriculture, specifically, those associated with weeds, as well as no existing agricultural operations in the vicinity, for which have been identified through review. (Staff Determination)
9. Identified potentially significant adverse impacts on agriculture will be sufficiently mitigated, through compliance with conditions of subdivision approval. (Staff Determination)

#### Conclusion of Law

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

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

### Finding of Fact

1. The property contains 6/10 of an acre foot of irrigation water per acre allocation from the Daly Ditches Irrigation District. The subdivider proposes to transfer the irrigation water shares to the proposed lot, with each lot receiving 6/10 of an acre foot per acre. (Subdivision Questionnaire, Summary of Probable Impacts, Subdivision File)
2. The proposed allocation was approved by Daly Ditches via letter dated October 1, 2019. (Subdivision File)
3. Since the water shares are administered through Daly Ditches Irrigation District, a Master Irrigation Plan for the proposed allocations is not required. Nevertheless, the subdividers have submitted a draft Master Irrigation Plan, and will submit a finalized version at the time of final plat filing. (Staff Determination, Summary of Probable Impacts, Subdivision File)
4. The irrigation water is currently distributed to the property via an existing 15' wide 6" main irrigation pipeline easement on the north (Lot 2-B-1) and western boundary of both lots to the 15' wide irrigation ditch easement, located on the southern boundary (Lot 2-B-1) of the property. (Summary of Probable Impacts, Preliminary Plat)
5. The final plat shall show a 15' wide irrigation pipeline easement along the northern boundary of Lot 2-B-1 and along the western boundary of Lots 2-B-1 and 2-B-2, as well as a 15' irrigation ditch easement along the southern boundary of Lot 2-B-2 where the access road for the Daly Irrigation District canal encroaches on the subject property. (Staff Determination, Mitigating Condition, Final Plat Requirement)
6. An irrigation easement document, addressing unobstructed use and maintenance of the pipeline and canal for the benefit of users and/or downstream water users, will be made a condition of subdivision approval. (Mitigating Condition)

7. Notifications to Future Property Owners, addressing irrigation facilities and easements, will be made a condition of subdivision approval. (Mitigating Condition)
8. There are no potentially significant adverse impacts on agricultural water user facilities which have been identified through review. (Staff Determination)
9. Identified potentially significant adverse impacts on agricultural water user facilities will be sufficiently mitigated, by compliance with conditions of subdivision approval. (Staff Determination)

#### Conclusion of Law

Compliance with the conditions of approval will sufficiently mitigate identified potentially significant adverse impacts to agricultural water user facilities. (Staff Determination, Mitigating Conditions, Final Plat Application Requirements, Final Plat Requirements)

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

#### Finding of Fact

##### Fire District

- 1.1 The subdivision is located within the Hamilton Rural Fire District. (Ravalli County GIS)
- 1.2 The Hamilton Rural Fire District has a station approximately 2.4 miles to the west of the proposed subdivision. (Ravalli County GIS, Subdivision Questionnaire, Site Visit)
- 1.3 The Hamilton 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 Hamilton Rural Fire District, requesting comments on the proposal, on May 21<sup>st</sup>, 2020. (Subdivision File)
- 1.5 The applicant has proposed a \$900.00 voluntary contribution to the Hamilton Rural Fire District, for the one new lot, in order to mitigate the subdivision's effects on the District. (Subdivision Questionnaire)
- 1.6 Potentially significant adverse impacts on local services, pertaining to the Hamilton Rural Fire District, have been identified through review. (Staff Determination)
- 1.7 Identified potentially significant adverse impacts on local services, pertaining to the Hamilton 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 school-aged child will be added to the Hamilton School District. (Staff Determination)
- 2.2 The Ravalli County Planning Department sent notification letters to the Hamilton School District, requesting comments on the proposal, on May 21<sup>st</sup>, 2020; no comments have been received to date. (Subdivision File)
- 2.3 The applicant proposes a \$250.00 voluntary contribution to the School District, in order to mitigate the subdivision's effects on the District. (Subdivision Questionnaire, Discussion with RAM Engineering)
- 2.4 The proposed subdivision is located on an existing school bus route. (Summary of Probable Impacts)
- 2.5 Potentially significant adverse impacts on local services, pertaining to the Hamilton School District, have been identified through review. (Staff Determination)
- 2.6 Identified potentially significant adverse impacts on local services, pertaining to the Hamilton School District, will be sufficiently mitigated, by compliance with the conditions of final plat approval, and payment of the monetary contributions. (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, on May 21<sup>st</sup>, 2020; no comments have been received to date. (Subdivision File)
- 3.3 The average number of people per household in Ravalli County is 2.7. This subdivision proposal is for residential use, with the potential to add up to 2.7 residents once it is built on. (Census 2010 and Staff Determination)

- 3.4 Taxes from new residences may not be immediately available to law enforcement services, E-911, and Disaster & Emergency Services (DES). There is currently no known available data on the average amount of time between when Public Safety Services begin to serve a new residence and when those services receive tax money from the residence. Because there may be a lag in the time services are provided and taxes are collected, the subdividers shall negotiate an adequate form of mitigation with the BCC. (Staff Determination)
- 3.5 The applicant proposes a \$150.00 voluntary contribution to Public Safety Services in order to mitigate the subdivision's effects on those services. (Subdivision Questionnaire, Discussion with RAM Engineering)
- 3.6 Potentially significant adverse impacts on local services, pertaining to Public Safety Services, have been identified through review. (Staff Determination)
- 3.7 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 contacted on May 21<sup>st</sup>, 2020; 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

- 5.1 This subdivision, at build-out, is expected to generate 8 daily vehicular trips to the road network for one new single-family residence, based on estimates taken from Trip Generation, 7<sup>th</sup> Edition. (Subdivision Questionnaire, Summary of Probable Impacts)
- 5.2 Lot 2-B-2 uses an existing access from North Shoshone Loop, a County maintained roadway. Lot 2-B-1 is proposing access from North Shoshone Loop, a County maintained roadway. (Preliminary Plat, Ravalli County GIS, Site Visit)
- 5.3 The proposed access to Lot 2-B-2 at North Shoshone Loop shall be paved to County standards, and shall get Road and Bridge Department approval. (Ravalli County Road and Bridge Department Subdivision File)
- 5.4 A Traffic Impact Analysis (TIA) for the property was prepared dated December 16, 2019 by project consultant RAM Engineering. Primary findings within the TIA indicate there will be no impact to North Shoshone Loop, and an additional 8 trips per day with the one exit onto Skalkaho Highway. The 8 trips per day is considered insignificant for this type of roadway. (Subdivision File)
- 5.5 A pro-rata of \$3576 will be paid to mitigate impacts to the road system.
- 5.6 Potentially significant adverse impacts on local services, pertaining to roads, have been identified through review. (Staff Determination)
- 5.7 Identified potentially significant adverse impacts on local services, pertaining to roads, will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

#### Water and Wastewater Districts

- 6.1 The applicant will abandon the existing well for the existing home on Lot 2-B-2 and will create a new potable well for Lot 2-B-2. A new 1,000 gallon septic tank and new drainfield, with a replacement area (for the guesthouse on Lot 2-B-2), will be created with a 100' mixing zone for groundwater flow, and is encroaching onto Lot 2-B-1. The mixing zone easement shall be in favor of Lot 2-B-2. The applicant will create a new potable well, a 1,000 gallon septic tank, and a drainfield with a replacement area for Lot 2-B-1. (Subdivision Questionnaire, Summary of Probable Impacts, Preliminary Plat, Site Plan)
- 6.2 MDEQ/RCEHD is the reviewing authority for water and wastewater provisions. (Staff Determination)
- 6.3 The subdividers 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 Potentially significant adverse impacts on local services, pertaining to water and wastewater districts, have been identified through review. (Staff Determination)
- 6.5 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, on May 21<sup>st</sup>, 2020; 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 Hamilton Post Office, services the area. (Staff Determination)
- 8.2 This subdivision will contain two (2) lots. (Subdivision Application, Preliminary Plat)
- 8.3 No potentially significant adverse impacts on local services, pertaining to postal service, have been identified through staff review. (Staff Determination)

#### Utilities

- 9.1 Ravalli Electric Co-op is proposed to provide electric service to the new subdivision lot when needed. (Subdivision Questionnaire, Summary of Probable Impacts)
- 9.2 Existing electric lines are located within the existing 60' wide public roadway and utility easement along North Shoshone Loop and the subdivision property's east boundary to serve both lots (2-B-1 and 2-B-2). Lot 2-B-2 has existing service from North Shoshone Loop. (Preliminary Plat, Site Visit)
- 9.3 The applicant proposes to provide telephone service at this time to the new subdivision lot using CenturyLink. (Summary of Probable Impacts)
- 9.4 A condition of approval will require a completed and signed Utility Availability Certification form from a telephone service provider, in addition to electric service. (Final Plat Application Requirement)
- 9.5 Notification letters were sent to Ravalli Electric Co-op and CenturyLink, requesting comments, on May 21<sup>st</sup>, 2020; no comments have been received to date. (Subdivision File)
- 9.6 Potentially significant adverse impacts on local services, pertaining to utilities, have been identified through review. (Staff Determination)
- 9.7 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)

#### Conclusion of Law

##### Fire District

- 1.1 Since the subject property is located within the Hamilton 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 Hamilton 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 the Hamilton School District. (Staff Determination, Mitigating Condition 7, Final Plat Application Requirement)

##### 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 Application 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, Mitigating Conditions, Final Plat Application Requirement, Final Plat Requirement)

#### 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**

#### Finding of Fact

##### Surface Water Features

- 1.1 The only surface water feature on the property is a man-made irrigation ditch along the southern boundary of Lot 2-B-2. (Site Visit, Ravalli County GIS, Preliminary Plat,)
- 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 FEMA-designated 100-year flood fringe or floodway areas within the subject property boundary. The closest FEMA-mapped floodplain boundary is approximately 2,000 feet to the west, associated with the Bitterroot River. (Ravalli County GIS, Subdivision Application Questionnaire)
- 2.2 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)
- 2.3 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 proposed individual wells, and proposes to meet the requirement of providing wastewater and sewage treatment through proposed individual septic systems. (Subdivision Questionnaire, Summary of Probable Impacts, Preliminary Plat)
- 3.2 The applicant will abandon the existing well for the existing home on Lot 2-B-2 and will create a new potable well for the mentioned lot. A new septic tank and drainfield, with a replacement area (for the guesthouse on Lot 2-B-2), will also be created. (Subdivision Application)
- 3.3 RCEHD is the reviewing authority for water and wastewater provisions. (Staff Determination)
- 3.4 The subdividers 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 the natural environment, pertaining to groundwater quality, have been identified through review. (Staff Determination)
- 3.6 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 creation of one new lot has the potential to generate air pollution. (Staff Determination)
- 4.2 Sources of particulate from this subdivision could include vehicles, wood-burning stoves, and open burning. (Staff Determination)
- 4.3 Potentially significant adverse impacts on the natural environment, pertaining to air quality, have been identified through review. (Staff Determination)
- 4.4 Identified potentially significant adverse impacts on the natural environment, pertaining to air quality, will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

#### Light Pollution

- 5.1 The creation of one new lot has the 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)
- 5.2 Potentially significant adverse impacts on the natural environment, pertaining to light pollution, have been identified through review. (Staff Determination)
- 5.3 Identified potentially significant adverse impacts on the natural environment, pertaining to light pollution, will be sufficiently mitigated, by compliance with the conditions of final plat approval. (Staff Determination)

#### Vegetation

- 6.1 The predominant vegetation on the property consists of hay. (Site Visit, Ravalli County GIS)
- 6.2 The subdividers submitted a Ravalli County Subdivision Noxious Weed Plan, in accordance with the element submission requirements of the RCSR. (Subdivision Application – Noxious Weed Evaluation)
- 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 one new lot has the potential to create noise pollution. (Staff Determination)
- 7.2 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)
- 7.3 Future construction activities within the subdivision will generate increased noise levels. (Staff Determination)
- 7.4 Potentially significant adverse impacts on the natural environment, pertaining to noise pollution, have been identified through review. (Staff Determination)
- 7.5 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 dated September 13, 2019 from Damon Murdo of the Montana State Historic Preservation Office (SHPO) indicates that there is one historical site within the locale, the Bitterroot Irrigation System, although it is not located within the proposed project area. 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 railroads, foot bridges, or cellular telecommunications facilities are located on or near the property. Cellular telecommunications facilities have no historical value. (Site Visit, Ravalli County GIS, Staff Determination)
- 8.3 No potentially significant adverse impacts on the natural environment, pertaining to historical/archaeological sites, have been identified through review. (Staff Determination)

#### Conclusion 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, Mitigating Conditions, Final Plat Application Requirement, Final Plat Requirement)

##### Air Quality

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

##### Light Pollution

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

##### 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 to the natural environment, pertaining to noise. (Staff Determination, Mitigating Condition)

##### 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)

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

##### Finding of Fact

1. A letter dated September 12, 2019 from the Montana Natural Heritage Program's (MNHP) Bryce Maxwell identifies the Western Toad, Great Blue Heron, Evening Grosbeak, Peregrine Falcon, Westslope Cutthroat Trout, Bull Trout, Little Brown Myotis, Townsend's Big-eared Bat, and Northern Leopard Frog as "species of concern" within the same PLSS section as the proposed subdivision. (Subdivision Application-MNHP Report)
2. The applicant represented the absence of each of the above species on the property in the submitted Summary of Probable Impacts document, stating that the birds prefer riparian forest areas, none of which are on or near the property. No waterways are located in this area for fish habitat, nor are there roosting areas for bats. (Summary of Probable Impacts)
3. Planning Staff did not locate the above "species of concern" on a January 23, 2020 field visit to the property. (Site Visit)

4. Notification letters were sent to Montana Fish, Wildlife, & Parks (MFWP), requesting comments, on May 21<sup>st</sup>, 2020; no comments have been received to date. (Subdivision File)
5. 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)
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 1)

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

Findings of Fact

1. The applicant states that there are no areas on the property that could be classified by MFWP as Big-Game Winter Range or Important Wildlife Habitat. (Summary of Probable Impacts)
2. The applicant states that the property is surrounded by urban development, and that there are no wildlife or wildlife habitat or migration corridors that would be impacted by the project. (Summary of Probable Impacts)
3. The applicant also states that the nearest potential wildlife habitat is the Hedge Ditch to the east. (Summary of Probable Impacts)
4. A letter dated September 12, 2019 from the Montana Natural Heritage Program's (MNHP) Bryce Maxwell identifies the Western Toad, Great Blue Heron, Evening Grosbeak, Peregrine Falcon, Westslope Cutthroat Trout, Bull Trout, Little Brown Myotis, Townsend's Big-eared Bat, and Northern Leopard Frog as "species of concern" within the same PLSS section as the proposed subdivision. (Subdivision Application-MNHP Report)
5. The applicant represented the absence of each of the above species on the property in the submitted Summary of Probable Impacts document, stating that the birds prefer riparian forest areas, none of which are on or near the property. No waterways are located in this area for fish habitat, nor are there roosting areas for bats. (Summary of Probable Impacts)
6. Planning Staff did not locate the above "species of concern" on a January 23, 2020 field visit to the property. (Site Visit)
7. Notification letters were sent to Montana Fish, Wildlife, & Parks (MFWP), requesting comments, on May 21<sup>st</sup>, 2020; no comments have been received to date. (Subdivision File)
8. 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)
9. Potentially significant adverse impacts on wildlife habitat have been identified through review. (Staff Determination)
10. 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 1)

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

Finding of Fact

Traffic Safety

- 1.1 The existing home on Lot 2-B-2 is accessed by an existing entry from North Shoshone Loop, a County-maintained roadway. (Preliminary Plat, Ravalli County GIS, Site Visit)

- 1.2 The proposed northern lot (2-B-1) has applied for a proposed access from North Shoshone Loop and will require approval from the Ravalli County Road and Bridge Department. (Preliminary Plat, Ravalli County GIS, Site Visit)
- 1.3 A Traffic Impact Analysis (TIA) for the property was prepared, as dated December 16, 2019 by project consultant RAM Engineering. Primary findings within the TIA indicate there will be no impact to North Shoshone Loop, and an additional 8 trips per day with the one exit onto Skalkaho Highway. The 8 trips per day is considered insignificant for this type of roadway. (Subdivision File)
- 1.4 The potential health or safety hazards near the proposed subdivision include the traffic on Skalkaho Highway.
- 1.5 Potentially significant adverse impacts on public health and safety, pertaining to traffic safety, have been identified through review. (Staff Determination)
- 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 North Shoshone Loop for Lots 2-B-1 and 2-B-2 will allow for emergency vehicle access. (Preliminary Plat)
- 2.2 The proposed subdivision will be served by the Hamilton 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 Hamilton Fire District, Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department, requesting comments, on May 21<sup>st</sup>, 2020. (Subdivision File)
- 2.4 The applicant has proposed a \$900.00 voluntary contribution to the Hamilton Rural Fire District in order to mitigate the subdivision's effects on the District. (Subdivision Questionnaire, Discussion with RAM Engineering)
- 2.5 Marcus Daly Memorial Hospital is not funded by local taxes. (Staff Determination)
- 2.6 Potentially significant adverse impacts on public health and safety, pertaining to emergency vehicle access and response time, have been identified through review. (Staff Determination)
- 2.7 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 Hamilton Rural Fire District. (Staff Determination)

#### Water and Wastewater

- 3.1 The applicant will abandon the existing well for the existing home on Lot 2-B-2 and will create a new potable well for Lot 2-B-2. A new 1,000 gallon septic tank and new drainfield, with a replacement area (for the guesthouse on Lot 2-B-2), will be created with a 100' mixing zone for groundwater flow, and is encroaching onto Lot 2-B-1. The mixing zone easement shall be in favor of Lot 2-B-2. The applicant will create a new potable well, a 1,000 gallon septic tank, and a drainfield with a replacement area for Lot 2-B-1. (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 subdividers 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 public health and safety, pertaining to water and wastewater, have been identified through review. (Staff Determination)
- 3.5 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, and by compliance with MDEQ rules and regulations. (Staff Determination)

#### Natural and Manmade Hazards

- 4.1 There is a potential for radon in Ravalli County. (MDEQ)
- 4.2 The potential health or safety hazards near the proposed subdivision include the traffic on Skalkaho Highway. (Staff Determination)

- 4.3 The size of the lots are large enough that the hazards of Skalkaho Highway would be minimal. (Staff Determination)
- 4.4 Potentially significant adverse impacts on public health and safety, pertaining to natural and manmade hazards, have been identified through review. (Staff Determination)
- 4.5 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)

Conclusion 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)

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, Mitigating Conditions, Final Plat Application Requirement, Final Plat 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).**

Finding 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 2-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)

#### Conclusion 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. The applicant has proposed mitigation fees for impacts to the Hamilton Fire District, Hamilton School District, and Public Safety Services. In order to mitigate potentially significant adverse impacts to the Fire District, the applicant proposes a \$900.00 contribution to the District, or \$900.00 for the new lot proposed. The applicant proposes a \$250.00 contribution to the School District to mitigate impacts for the new lot, and a \$150.00 contribution to Public Safety Services, for the new lot. (Phone call with Ron Uemura)

#### Conclusion of Law

The subdivider was consulted with, and the subdivider's expressed preferences were given due weight and consideration, as required by § 76-3-608(5)(b), MCA. (Staff Determination, Correspondence with Consultant Ron Uemura of RAM Engineering)

#### **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).**

##### Finding 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)

#### Conclusion 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.**

##### Finding 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 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.**

Finding 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 two 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

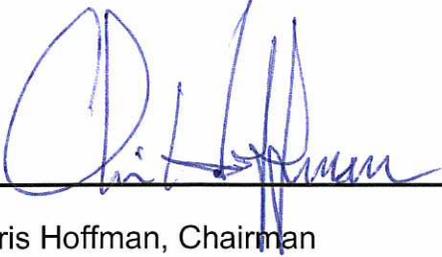
Prior to issuing a decision on the subdivision proposal, the BCC shall consider any additional information authorized by law that is relevant to the proposal. (Staff Determination)

OFFICIAL VOTE FOR  
HAWKINSON TWO-LOT MINOR SUBDIVISION

Date of Decision: June 9<sup>th</sup>, 2020

     Deny      Approve   X   Conditionally Approve

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS



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Date: 6-22-20

Chris Hoffman, Chairman



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Date: JUNE 18, 2020

Greg Chilcott, Member



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Date: 18 June 2020

Jeff Burrows, Member

## **Final Plat Contents**

The final plat submitted for approval shall conform to the preliminary plat, as previously reviewed and approved by the BCC, and must incorporate all required modifications and comply with all conditions imposed at the time of subdivision application and preliminary plat approval. The final plat and accompanying documents shall comply with the Montana Uniform Standards for Final Subdivision Plats. Final plats of subdivisions approved for phased development shall be filed sequentially in accordance with the approval, or in accordance with a revised phasing plan approved by the BCC, and in compliance with the procedures for amending phasing plans as outlined within the Ravalli County Subdivision Regulations.

## **Final Plat Submission**

The final plat approval application form, and all supplementary documents, must be submitted to the Planning Department at least thirty (30) working-days prior to the expiration of preliminary plat approval. All documents shall be the original copies.

## **MITIGATING CONDITIONS OF APPROVAL**

*The following conditions are required, in order to mitigate identified potentially significant adverse impacts that this subdivision will have on the subdivision review criteria, based on the findings of fact and conclusions of law, as discussed within the body of this Preliminary Plat Decision.*

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 (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 Proximity to Agricultural Operations.*** This subdivision is located near existing agricultural activities. Some may find agricultural operations objectionable and dangerous. (*RCSR Section 4-10(B)(5)(a), Effects on Agriculture*)

***Notification of Irrigation Facilities and Easements.*** Within this subdivision, there are proposed irrigation easements, as shown on the final plat. All downstream water right holders have the right to maintain and repair their irrigation facilities, whenever necessary, to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. Downstream water right holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys an irrigation 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, including but not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. (*RCSR Section 4-10(A), Prerequisites to Approval, and Section 4-10(B)(5)(b), Effects on Agricultural Water User Facilities*)

***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. 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 hooved 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 Hamilton 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.** Hamilton 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 Hamilton 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 [EPA Woodstoves](#). 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, 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 4-10(B)(5)(c), Effects on Local Services; (g), Effects on Public Health & Safety; and 76-3-608(7), MCA*)
4. **Addresses:** The subdividers 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 Council Access Requirements:** The following statement shall be shown on the final plat: "The Ravalli County Fire Council, which includes the Hamilton Rural 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 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 Hamilton Rural Fire District for further information." *(RCSR Section 4-10(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety)*
6. **Fire Suppression:** Prior to final plat approval, the subdivider shall provide a letter from the Hamilton Rural Fire District stating that the subdivider has provided the required water supply for each lot within this subdivision. Alternatively, the subdivider shall pay at final plat or file a "consent to lien" with the County Clerk and Recorder, in a form suitable to the County, acknowledging that the County possesses a lien on each lot in the subdivision to secure the agreed upon mitigation payment of \$900 per new lot to the Hamilton Rural Fire Department. *(RCSR Section 4-10(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety)*
7. **School District Mitigation:** The subdivider shall pay at final plat or file a "consent to lien" with the County Clerk and Recorder, in a form suitable to the County, acknowledging that the County possesses a lien on each new lot in the subdivision to secure the accepted mitigation payment of \$250 per lot to the Hamilton School District. *(RCSR Section 3-7(B)(5)(c), Effects on Local Services)*
8. **Public Safety Services Mitigation:** The subdivider shall pay at final plat or file a "consent to lien" with the County Clerk and Recorder, in a form suitable to the County, acknowledging that the County possesses a lien on each new lot in the subdivision to secure the agreed upon mitigation 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)*
9. **Irrigation Easement Identification:** The subdividers shall provide for a 20' wide irrigation easement along the irrigation line between the subdivision lots, and shall provide for a 30' wide easement along the travel way for the Daly Ditches access road on the final plat. *(RCSR Section 4-10(B)(5)(b), Effects on Agricultural Water User Facilities)*
10. **Irrigation Easement Document:** The subdividers shall file and record an irrigation easement document with the final plat that addresses the irrigation line traversing the subdivision, including the easement around the Daly Ditches access road. The easement shall allow for unobstructed use and maintenance of the lines that is necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that is consistent with historic and legal rights. *(RCSR Section 4-10(B)(5)(b), Effects on Agricultural Water User Facilities)*

## **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 subdividers 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.

*The required improvements for this subdivision include the construction of an approach per the Ravalli County Road Department standards at the existing farm access to Sleeping Child Road, and extension of the existing 6" irrigation line to the ROW of Sleeping Child Road.*

~~32. A copy of the letter sent to the Hamilton School District, stating the subdivider has made, or is not willing to make, a voluntary contribution to the District, to mitigate impacts of the subdivision on the District that are not related to capital facilities.~~

33. 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. 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,
  - g. 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,
  - h. ~~If requested, the certificate of a surveyor appointed by the BCC to review surveys and plats submitted for filing [76-3-611, MCA],~~
  - i. ~~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~~
  - j. The certification of the County Treasurer that all real property taxes and special assessments levied on the land to be subdivided have been paid.
35. The 15' irrigation easement south of Lot 2-B-2 and the Irrigation Pipeline Easement to the north of Lot 2-B-1 and to the west of both lots shall be shown on the final plat, as shown on the preliminary plat.
36. An easement of sufficient width to cover the portion of the Daly Ditches access road that is on the property shall be shown on the final plat.

### **Review by Planning Department**

The Planning Department shall review the final plat, and all other required materials, to ascertain that all mitigating conditions, requirements for final plat approval, and requirements for final plat application approval have been met. The Planning Department will not accept, begin processing, nor schedule any actions on a final plat submission, until a complete application, fee, and copies of the final plat have been received. Final plat applications will not be considered complete by the Planning Department until all conditions of preliminary plat approval have been satisfied.

### **Final Plat Approval by the BCC**

The BCC shall examine every final subdivision plat, and shall approve it only if it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and the RCSR, or deny it pursuant to the procedures outlined within the effective version of the RCSR in place at the time of final plat filing.

### **Final Plat Filing**

After the final plat is approved, it may not be altered in any manner, except as provided in the RCSR. The County Clerk and Recorder may not accept any plat for filing that does not bear the BCC's approval in proper form, or that has been altered. The Clerk and Recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats, contained in the ARM. Prior to filing the final plat, the owner of record shall pay all property taxes that have been assessed and levied on the land. Filing fees will be assessed by the County Clerk and Recorder's Office, prior to filing the final plat and associated documents.

### **Amending Approved Preliminary Plats Before Final Plat Approval**

See the procedures for amending approved preliminary plats, as outlined within the effective version of the RCSR.

### **Withdrawal of Approval**

The BCC may withdraw approval, or conditional approval, of an application and preliminary plat, if it determines that information provided by the subdivider, and upon which the approval or conditional approval was based, is inaccurate.

### **Preliminary Plat Approval Period**

Upon approval or conditional approval of the preliminary plat application and preliminary plat, the BCC shall provide the subdivider with a dated and signed statement of approval. The approval shall be in force for **twenty-four (24) months**, unless a preliminary phasing plan and schedule has been approved as part of the preliminary plat approval. The BCC may, upon the written request of the developer, extend the approval period. Any request to extend the approval period must be submitted at least thirty (30) working-days prior to the expiration of the preliminary plat approval period, and accompanied by the appropriate extension request fee.

### **Effect of Approval**

The BCC may not impose any additional conditions as a prerequisite to final plat approval, unless the preliminary plat approval period expires, at which time a new application shall be required. However, by accepting the project as a phased development, the BCC reserves the authority to impose additional conditions upon each phase of the subdivision, if, and only if, the condition(s) are necessary to address any critical public health and safety issues that exist at the time that each phase is brought before the BCC for final plat review.

### **Appeals**

As provided in Section 76-3-625, MCA, a party who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within 30 days from the date of the written decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made. The following parties may appeal the decision:

- (1) The subdivider;
- (2) A landowner with a property boundary contiguous to the proposed subdivision, or a private landowner with property within the county or municipality where the subdivision is proposed, if that landowner can show a likelihood of material injury to the landowner's property or its value;
- (3) The County Commissioners of the county where the subdivision is proposed;
- (4) A first-class municipality, as described in 7-1-4111, if a subdivision is proposed within 3 miles of its limits;
- (5) A second-class municipality, as described in 7-1-4111, if a subdivision is proposed within 2 miles of its limits; and
- (6) A third-class municipality, or a town, as described in 7-1-4111, if a subdivision is proposed within 1 mile of its limits.