

COMMISSIONERS APPROVAL

IMAN *JR*

CHILCOTT *G*

FOSS *SF*

KANENWISHER *MK*

STOLTZ *R*

PLETTENBERG (Clerk & Recorder)

Members Present.....Commissioner J.R. Iman, Commissioner Greg Chilcott, Commissioner Suzy Foss, Commissioner Matt Kanenwisher and Commissioner Ron Stoltz

Date.....May 25, 2011

► Minutes: Beth Perkins

► The Board met for a public hearing for Shoshone Lakes Major Subdivision and Variance Request at 9:00 a.m. Present were Planner Tristan Riddell, Planner Aaron Wilson, Representative Jeff Pearson and Owner Drake Lemm.

Commissioner Chilcott opened the public hearing and requested any conflicts of interest be disclosed. Hearing none, he then requested the Planning Staff Report be presented.

Aaron presented the Staff Report as follows:

**SHOSHONE LAKES
TWELVE LOT MAJOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Aaron Wilson

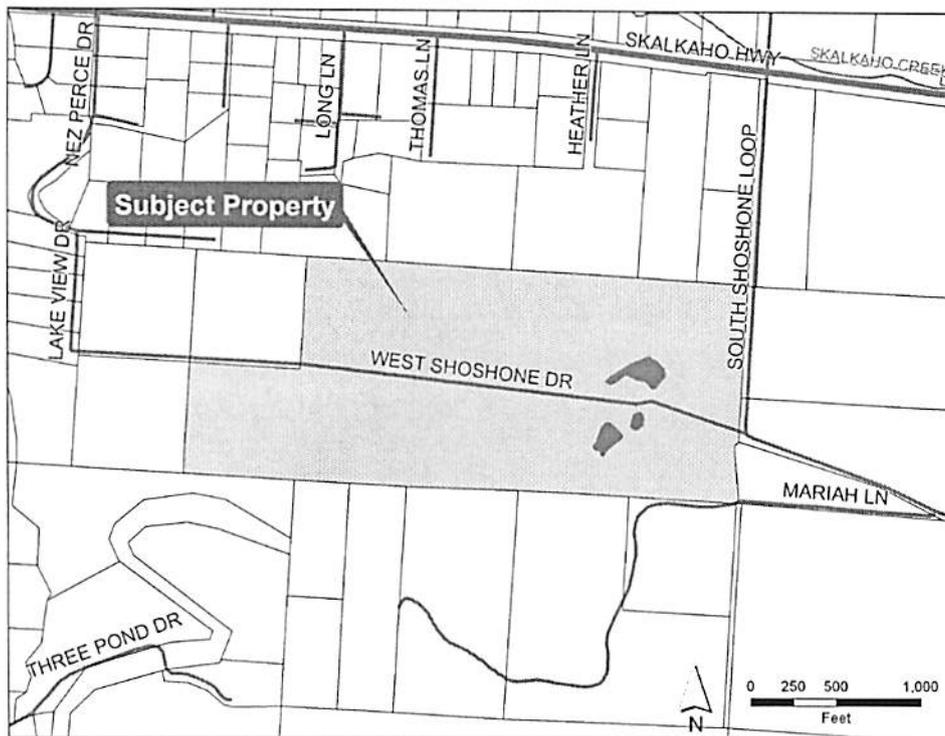
**REVIEWED/
APPROVED BY:** Tristan Riddell

PUBLIC HEARINGS/ MEETINGS:	Planning Board Meeting:	7:00 p.m. May 4, 2011
	BCC Public Hearing:	9:00 a.m. May 25, 2011
	Deadline for BCC action:	June 24, 2011

SUBDIVIDER/OWNER: Drake Lemm Construction, Inc.
PO Box 56
Lolo, MT 59847

REPRESENTATIVE: Jeff Pearson
Eli & Associates
5475 Alloy South
Missoula, MT 59808

LOCATION OF REQUEST: The property is located southeast of the City of Hamilton, south of Skalkaho Highway and west of S Shoshone Loop. (See Map 1)



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

LEGAL DESCRIPTION OF PROPERTY: Tract 3A of Certificate of Survey 607129-R.

APPLICATION INFORMATION: The subdivision application was deemed sufficient on April 1, 2011. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are

Exhibits A-1 through A-6 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended February 3, 2011.**

LEGAL NOTIFICATION: A legal advertisement was published in the Bitterroot Star on April 27, 2011. Notice of the project was posted on the property and adjacent property owners were notified by certified mail postmarked April 7, 2011. No public comments have been received to date.

**DEVELOPMENT
PATTERN:**

Subject property	Agricultural
North	Rural Residential
South	Rural
Farmstead/Agricultural/Residential	
East	Rural Farmstead/Residential
West	Agricultural

INTRODUCTION & GENERAL BACKGROUND

Shoshone Lakes is a twelve (12) lot major subdivision on 90.62 acres located approximately 6 miles southeast of the City of Hamilton. The average proposed lot size is 7.5 acres. The property is currently owned by Drake Lemm Construction, Inc., whose proposal is for additional rural residential lots on the site. The property is accessed via US Highway 93 N to Skalkaho Highway and S Shoshone Loop. A private internal road network, including West Shoshone Drive and West Shoshone Court, is proposed to serve all twelve lots, with a single access point onto South Shoshone Loop. Surrounding uses are predominantly rural residential and farmstead/agricultural.

The subdivision application includes one requested variance to relieve Drake Lemm Construction Inc. from the limitation of cul-de-sac length, described in Section 5-4-4, Table B-1 as 1,400 feet maximum. The cul-de-sac for Shoshone Lakes is proposed to be approximately 2,700 feet in length, with a mid-point turnaround at approximately 1,300 feet from the public roadway. This variance request was approved in a 3-1 vote by the Ravalli County Board of Commissioners (BCC) on October 30, 2008 and issued to the developer on December 10, 2008.

Although the developer was previously granted a variance from the cul-de-sac length restriction, this application will include a concurrent re-submittal of that variance request. The variance approval period, during which a project must submit a completed final plat, lasts only 30 months. For Shoshone Lakes, that expiration date is anticipated to occur prior to final plat completion and will therefore require a subsequent variance approval in order to proceed.

Staff recommends granting of the variance request and conditional approval of the subdivision proposal.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

MAY 25, 2011

**SHOSHONE LAKES
TWELVE LOT MAJOR SUBDIVISION**

RECOMMENDED MOTION

1. That the variance request from Section 5-4-4, Table B-1, 'Maximum Cul-De-Sac Length,' be **approved**, based on the findings of fact and conclusions of law in the variance report.
2. That the Shoshone Lakes Major Subdivision be **approved**, based on the findings of fact and conclusions of law in the subdivision report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

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

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

Notification of water rights. The owners of Lots 1, 2, 3 and 7 have water rights to the private system from the pond and pump system in Common Area 1. The owner of Lot 8 has rights to water from a separate private irrigation system. Lots 4, 5, 6, 9, 10, 11 and 12 have water shares administered through the Bitter Root Irrigation District; residents within these lots should contact the Bitter Root Irrigation District, 1182 Lazy J Lane, Corvallis MT 59828, (406) 961-1182. (Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)

Location of Irrigation Facilities and Easements. Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water users have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. Downstream water right holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines before the relocation or alteration occurs. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not

limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. (*Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities*)

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the South Shoshone Loop frontage of this subdivision, excepting the approved internal road entrance for West Shoshone Drive. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. An additional "no-ingress/egress" restriction exists along the west side of the driveway access easement for Lot 1. (*Section 3-2-8(b)(v)(C,F), RCSR, Effects on Local Services and Public Health and Safety*)

Road Maintenance Agreement. The internal subdivision road network, including West Shoshone Drive and West Shoshone Court, is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Road Maintenance Agreement for these roads is filed with this subdivision, outlining which parties are responsible for maintenance and under what conditions. (*Section 3-2-8(b)(v)(C), RCSR, Effects on Local Services*)

Storm Water Drainage Easements. Within this subdivision there are storm water drainage easements along the east boundary of Lot 5, between Lot 5 and Lot 4, between Lot 4 and Lot 6, and along the north boundary of Lots 1, 2, 3, 4 and 5. No structure or obstruction may be placed within these easements not required for storm water management. (*Section 3-2-8(b)(v)(C,F), RCSR, Effects on Local Services*)

Location of No-Build/Alteration Zone. Within this subdivision there are no-build zone/alteration zones, as shown on the plat, to restrict building in areas with steep slopes. No new structure, with the exception of fences, may be constructed in these areas. No new utilities may be constructed in these areas. No fill may be placed in these areas and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through these areas are not permitted. (*Section 3-2-8(b)(v)(D,E,F), RCSR, Effects on Natural Environment, Wildlife Habitat, and Public Health & Safety*)

Location of "very limited" Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as very limited for roads and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the very limited soils are included as exhibits to this document. (The subdivider shall include the exhibits as attachments) (*Section 3-2-8(b)(v)(F), RCSR, Effects on Public Health and Safety*)

Radon Exposure. Owners must understand and accept the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. *(Section 3-2-8(b)(v)(F), RCSR, Effects on Public Health & Safety)*

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

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner or business owner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. *(Section 3-2-8(b)(v)(D), RCSR, Effects on the Natural Environment)*

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the presence of wildlife such as white-tailed deer,

black bear, mountain lion, coyote, fox, skunk, raccoon, and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at <http://fwp.mt.gov>.

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

- (a) Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- (b) **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, 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 (including 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 (MCA 87-3-130) 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, homeowners 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: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- (g) **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the direct control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hooved game animals and the owner may also be held guilty (MCA 87-3-124).
- (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 bears, mountain lion, skunk, and raccoon. **When feeding pets and livestock**, do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- (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) and no lower than 18 inches (at the bottom rail) in order to facilitate wildlife movement. Contact FWP for a brochure or information of building fence 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.)

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

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

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

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) pursuant to the Weed Control Plan. Contact the Ravalli County Weed District for further information. *(Section 3-2-8(b)(v)(A and D), RCSR, Effects on Agriculture and Natural Environment)*

No-Build/Alteration Zones. The no-build/alteration zones, as shown on the plat, restrict building in areas with steep slopes and soils classified as "severely limited". No new structure, with the exception of fences, may be constructed in these areas. No new utilities may be constructed in these areas. No fill may be placed in these areas and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through the areas are not permitted. *(Section 3-2-8(b)(v)(D,E,F), RCSR, Effects on Natural Environment, Wildlife Habitat, and Public Health & Safety)*

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

Amendment. Written governing body approval shall be required to amend any provision of the covenants that was required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdivider shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights to protest the creation of a city/rural

improvement district for any purpose allowed by law, including, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. This waiver will expire 20 years after the date the final plat of the final phase is filed with the Ravalli County Clerk and Recorder. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Section 3-2-8(b)(v)(C,F), RCSR, Effects on Local Services and Public Health & Safety)*
5. 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 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdivider may provide evidence that a \$900-per-lot contribution has been made to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v)(C,F), RCSR, Effects on Local Services and Public Health & Safety)*
6. The following statement shall be shown on the final plat of each phase: "The All Valley Fire Council, which includes the Hamilton Rural Fire Department, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire Department for further information". *(Section 3-2-8(b)(v)(C, F), RCSR, Effects on Local Services and Public Health & Safety)*
7. The subdivider shall negotiate mitigation with the BCC to alleviate perceived effects of the subdivision on the Hamilton School District. The subdivider shall ensure that any decided upon mitigation has been implemented prior to final plat approval. *(Section 3-2-8(b)(v)(C), RCSR, Effects on Local Services)*
8. The subdivider shall work with the Hamilton School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed near the intersection of West Shoshone Drive and South Shoshone Loop. The subdivider shall provide evidence that they have worked with the School District prior to final plat approval. If any improvements are required, the subdivider shall complete the improvements prior to final plat approval. *(Section 3-2-8(b)(v)(C, F), RCSR, Effects on Local Services and Public Health & Safety)*

9. The subdivider shall negotiate mitigation with the BCC to alleviate perceived effects of the subdivision on Public Safety Services (Sheriff, E-911, and DES). The subdivider shall ensure that any decided upon mitigation has been implemented prior to final plat approval. (*Section 3-2-8(b)(v)(C, F), RCSR, Effects on Local Services and Public Health & Safety*)
10. The final plat shall show a no-ingress/egress strip along the subdivisions frontage with South Shoshone Loop, excepting the access point for the internal private road (West Shoshone Drive). The final plat shall also show a no-ingress/egress strip along the entire western boundary of the driveway easement for Lot 1. (*Section 3-2-8(b)(v)(C, F), RCSR, Effects on Local Services and Public Health & Safety*)
11. The internal subdivision roads shall be labeled as "public road and utility easements" on the final plat. (*Section 3-2-8(b)(v)(C), RCSR, Effects on Local Services*)
12. All traffic control signs and road name signs, as proposed on the preliminary plat, shall be installed prior to final plat approval. (*Section 3-2-8(b)(v)(C,F), RCSR, Effects on Local Services and Public Health and Safety*)
13. The Road Maintenance Agreement(s) (RMA) for the internal subdivision roads shall include a provision outlining the maintenance of the drainage easements and associated rip-rap dissipation structures or culverts. (*Section 3-2-8(b)(v)(C), RCSR, Effects on Local Services*)
14. The subdivider shall provide evidence that a Collection Box Unit(s) (CBU) has been installed atop a concrete slab, in accordance with the Hamilton Post Office's standards, and that the installation has been approved by the Hamilton Post Office prior to final plat approval. Alternatively, the subdivider shall provide evidence from the Hamilton Post Office that a CBU(s) is not required. (*Section 3-2-8(b)(v)(C), RCSR, Effects on Local Services*)
15. The final plat shall show no-build/alteration zones that include all areas of steep slopes and severely limited soils, as identified on the preliminary plat. (*Section 3-2-8(b)(v)(D, E, F), RCSR, Effects on Natural Environment, Wildlife, Wildlife Habitat and Public Health & Safety*)

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq. [Staff Note: items in ~~strikethrough~~ are not applicable to this subdivision]

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.

2. One paper and two Mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. In accordance with the conditions of approval and RCSR Section 3-4-4(a)(ii), the following features are required on the Final Plat:
 - (a) Project name
 - (b) Title block
 - (c) Certificate of registered owner – notarized
 - (d) Certificate of registered land surveyor with seal
 - (e) Certificate of governing body approval
 - (f) Signature block for Clerk and Recorder, preferably in lower right hand corner
 - (g) ~~Certificate of public dedication~~
 - (h) ~~Certificate of park cash-in-lieu payment~~
 - (i) Other certifications as appropriate
 - (j) North arrow
 - (k) Graphic scale
 - (l) Legal description
 - (m) Property boundaries (bearings, lengths, curve data)
 - (n) Pertinent section corners and subdivision corners
 - (o) Names of adjoining subdivisions/certificates of survey
 - (p) Monuments found
 - (q) Witness monuments
 - (r) Acreage of subject parcel
 - (s) Curve data (radius, arc length, notation of non-tangent curves)
 - (t) Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
 - (u) Lots and blocks designated by number (dimensions/acreage)
 - (v) Easements/rights of ways (location, width, purpose, ownership)
 - (w) ~~Dedication for public use (boundaries, area, purpose)~~
 - (x) No-build/alteration zones
 - (y) No-ingress/egress zones
 - (z) Water resources (rivers, ponds, etc.)
 - (aa) Floodplains
 - (bb) Irrigation canals including diversion point(s), etc.
 - (cc) ~~High pressure gas lines~~
 - (dd) Existing and new roads (names, ownership, etc.)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
4. Any variance decisions shall be submitted with the final plat submittal.
5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
6. The final plat review fee shall be submitted with the final plat submittal.

7. A Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
12. ~~A copy of the appraisal report, per Section 6-1-7, 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 dedication, shall be submitted with the final plat submittal.~~
13. Road and driveway approach and encroachment permits shall be submitted with the final plat submittal.
14. Evidence of a Ravalli County-approved road name petition(s) for each new road shall be submitted with the final plat submittal.
15. ~~Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineered plans shall be submitted with the final plat submittal.~~
16. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.
17. Road certification(s) shall be submitted with the final plat submittal.
18. Utility availability certification(s) shall be submitted with the final plat submittal.
19. Road/common access maintenance agreement(s), signed and notarized, shall be submitted with the final plat submittal.
20. A signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property shall be submitted with the final plat submittal.
21. ~~A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch shall be submitted with the final plat submittal.~~
22. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
23. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
24. A copy of the letter sent to the appropriate school district(s) stating the subdivider has made a voluntary contribution to the school district to mitigate

impacts of the subdivision on the school district that are not related to capital facilities shall be submitted with the final plat submittal.

25. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations shall be submitted with the final plat submittal.
26. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.)
 - (a) Specific infrastructure improvements potentially required for this subdivision are the installation of a stop sign and road name signs, construction of the internal subdivision roads, installation of the CBU and concrete slab, construction of the bus shelter and turnout, and all irrigation facilities.

VARIANCE REPORT

VARIANCE REQUEST

The subdivider has requested a variance from Section 5-4-4(h), Table B-1, which states that cul-de-sacs for roads classified as local roads shall not exceed 1,400 feet in length. The applicant is proposing an internal cul-de-sac approximately 2,700 feet in length.

Determination of Undue Hardship

A. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Findings of Fact:

1. The application states that the situation is unique because the property "only has legal access from the east". (Shoshone Lakes Variance Application)
2. Although an easement exists that would allow for West Shoshone Drive to be constructed as a through-street rather than a cul-de-sac, the developer was unable to obtain the necessary agreement from adjoining landowners required to construct the internal roadway through to Lakeview Drive or Nez Perce Drive. (Shoshone Lakes Variance Application)
3. The proposal as presented may not be the only design available for a subdivision on this property, however a minimum lot size limit of five (5) acres, set by the South Shoshone Loop Zoning District, and locations of steep topography within the proposed subdivision effectively preclude alternative designs for the site. (Staff Determination)
4. Finding 4, Section 5-4-1 of the RCSR states: "Roads are an important factor in community and subdivision design. Improperly designed roads and intersections can negatively affect the safety and efficiency of private and public roads. Furthermore, they can create unnecessary maintenance costs, limit a parcel's development potential, and limit a project's desirability."

Conclusion of Law:

The conditions upon which the variance is requested are unique to the subject property.

B. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).

Findings of Fact:

1. The application states that there is only one location where a road can be constructed to reach the upper portion of the property at a grade less than 10%. (Shoshone Lakes Variance Application)
2. The "upper portion" of the property is relatively level and does not appear to have slopes greater than 10%. (Site visit, September 2, 2008)
3. There are many alternate designs that could meet the 10% requirement, however the location of steep topography, ponds and wetlands constrain the options for those designs. (Staff Determination)
4. The application states that the limitation of legal access as noted in the Title Report is arguably a physical condition. (Shoshone Lakes Variance Application)
5. Legal access is not a physical condition. (Staff Determination)

Conclusion of Law:

Physical conditions impede the applicant's ability to meet the strict letter of the regulations.

C. Strict compliance with these regulations will result in undue hardship.

Findings of Fact:

1. The conclusion for Criterion A is that the conditions upon which the variance is proposed are unique to the property.
2. The conclusion for Criterion B is that physical conditions partially prevent the applicant from meeting the strict letter of the regulations, and will impede appropriate lot configuration in this subdivision proposal.
3. The unique combination of topography, zoning and private landowner obstacles creates a unique situation for the developer. (Staff Determination)

Conclusion of Law:

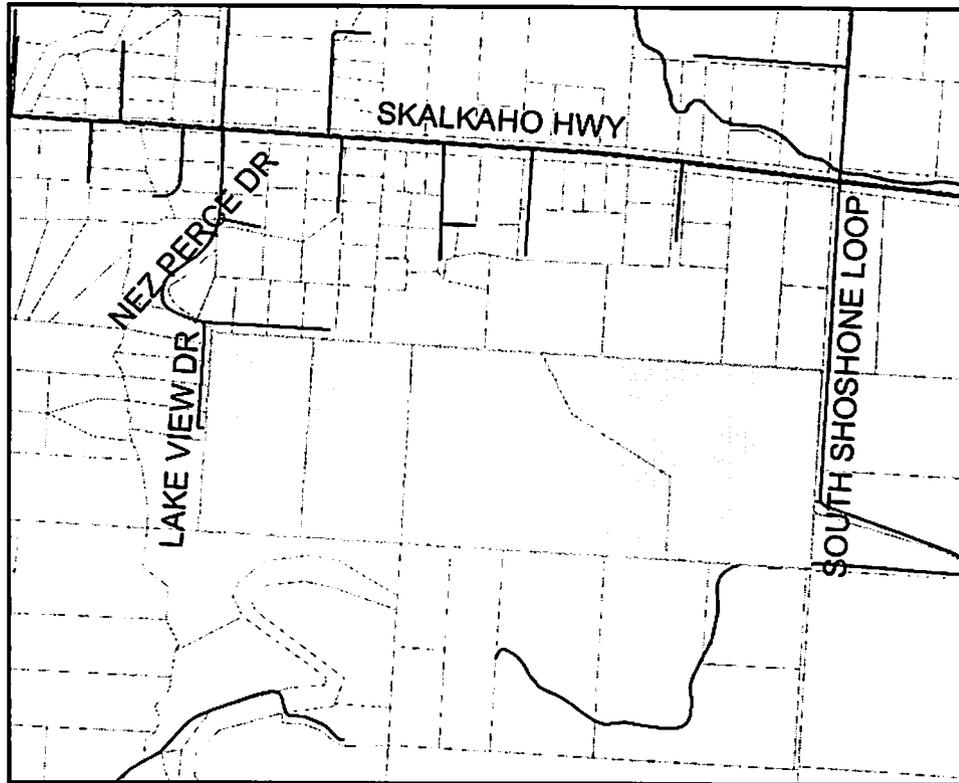
Strict compliance with these regulations will result in undue hardship.

Determination that compliance is not essential to public welfare

A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.

Findings of Fact:

1. The property is bordered on the east by South Shoshone Loop, a County-maintained road, and on the west by Lakeview Drive and Nez Perce Drive, non-County-maintained private roads located within private easements. (Shoshone Lakes Variance Application)
2. The applicant is proposing that the 12-lot subdivision will be served by the internal subdivision road and South Shoshone Loop via Skalkaho Highway. The proposed subdivision will generate approximately 96 trips per day to the road system. (Shoshone Lakes Variance Application)
3. The applicant is proposing to construct a cul-de-sac approximately 2,700 feet in length. The road is proposed to meet county standards, except for cul-de-sac length, with a 20-foot wide paved travel surface and two-foot shoulders. (Shoshone Lakes Variance Application, Staff Determination)
4. Section 5-4-4(h), Table B-1 of the RCSR allows a maximum cul-de-sac length of 1,400 feet for local roads. (Ravalli County Subdivision Regulations)
5. At the time the application was initially submitted on July 25, 2008, the boundary lines of the property were configured differently than they are at present. See Map 2. (Shoshone Lakes Variance Application)
6. The applicant applied for a boundary line relocation on July 18, 2008. (SEA-08-82)
7. The boundary line relocation was approved on August 8, 2008 and filed on August 12, 2008. (SEA-08-08 and COS #607129-R)
8. The boundary line relocation included the platting of a 60-foot private access easement/utility easement that connects South Shoshone Loop to Lakeview Drive. See Map 3. (COS #607129-R)
9. Notification letters were sent to Bitterroot Disposal, Marcus Daly Memorial Hospital, the Hamilton Post Office, and the Ravalli County Sheriff requesting comments on July 29, 2008 and September 19, 2008, but no comments have been received. (Shoshone Lakes Variance Application)
10. In an email received April 26, 2011, Lisa Wade, Hamilton Rural Fire District Secretary, stated that the Hamilton Rural Fire District and the City of Hamilton Fire Chief reviewed the variance requests and maintained their previously stated position. They requested that turn-around areas be constructed at the 1,400-foot and 2,700-foot intervals along the roadway. (Exhibit A-1)

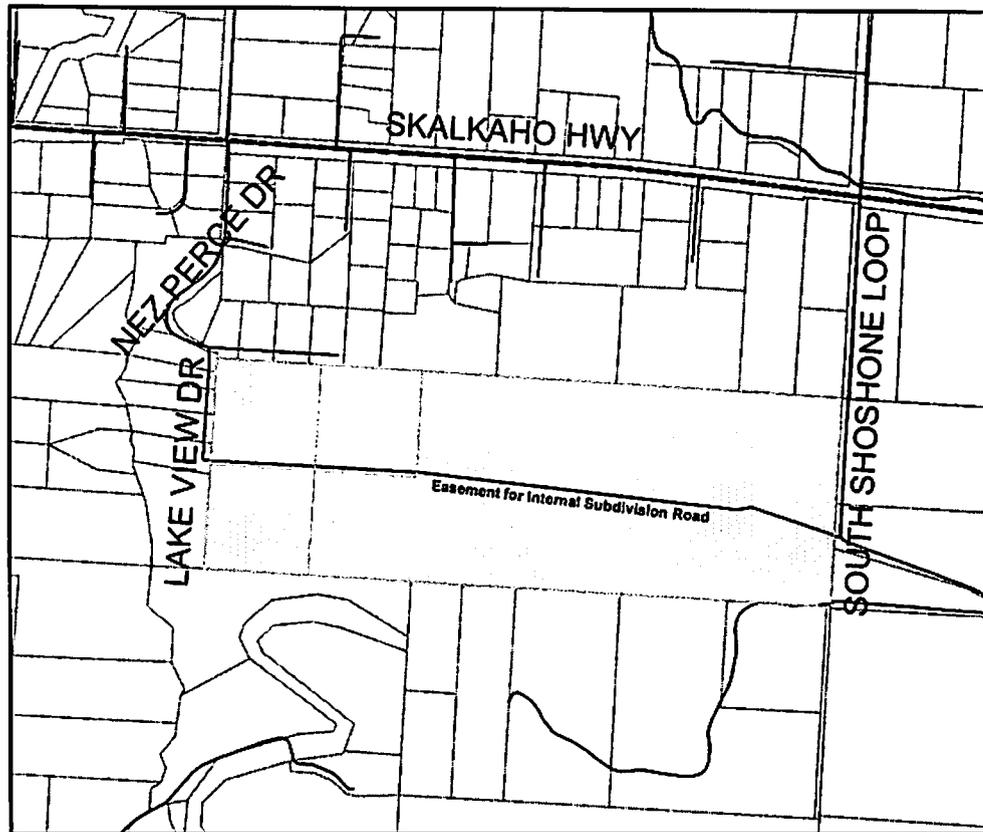


Map 2: Lot Configuration prior to August 12, 2008
Data Source: Ravalli County GIS Department

11. Planning Staff contacted Lisa Wade via e-mail on August 28, 2008 to request clarification on the District's position on the variance requests. (Shoshone Lakes Variance File)
12. In a letter received September 8, 2008, Lisa Wade states that, to mitigate the impact of the subdivision on the Hamilton Rural Fire District's ability to provide fire protection, the District prefers having "a developed road that transverses the entirety of the subject property..." and that all roads leading to and within the subdivision be built to meet County standards. Lisa does not state that her original recommendation no longer stands. (Exhibit A-1)
13. Prior to the October 1, 2008 Planning Board meeting, an adjoining landowner provided a recorded easement document stating explicitly that Lake View Drive and Nez Perce Drive are located within a private road easement. (Shoshone Lakes Variance File)
14. The applicant has not provided evidence that adjoining landowners have given him permission to access Lake View Drive and Nez Perce Drive, and at the October 1, 2008 Planning Board meeting, several adjoining landowners were in attendance to express that they would not give the

applicant legal access to the private road easement. (10/1/08 Planning Board meeting, Staff Determination)

15. The County cannot require adjacent landowners to provide private developers an easement across their land. (Staff Determination)
16. Because Lake View Drive and Nez Perce Drive are non-County maintained roads within a private easement, and the applicant does not have permission to access said easement, there is no legal access to Lake View Drive or Nez Perce Drive from this proposal. (Staff Determination)



Map 3: Lot Configuration after August 12, 2008
[Note placement of easement. Reference COS #607129-R]
Data Source: Ravalli County GIS Department

17. Even if legal access were provided on Lake View Drive, there is currently a home constructed at the intersection of the easement of Lake View Drive and the easement provided for in COS- #607129-R. The construction of a through road from South Shoshone Loop to Lake View Drive would be substantially injurious to this property owner, because that

property owner would be asked to demolish portions of his improved property. (Staff Determination)

Conclusions of Law:

1. A physical connection to Lake View Drive is not possible, because adjoining landowners would be damaged.
2. There is no legal access to Lake View Drive or Nez Perce Drive.
3. The Hamilton Rural Fire District finds that a turnaround area at the 1,400 foot length and 2,700 foot length satisfies their requirements for safe ingress and egress. (Exhibit A-1)
4. The granting of the variance will not be substantially detrimental to public health and safety.

B. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.

Findings of Fact:

1. The unincorporated areas of Ravalli County are not zoned, excepting voluntary zoning districts. (Clerk & Recorder's Office)
2. The subject property is located within the South Shoshone Loop voluntary zoning district. The district establishes a minimum lot size of five acres, and does not address road standards. (Permanent file #7839)
3. Ravalli County voters voted to repeal the County's Growth Policy in the 2008 General Election. Consequently, Ravalli County does not have a Growth Policy. (2008 Ravalli County General Election (R-1-08))

Conclusions of Law:

1. The voluntary zoning district standards associated with the property do not pertain to road construction.
2. Neither zoning regulations nor the Growth Policy apply to the variance request.

C. The variance will not cause a substantial increase in public costs.

Finding of Fact:

The internal subdivision road will be built by the subdivider, and maintained by future homeowners. (Shoshone Lakes Variance Application)

Conclusion of Law:

The granting of the variance will not cause a substantial increase in public costs.

D. Compliance is not essential to the public welfare.

Findings of Fact:

1. The conclusion for Criterion A is that by granting this variance there will not be a substantially detrimental effect to the public health, safety, and general welfare.

2. The conclusions for Criterion B are that zoning regulations do not apply to the variance request, and that consistency with an adopted growth policy is not applicable.
3. The conclusion for Criterion C is that the granting of the variance should not cause a substantial increase in public costs.

Conclusion of Law:

Compliance is not essential to the public welfare.

Overall Conclusion on Variance Request

The variance application provides evidence that there is an undue hardship, given existing physical, social and regulatory constraints, and that compliance with the RCSR is not essential to the public welfare.

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

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

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

Findings of Fact

1. Existing utility easements are located within the public road and utility easement for South Shoshone Loop. (Shoshone Lakes Preliminary Plat)
2. Proposed utility easements will be located within the 60' internal road easement for West Shoshone Drive, within the 50' internal road easement for West Shoshone Court leading to Lots 2 & 3, and along a proposed driveway easement for Lot 1. (Shoshone Lakes Preliminary Plat)

Conclusions of Law

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

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

Findings of Fact

1. The subject property abuts and is accessed via South Shoshone Loop. (Shoshone Lakes Preliminary Plat)
2. South Shoshone Loop is a county-maintained, publicly accessible roadway. (RCRBD)
3. The subdivider has proposed to construct an internal road system, including West Shoshone Drive and West Shoshone Court, meeting County-standards. The internal road system will connect to South Shoshone Loop and end in a cul-de-sac. (Shoshone Lakes Preliminary Plat)
4. Each proposed lot will abut the internal roadway, with the exception of Lot 1. The subdivider is proposing a 30' private access/utility easement along the east side of Lot 7 to provide access for Lot 1.
5. There are no physical obstructions preventing access to the site from South Shoshone Loop. (Staff Site Visit 04/01/11)
6. The two (2) proposed common areas each abut the internal roadway, providing legal and physical access. (Shoshone Lakes Preliminary Plat)

Conclusions of Law

1. Legal Access will be provided to each proposed lot within the subdivision via South Shoshone Loop, a county-maintained roadway that abuts the subject property, and via an internal road system that will be constructed to county standards for new construction. (Staff Determination)
2. Based on the fact that there are no elements or features preventing unobstructed access to the site and that there are no elements or features preventing unobstructed access to the proposed lots on-site, the subject property will have physical access. (Staff Determination)
3. Legal and physical access to the common areas will be provided. (Staff Determination)

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

Findings of Fact

1. Based on recommended conditions and final plat requirements in accordance with Section 3-4-4(a) of the RCSR, specific infrastructure improvements potentially required for this subdivision are the installation of a stop sign and road name signs, construction of the internal subdivision roads, installation of the stormwater drainage infrastructure, construction of all irrigation facilities, installation of a CBU and concrete slab, and construction of a bus turnout and/or shelter. (Final Plat Requirements 1 and 26).
2. In accordance with Section 3-4-2 of the RCSR, the subdivider may enter into a Subdivision Improvements Agreement and Guaranty, securing the

required improvements through a bond, letter of credit, or other acceptable security.

Conclusions of Law

1. The subdivider is required to submit evidence that the improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval. (Final Plat Requirements 1 and 26)
2. The final plat requirements or a Subdivision Improvements Agreement and Guaranty will ensure that all improvements are installed. (Staff Determination)

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

Findings of Fact

1. The average lot size for this subdivision is 7.5 acres. (Shoshone Lakes Subdivision Application – Subdivision Questionnaire)
2. The property, including three (3) tracts adjacent to the proposed subdivision (Tracts 1A, 1B and 2A, CS #607129-R), has a combined 53 irrigated acres distributed by the Bitter Root Irrigation District. (Shoshone Lakes Subdivision Application – Subdivision Questionnaire)
3. A letter dated May 15, 2008 from John Crowley, BRID Manager, states that the proposed Change of Diversion for the 53 irrigated acres supplied by BRID was approved by the Bitter Root Irrigation District Board of Commissioners. (Shoshone Lakes Subdivision Application – Master Irrigation Plan)
4. The property has additional surface water rights, 76H-111178-00 and 76H-111179-00, including a total of 2.75 CFS for 80 irrigated acres. (Shoshone Lakes Subdivision Application)

Conclusions of Law

1. Since no parcels are less than five (5) acres, 76-3-504(1)(j), MCA does not apply to this subdivision.
2. Since the property's 53 irrigated acres are administered by BRID and the Water Allocation Agreement has been approved by the BRID Commission; since the surface water rights have been appropriately divided amongst Lots 1, 2, 3, 7 and 8; and since the developer has proposed all landowners to become party to an Irrigation Plan, the proposal meets the requirements of Section 3-1-5(a)(xxv) of the RCSR for the BRID water shares. (Staff Determination)

E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 of the

RCSR have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. Existing flood irrigation ditches enter and traverse the western portion of the proposed subdivision, but do not carry water beyond the subject property. (Shoshone Lakes Preliminary Plat)
2. An additional irrigation delivery ditch enters the property from the southwest edge, traveling into the proposed Common Area 2. (Shoshone Lakes Preliminary Plat)
3. There are three (3) existing ponds that are currently being utilized for irrigation purposes, including a pump house and pump located in the northeast corner of proposed Common Area 1.
4. New irrigation lines are proposed to be contained within 30' irrigation easements along the south edge of Lots 9, 10, 11 and 12; within the 60' roadway easement for West Shoshone Drive; within a 30' irrigation easement along the north edge of Lots 1, 2, 3, 4 and 5; and within 30' irrigation easements between Lots 4 & 5, Lots 10 & 11, Lot 12 & Tract 1B (CS 607129-R), Lot 5 & Tract 2A (CS 607129-R), and between Tract 1A & 2A (CS 607129-R). (Shoshone Lakes Preliminary Plat)
5. The existing irrigation ditch running through Lot 8 is proposed to be contained within a 30' easement.
6. The three (3) existing ponds are proposed to be contained within Common Area 1 and Common Area 2, with additional 30' irrigation easements to provide irrigation service to Lots 1 & 2. (Shoshone Lakes Preliminary Plat)

Conclusions of Law

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the subdivider is required to establish ditch easements in the subdivision that:
 - (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
 - (b) Are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (c) Prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. Based on the proposed easements, Master Irrigation Plan, and proposed irrigation facilities, the subdivision proposal will conform to the provisions of 76-3-504(1)(k), MCA. (Staff Determination)

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

Findings of Fact

1. The proposal is for a twelve (12) lot rural residential major subdivision, with an average lot size of 7.5 acres. (Shoshone Lakes Subdivision Application – Subdivision Questionnaire)
2. Major subdivisions where all the lots are greater than five (5) acres are exempt from parkland dedication. [RCSR 6-1-5(b)(3)]
3. No lots in the proposed subdivision will be less than five (5) acres. (Shoshone Lakes Preliminary Plat)

Conclusion of Law

Parkland dedication is not required for this subdivision, as dictated by RCSR 6-1-5(b)(3); all lots will be at least five (5) acres in size, exempting the subdivision from parkland dedication. (Staff Determination)

COMPLIANCE WITH APPLICABLE REGULATIONS

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

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

Findings of Fact

1. With approval of the variance from Section 5-4-4, Table B-1 of the RCSR, the lot layout, road design and subdivision proposal, as indicated within the preliminary plat application, will meet the design standards in Chapter 5 of the RCSR. (Shoshone Lakes Subdivision File)
2. This development proposal has followed the necessary application procedures and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. (Shoshone Lakes Subdivision File and Staff Determination)
3. The application includes all necessary and applicable information sufficient for public review. (Staff Determination)

Conclusions of Law

1. The preliminary plat and subdivision application, including the variance request, meet all 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. Applicable zoning regulations.

Findings of Fact

1. The unincorporated areas of Ravalli County are not zoned, excepting Citizen Initiated Zoning Districts. (Ravalli County Clerk & Recorder's Office)
2. The proposed subdivision is located within the South Shoshone Lakes Citizen Initiated Zoning District, which intends to maintain the rural residential/agricultural character of the district, and includes a minimum lot size of five (5) acres. (Permanent File #7839)
3. All lots in the proposed subdivision are greater than or equal to five (5) acres in size. (Shoshone Lakes Preliminary Plat)
4. All lots are proposed to be rural residential or rural farmstead. (Shoshone Lakes Subdivision Application)

Conclusion of Law

The proposed subdivision meets the requirements of the South Shoshone Lakes Zoning District by maintaining a minimum lot size of five (5) acres. The proposed uses for the new lots meet the use requirements of the South Shoshone Lakes Zoning District, as residential or agricultural uses are allowed. There are no other applicable zoning regulations for this property. (Staff Determination)

C. Existing covenants and/or deed restrictions.

Finding of Fact

Title history indicates that there are no existing covenants or deed restrictions that would impact this subdivision application proposal. (Ravalli County Clerk & Recorder's Office; Shoshone Lakes Subdivision Application)

Conclusion of Law

There are no known existing covenants or deed restrictions that apply to the subject property therefore this criterion does not apply. (Staff Determination)

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
 - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (Floodplain, U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana)

Department of Transportation, Montana Department of Environmental Quality, etc.)

2. The subdivider was made aware of the applicable regulations at the updated pre-application conferences held on September 4, 2007, June 12, 2008 and July 23, 2010. (Shoshone Lakes – Subdivision Questionnaire)
3. Prior to final plat approval, the subdivider is required to submit applicable permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

Conclusions of Law

1. Prior to final plat approval, the subdivider is required to submit applicable permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)
2. With the requirements of final plat approval, the application will meet all of the applicable regulations. (Staff Determination)

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

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The subject parcel is classified for tax purposes as non-qualified Ag land. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
2. Soils data obtained from the NRCS Web Soil Survey indicate that approximately 76% of the subject property is potentially classified as 'farmland of statewide' or 'farmland of local importance.' (NRCS Web Soil Survey)
3. Approximately 16 acres of the property is currently irrigated alfalfa. (Shoshone Lakes Subdivision Application)
4. More than 60 acres of the property is irrigated pastureland used for livestock grazing. (Shoshone Lakes Subdivision Application)
5. That current status of the subject property is 'vacant.' (Shoshone Lakes Subdivision Application – Subdivision Questionnaire)
6. There are adjacent agricultural and rural farmstead activities to the south, east and west of the subject property, as stated within the Subdivision Questionnaire and as indicated on the Preliminary Plat. (Shoshone Lakes Subdivision Application; Preliminary Plat)
7. The subdivider submitted a Ravalli County Subdivision Noxious Weed Evaluation Form, in accordance with the element submittal requirements of the RCSR that stated Canada Thistle, Common Tansy, Houndstongue, Spotted Knapweed, and Hoary cress Whitetop were found on the property. (Shoshone Lakes Subdivision Application – Noxious Weed Evaluation)
8. The proposed lot configuration has a minimum lot size of five (5) acres, and will continue to allow some continued use of the property for agricultural operations,

such as personal livestock grazing and crop production. (Shoshone Lakes Subdivision Application – Summary of Probable Impacts)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on agriculture. (MCA 76-3-608(3), Section 3-2-7(b)(1), RCSR)
2. The proposal will impact prime farmland soils according to information from the NRCS. However these classifications are not intended for site-specific evaluations. (Staff Determination; NRCS Web Soil Survey)
3. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a re-vegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
4. The approved Ground Disturbance and Noxious Weed Management Plan will be submitted prior to final plat approval. (Final Plat Requirement 11)
5. With the mitigating conditions of approval, requirements of final plat approval, and continued potential for agricultural uses on the property, the impacts of the subdivision on agriculture will be reduced. (Staff Determination)

Recommended Conditions to Mitigate the Effects on Agriculture

- *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. (Condition 1)*
- *A notification recommending homeowners keep pets confined to the house, a fenced yard, or in an outdoor kennel shall be included in the notifications document filed with the final plat. (Condition 1)*
- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. The property, including three (3) tracts adjacent to the proposed subdivision (Tracts 1A, 1B and 2A, CS #607129-R), has a combined 53 irrigated acres distributed by the Bitter Root Irrigation District. (Shoshone Lakes Subdivision Application – Subdivision Questionnaire)
2. The property has additional surface water rights, 76H-111178-00 and 76H-111179-00, including a total of 2.75 CFS for 80 irrigated acres. (Shoshone Lakes Subdivision Application)
3. All water rights and BRID shares are proposed to be retained and divided evenly amongst the proposed subdivision lots and Tracts 1A, 1B, & 2A (COS #607129-R). (Shoshone Lakes Subdivision Application – Master Irrigation Plan)
4. Irrigation facilities on the property include several flood irrigation ditches traversing the western portion of the proposed subdivision, three (3) water retention ponds, a ditch traversing proposed Lot 8 and entering the central

- man-made pond, and a pump/pump house in the northwestern portion of the property. (Shoshone Lakes Preliminary Plat)
5. Irrigation facilities do extend beyond the proposed subdivision, to Tracts 1A, 1B & 2A (COS #607129-R), however these lots are owned by the developer Drake Lemm Construction, Inc. and are included in the proposed Master Irrigation Plan. (Shoshone Lakes Subdivision Application)
 6. The ponds are proposed to be preserved within two (2) Common Areas. (Shoshone Lakes Preliminary Plat)
 7. A series of irrigation easements are proposed to contain the mainline and lateral lines for the benefit of Lots 4, 5, 6, 9, 10, 11, 12 and Tracts 1A, 1B & 2A (COS #607129-R). (Shoshone Lakes Preliminary Plat & Master Irrigation Plan)
 8. Existing facilities including the supply ditch in proposed Lot 8, flow from the ponds in Common Area 2 to the pond in Common Area 1, and the pump/pump house in Common Area 1 will be contained within proposed irrigation easements for the benefit of Lots 1, 2, 3, 7 and 8. (Shoshone Lakes Preliminary Plat & Master Irrigation Plan)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on agricultural water user facilities. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(v)(B))
2. The proposed subdivision includes a plan for dividing and retaining existing water rights and BRID shares, complying with 76-3-504(1)(j) & 76-3-504(1)(k), MCA. (Staff Determination)
3. With the proposed Irrigation Plan, facility improvements, and irrigation easements, impacts of the subdivision on agricultural water user facilities will be minimized. (Staff Determination)

Recommended Condition to Mitigate the Effect on Agricultural Water User Facilities

- *A notification of the location of irrigation facilities and easements shall be included in the notifications document. (Condition 1).*
- *A notification of water rights/shares shall be included in the notifications document (Condition 1)*
- *The irrigation easements for the main and lateral lines delivering BRID water, and the irrigation easements for the delivery of the private system are required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
- *A signed and notarized master irrigation plan, including documentation showing how the water rights/shares are to be divided and distributed by BRID, will be included with the final plat. (Final Plat Condition 22)*

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire District

1. The subdivision is located within the Hamilton Rural Fire District. (Shoshone Lakes Subdivision Application – Subdivision Questionnaire; Ravalli County GIS Data)
2. The Hamilton Fire District has a station approximately six (6) miles to the northwest from the proposed subdivision. (Ravalli County GIS)
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 in the amount of \$900 per lot is acceptable. (Exhibit A-4)
4. The internal road network, including West Shoshone Drive and West Shoshone Court, will provide emergency access to the five proposed lots. (Shoshone Lakes Preliminary Plat)
5. The Ravalli County Planning Department sent notification letters to the Hamilton Rural Fire District requesting comments on the proposal on January 19, 2011 and April 5, 2011. (Shoshone Lakes Subdivision File)
6. In an email dated April 26, 2011, Lisa Wade of the Hamilton Rural Fire District stated that the District's comments had not changed since the previously submitted comments regarding the proposed variance, except that they request fire flow mitigation be in keeping with the current Fire Protection Standards. (Exhibit A-1)
7. The subdivider states that there will be no measurable impact to the Hamilton Rural Fire District based on the proposed subdivision. (Shoshone Lakes Subdivision Application – Summary of Probable Impacts)
8. The subdivider has not proposed any mitigation for impacts to the fire district at this time. (Shoshone Lakes Subdivision Application – Subdivision Questionnaire; Summary of Probable Impacts)

School District

9. With this subdivision, it is estimated that approximately six (6) school-aged children will be added to the Hamilton School District, assuming an average of 0.5 children per household. (Census 2000; Shoshone Lakes Subdivision Application).
10. The Ravalli County Planning Department sent notification letters to the Hamilton School District requesting comments on the proposal on January 19, 2011 and April 5, 2011; a response was received on January 27, 2011 indicating that the School District requests that an internal bus stop and turnaround be constructed for child safety, and that the BCC assess an appropriate mitigation fee for this project. (Shoshone Lakes Subdivision File; Exhibit A-2)
11. County School Superintendent, Ernie Jean, provided the Planning Department the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. The budget is based approximately on the previous school years student enrollment figures and does not anticipate costs associated with the addition of new students. According to the document, the budget per pupil is \$7,331.00 for the Hamilton School District which includes capital needs and funds gathered from federal, state, and local sources. The local tax levy per pupil excluding capital, federal, and state funds is \$2,680.00. (Exhibit A-5)

12. Taxes from new residents may not be immediately available School Districts. There is currently no known available data on the average amount of time between when additional students from new residences will enroll in the School District and when School Districts receive tax money from the new residences. Because there may be a lag in the time services are provided and taxes are collected, the subdivider shall negotiate an adequate form of mitigation with the BCC. (Staff Determination)
13. Based on the currently available Census data (0.5 children per household) and available budget data, the expected taxes per household levied per pupil, excluding capital costs, within the Hamilton School District would be \$1,340.00, which is half of the \$2,680.00 tax levy per public excluding capital budget allotment for the Hamilton School District. This amount (\$1,340.00) should be taken into consideration and may be utilized as the basis for negotiating an adequate form of mitigation to offset any effects that this subdivision may have on the Hamilton School District. Monetary contributions are not the only acceptable form of mitigation. (Staff Determination)
14. The subdivider states that there will be no anticipated increase in the burden to public schools as a result of this subdivision; no mitigation for impacts to services provided by the Hamilton School District is currently proposed. (Shoshone Lakes Subdivision Application – Summary of Probable Impacts & Subdivision Questionnaire)

Public Safety Services

15. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Shoshone Lakes Subdivision Application – Subdivision Questionnaire)
16. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on January 19, 2011 and April 5, 2011, but no comments have been received to date. (Shoshone Lakes Subdivision File)
17. The average number of people per household in Ravalli County is 2.5. This subdivision proposal has the potential to add approximately 27 people. (Census 2000)
18. Taxes from new businesses 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 public safety services receive tax money from that residence. Because there may be a lag in the time services are provided and taxes are collected, the subdivider shall negotiate an adequate form of mitigation with the BCC. (Staff Determination)
19. The subdivider states that there will not be a measurable impact to services provided by Ravalli County Sheriff's Office based on the addition of new homes. (Shoshone Lakes Subdivision Application – Summary of Probable Impacts)
20. The subdivider has not currently proposed to offer mitigation for impacts the additional homes may have on public safety services. (Shoshone Lakes Subdivision File)

Emergency Services

21. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. Marcus Daly Hospital was contacted on January 19, 2011 and April 5, 2011; however, no comments have been received to date. (Shoshone Lakes Subdivision File)
22. The subdivider states that there will not be any anticipated increase in service needs based on the addition of the new homes. (Shoshone Lakes Subdivision Application – Summary of Probable Impacts)
23. The proposed internal road network, accessed via South Shoshone Loop, a county-maintained roadway, will provide only one (1) access to and from the subdivision, however a turn-around will be placed at 1,400 feet along West Shoshone Drive, and a cul-de-sac will be constructed at the end of the drive, resulting in an adequate service level for emergency service providers. (Staff Determination)

Roads

24. The property can be accessed via US Highway 93 N to Skalkaho Highway, then to South Shoshone Loop and into the private internal road network consisting of West Shoshone Drive and West Shoshone Court. (Shoshone Lakes Subdivision Application)
25. The existing internal roadway easement will be utilized to construct a cul-de-sac roadway, and an additional easement will be created between Lot 6 and Common Area 1 to allow construction of a shared private roadway to provide access for Lots 2 and 3. (Shoshone Lakes Preliminary Plat)
26. This subdivision is estimated to generate an additional 96 vehicular trips per day onto South Shoshone Loop and Skalkaho Highway. This estimation is based on the assumption that each new lot will generate 8 vehicular trips per day for single family residential use. (Shoshone Lakes Subdivision Application – Subdivision Questionnaire)
27. South Shoshone Loop is a county-maintained roadway. (RCRBD)
28. West Shoshone Drive is proposed as a privately-maintained roadway within a 60' private road and public utility easement. (Shoshone Lakes Preliminary Plat)
29. West Shoshone Court is proposed as a privately-maintained roadway within a 50' private road and public utility easement. (Shoshone Lakes Preliminary Plat)
30. The preliminary road plans for West Shoshone Drive and West Shoshone Court were approved March 4, 2011 by the Ravalli County Road and Bridge Department (RCRBD), in consultation with WGM Group. (Shoshone Lakes Subdivision Application)
31. The applicant submitted evidence that an application for an approach permit was submitted to the RCRBD on May 21, 2008. (Shoshone Lakes Subdivision Application)
32. Section 5-4-4, Table B-1 of the RCSR sets the maximum cul-de-sac length at 1,400 feet. The proposed subdivision includes a cul-de-sac design that is necessarily approximately 2,700 feet long in order to provide access to all lots. (Shoshone Lakes Preliminary Plat)
33. The subdivider is re-requesting that a variance from the requirements of Section 5-4-4, Table B-1 of the RCSR due to undue hardship stemming from topographic and easement/access constraints be granted. (Shoshone Lakes Subdivision Application – Variance Request)

Water and Wastewater Districts

- 34. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Shoshone Lakes Subdivision Application)**

Solid Waste Services

- 35. Bitterroot Disposal provides service to this site. (Shoshone Lakes Subdivision Application – Summary of Probable Impacts)**
- 36. Notification letters were sent to Bitterroot Disposal requesting comments on January 19, 2011 and April 5, 2011, but no comments have been received to date. (Shoshone Lakes Subdivision File)**

Postal Service

- 37. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS (Exhibit A-3).**
- 38. This subdivision is proposing twelve (12) lots. (Shoshone Lakes Preliminary Plat)**

Utilities

- 39. Existing utility easements are located on the east side of the proposed subdivision, within the public road and utility easement for South Shoshone Loop. (Shoshone Lakes Preliminary Plat)**
- 40. The proposed subdivision will be served by the Ravalli Electric Cooperative and Blackfoot Telephone Cooperative. (Shoshone Lakes Subdivision Application – Subdivision Questionnaire)**
- 41. Notification letters were sent to Ravalli Electric Cooperative and Blackfoot Telephone Cooperative requesting comments on January 19, 2011 and April 5, 2011, however no comments have been received to date. (Shoshone Lakes Subdivision File)**

Conclusions of Law

- 1. A subdivision proposal must be reviewed for its impacts on local services. (MCA 76-3-608(3), Section 3-2-8(b)(v)(C), RCSR)**

Fire District

- 2. Each lot shall be located within a fire district. (Section 5-7-4(a), RCSR)**
- 3. Because the subject property is located within the Hamilton Rural Fire District, the proposal complies with Section 5-7-4(a), RCSR. (Staff Determination)**

School District

- 4. A copy of the letter sent to the appropriate school district(s) stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities shall be submitted with the final plat submittal. (Final Plat Requirement 24)**
- 5. A governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services. (MCA, 76-3-608(1))**

6. Impact fees can be levied only when a jurisdiction has followed the guidelines and requirements as specified within Senate Bill 116. The Hamilton School District has not completed and Impact Fee Study nor has the Board of County Commissioners adopted impact fees. (Staff Determination)

Roads

7. Based on the lot configuration and proposed private internal roadways, and if the associated variance request from Section 5-4-4, Table B-1 of the RCSR is granted, all lots will have legal and approvable access. (Staff Determination)
8. Section 5-4-4(d), RCSR requires internal road connection to adjoining parcels. The regulation states "roads in a new development shall be connected to a right-of-way or easement in adjacent platted areas to allow for proper inter-neighborhood traffic flow". Because West Shoshone Drive is currently located within a private access easement, and through-access to Lakeview Drive and Nez Perce Drive is no possible due to lack of approval from neighboring property owners, proper inter-neighborhood traffic flow is not feasible. (Staff Determination)
9. A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)
10. The subdivider shall submit a final approved approach permit for West Shoshone Drive from the RCRBD prior to final plat approval. (Final Plat Requirement 13)
11. The subdivider shall submit evidence of a Ravalli County-approved road name petition(s) for each new road shall be submitted with the final plat submittal. (Final Plat Requirement 14)
12. Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal. (Final Plat Requirement 16)
13. Road certification(s) shall be submitted with the final plat submittal. (Final Plat Requirement 17)
14. Road maintenance agreement(s), signed and notarized, shall be submitted with the final plat submittal. (Final Plat Requirement 19)

Water and Wastewater Districts

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

Solid Waste Services

16. The method of solid waste disposal shall be specified during preliminary plat review. (RCSR Section 5-7-2(a))

Mail Delivery Services

11. Where mail delivery will not be provided to each individual lot, the subdivider shall provide an off-road area for central mail delivery within the subdivision (RCSR Section 5-7-3)

Utilities

12. Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)
13. The subdivider shall submit utility availability certifications prior to final plat approval. (Final Plat Requirement 18)

14. With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced. (Staff Determination)

Recommended Conditions to Mitigate the Effects on Local Services

- *The notifications document filed with the final plat shall include a statement notifying lot owners of the no ingress/egress restriction, road maintenance agreement, and the location of drainage easements. (Condition 1)*
- *The protective covenants shall include provisions regarding posting of addresses and construction of accesses in accordance with fire district standards (Condition 2)*
- *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
- *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*
- *Prior to final plat approval, the subdivider shall provide a letter from the Hamilton Rural Fire District stating that the subdivider have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdivider may provide evidence that a \$900-per-lot contribution has been made to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
- *The following statement shall be shown on the final plat: "The 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 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". (Condition 6)*
- *The subdivider shall negotiate adequate mitigation with the BCC to alleviate perceived effects of the subdivision on the Hamilton School District. The subdivider shall ensure that any decided upon mitigation has been implemented prior to final plat approval. (Condition 7)*
- *The subdivider shall work with the Hamilton School District to determine whether or not a bus shelter and/or school bus turnout lane or turnaround should be constructed near the intersection of South Shoshone Loop and West Shoshone Drive. The subdivider shall provide evidence that they have worked with the School District prior to final plat approval. If any improvements are required, the subdivider shall complete the improvements prior to final plat approval. (Condition 8)*
- *The subdivider shall negotiate adequate mitigation with the BCC to alleviate perceived effects of the subdivision on Public Safety Services (Sheriff, E-911, DES). The subdivider shall ensure that any decided upon mitigation has been implemented prior to final plat approval. (Condition 9)*

- *The final plat shall show a no-ingress/egress strip along the subdivisions frontage with South Shoshone Loop, excepting the access for West Shoshone Drive. The final plat shall also show a no-ingress/egress strip along the entire western boundary of the driveway easement for Lot 1 (Condition 10)*
- *The internal subdivision roads shall be labeled as “public road and utility easements” on the final plat. (Condition 11)*
- *All traffic control signs and road name signs shall be installed prior to final plat approval. (Condition 12)*
- *The Road Maintenance Agreement(s) (RMA) for the internal subdivision roads shall include a provision outlining the maintenance of the drainage easements and associated rip-rap dissipation structures or culverts. (Condition 13)*
- *The subdivider shall provide evidence that a Collection Box Unit(s) (CBU) has been installed atop a concrete slab, in accordance with the Hamilton Post Office’s standards, and that the installation has been approved by the Hamilton Post Office prior to final plat approval. Alternatively, the subdivider shall provide evidence from the Stevensville Post Office that a CBU(s) is not required. (Condition 14)*

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Surface Water Features

1. There are three (3) existing man-made ponds located in the eastern portion of the proposed subdivision, all of which are fed by irrigation water and a small spring near the southern-most pond. (Shoshone Lakes Preliminary Plat; Environmental Assessment)
2. The nearest off-site surface streams or water bodies are Skalkaho Creek to the east and the BRID canal to the south. (Shoshone Lakes Subdivision Application – Environmental Assessment)
3. Several irrigation ditches exist, supplying flood irrigation water. (Shoshone Lakes Subdivision Application – Environmental Assessment; Preliminary Plat)
4. The flood irrigation ditches are proposed to be abandoned and replaced with pipe irrigation. All flood irrigation will be prohibited, as stated in the Master Irrigation Plan. (Shoshone Lakes Subdivision Application – Environmental Assessment; Master Irrigation Plan)

Ground Water Quality

5. The subdivider is proposing individual wells and wastewater facilities. (Shoshone Lakes Subdivision Application)
6. The subdivider submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department (RCEH) provided documentation indicating that they have received adequate information for local subdivision review to occur. (Shoshone Lakes Subdivision Application – RCEH review checklist)

7. Groundwater monitoring has occurred on the site. According to data evaluated in 2007, 20 groundwater monitoring holes remained dry at 8' deep, with the exception of flood irrigation waters. (Shoshone Lakes Subdivision Application – Environmental Assessment)

Air Quality

8. This proposed subdivision would add eleven (11) additional residential lots to an area of existing rural farmstead and agricultural development to the south of Skalkaho Highway. (Shoshone Lakes Preliminary Plat)
9. The Montana Department of Environmental Quality (DEQ) has reviewed the PM2.5 (particulate matter \leq 2.5 micron) data collected in 2007 and incorporated it into the PM2.5 dataset from the previous three years (2004-2006). As part of that analysis, DEQ identified several communities that continue to experience poor air quality during certain time periods each year. Those communities are located in the following counties: Lincoln, Missoula, Silver Bow, Ravalli, Gallatin, Lewis & Clark, Flathead, Sanders, Yellowstone and Cascade.
10. Sources of particulate from this subdivision could include vehicles, wood-burning stoves and open burning. (Staff Determination)

Light Pollution

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

Vegetation

12. The subdivider submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Canada Thistle, Common Tansy, Houndstongue, Spotted Knapweed, and Hoary cress Whitetop were found scattered throughout the property. (Shoshone Lakes Subdivision Application – Noxious Weed Evaluation Form)
13. The Montana Natural Heritage Program identified Palish sedge as a plant species of concern within the same section as the subject property. The MNHP also identified a state champion Box Elder in the general region, but in a different section than the proposed subdivision. (Shoshone Lakes Subdivision Application – Environmental Assessment)
14. A Sensitive Species Report including an on-site investigation by consultants PBS&J concluded that the site generally does not have high valuable habitat due to historical grazing and long-term agricultural practices. In addition, presence of noxious weeds and non-native species further reduces any habitat value of the property. Palish sedge was not identified on the site, and potential habitat was determined to primarily be in the small fringe habitat surrounding the man-made ponds. (Shoshone Lakes Subdivision Application – Sensitive Species Report).
15. The areas of existing riparian, wetland pond and scrub land areas were identified as the highest value habitat for sensitive species, and are considered critical habitat. This higher quality habitat surrounding the ponds and along the steeper slopes are proposed to be included in the two Common Areas and included in a No

Build/Alteration Zone. (Shoshone Lakes Subdivision Application – Sensitive Species Report).

16. Other existing vegetation consists primarily dominated by pasture land in the northwestern and southern portion of the property, which includes mostly non-native forage species, and alfalfa fields in the northeastern portion. (Shoshone Lakes Subdivision Application – Sensitive Species Report).
17. A wetland delineation conducted by PBS&J in June 2008 found a total of 10 wetland areas, cover a total of 2.48 acres. Four of these wetlands are in the areas that surround the three ponds; one is located within the steep area; and the rest are primarily located adjacent to irrigation facilities. (Shoshone Lakes Subdivision Application – Wetland Delineation Report)
18. The wetlands surrounding the ponds will be contained in the Common Areas and will be protected from disturbance. The No Build/Alteration Zone will protect the wetland within the steep slope area, and irrigation easements will protect the remaining wetlands from disturbance. (Shoshone Lakes Subdivision Application – Wetland Delineation Report)

Historical/Archeological Sites

19. A letter dated March 16, 2011 from Damon Murdo of the State Historic Preservation Office states that, based on the absence of any previous cultural resource inventory for the site, a full inventory is suggested. (Exhibit A-6)
20. A Class III Cultural Resource Inventory was conducted for the developer by Lone Wolf Archaeology and submitted to SHPO on November 5, 2007. The inventory concluded that no cultural resources were found on the site, and that clearance for development is recommended for the project. (Shoshone Lakes Subdivision Application – Cultural Resource Inventory)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on the natural environment. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(v)(D))

Surface Water Features

2. Proposed easements surrounding irrigation facilities will protect water users and irrigation ditches. (Staff Determination)
3. Existing man-made water features and the surrounding wetlands will be protected by the creation of Common Area 1 and Common Area 2. (Staff Determination)

Ground Water Features

4. The initial RCEH submittal indicates that the site should be suitable for the proposed wells and septic systems. This will be verified with the submittal of the DEQ Certificate of Subdivision Approval that is required to be submitted prior to final plat approval. (Staff Determination and Final Plat Requirement 9)

Vegetation

5. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall

notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)

6. 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. (Final Plat Requirement 11)
7. The proposed Common Areas and No Build/Alteration Zone will protect the existing valuable habitat from future disturbance as a result of this subdivision. (Staff Determination)
8. The subdivider is required to submit copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features. (Final Plat Requirement 23)

Recommended Conditions to Mitigate the Effects on Natural Environment

- *A notice of the no-build/alteration zones shall be included in the notifications document. (Condition 1)*
- *To mitigate impacts on air quality, the notifications document shall include a recommendation that EPA-certified wood stoves should be installed to reduce air pollution and that wood burning stoves should not be used as the primary heat source. (Condition 1)*
- *To mitigate the impacts of light pollution stemming from new construction, the notifications document shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*
- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
- *The covenants shall include an archeological resources section. (Condition 2)*
- *The final plat shall show no-build/alteration zones that include all areas with steep slopes and soils classified as "severely limited" as identified on the preliminary plat. (Condition 15)*

CRITERION 5: EFFECTS ON WILDLIFE

Findings of Fact:

1. Notification letters were sent to Montana Fish, Wildlife, & Parks requesting comments on January 19, 2011 and April 5, 2011. (Shoshone Lakes Subdivision File)
2. Montana Fish, Wildlife, & Parks did not submit comments specific to this proposal, but has provided comments on similar subdivisions in the past.
3. FWP consistently states that properties within Ravalli County have an elevated probability of human/wildlife conflict and recommend including "living with wildlife" covenants. (Staff Report – Recommended Mitigating Conditions)
4. An area of identified higher value habitat was identified surrounding the man-made ponds in the central portion of the property. (Shoshone Lakes Subdivision Application)
5. The preliminary plat proposes to place these areas within two Common Areas to protect the habitat and aquatic resources. (Shoshone Lakes Subdivision Application – Environmental Assessment)

6. At the time of preliminary plat submittal and according to the Montana Natural Heritage Program (MNHP), Bull Trout, Westslope Cutthroat Trout, Gray Wolf, Bald Eagle, Townsend Big-eared Bat, Western Toad, Marbled Jumping-slug were identified as species of concern that have been identified within the same section as the subject property. (Ravalli County GIS; Shoshone Lakes Subdivision Application – MNHP Report)
7. On April 4, 2008 a Sensitive Species Report was completed for the subdivision application by PBS&J to evaluate the habitat potential for the species identified by MNHP. The report concluded that none of the sensitive species were observed on the subject property; in addition, no critical habitat for Bull and Westslope Cutthroat Trout, Gray Wolf, Marbled Jumping-slug, and Bald Eagle exists within the subject property boundaries. There is potential habitat for the remaining species, Townsend Big-eared Bat, Western Toad and Palish sedge, in the riparian areas surrounding the three man-made ponds which are proposed for protection within the two Common Areas. (Shoshone Lakes Subdivision Application – Sensitive Species Report)
8. The addition of twelve new residential homes in a rural setting that currently has a low to medium-low density development pattern has the potential to create light pollution and increase human-wildlife interactions. Sky Glow, glare, and light trespass are some components of light pollution. Human-wildlife interactions can include bear foraging or elk and deer grazing on landscaping features. (International Dark-Sky Association; Staff Determination)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on wildlife. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(v)(E))
2. The Planning Department has found that the requested “Living with Wildlife” covenants are better suited to be recorded as part of the Notifications Document as the items listed within the document are more closely identified as recommendations for landowners rather than restrictions.
3. Based on the findings of the Sensitive Species Report and the recommended mitigating conditions of approval, impacts on wildlife will be reduced. (Staff Determination)

Recommended Conditions to Mitigate the Effects on Wildlife

- *The notifications document shall include a provision recommending full cut-off lighting on new construction and “living with wildlife” recommendations. (Condition 1)*

CRITERION 6: EFFECTS ON WILDLIFE HABITAT

Findings of Fact:

4. Notification letters were sent to Montana Fish, Wildlife, & Parks requesting comments on January 19, 2011 and April 5, 2011. (Shoshone Lakes Subdivision File)
5. Montana Fish, Wildlife, & Parks did not submit comments specific to this proposal, but has provided comments on similar subdivisions in the past.
6. FWP consistently states that properties within Ravalli County have an elevated probability of human/wildlife conflict and recommend including “living with wildlife” covenants. (Staff Report – Recommended Mitigating Conditions)
7. An area of identified higher value habitat was identified surrounding the man-made ponds in the central portion of the property and along the steep slopes in the north-

- central portion of the property. (Shoshone Lakes Subdivision Application)
8. The preliminary plat proposes to place these areas within two Common Areas and a No Build/Alteration Zone along the steep slopes to protect the habitat and aquatic resources. (Shoshone Lakes Subdivision Application – Environmental Assessment)
 9. At the time of preliminary plat submittal and according to the Montana Natural Heritage Program (MNHP), Bull Trout, Westslope Cutthroat Trout, Gray Wolf, Bald Eagle, Townsend Big-eared Bat, Western Toad, Marbled Jumping-slug were identified as species of concern that have been identified within the same section as the subject property. (Ravalli County GIS; Shoshone Lakes Subdivision Application – MNHP Report)
 10. On April 4, 2008 a Sensitive Species Report was completed for the subdivision application by PBS&J to evaluate the habitat potential for the species identified by MNHP. The report concluded that none of the sensitive species were observed on the subject property; in addition, no critical habitat for Bull and Westslope Cutthroat Trout, Gray Wolf, Marbled Jumping-slug, and Bald Eagle exists within the subject property boundaries. There is potential habitat for the remaining species, Townsend Big-eared Bat, Western Toad and Palish sedge, in the riparian areas surrounding the three man-made ponds which are proposed for protection within the two Common Areas. (Shoshone Lakes Subdivision Application – Sensitive Species Report)
 11. The property is located within identified deer and elk winter range, and near the edge of elk summer range, however only white tail and mule deer were observed during the site evaluation, and were generally present only in the woody area along the steep slopes and surrounding the man-made ponds. These areas are proposed to be protected as Common Areas 1 and 2, and a No Build/Alteration Zone. (FWP data; Shoshone Lakes Subdivision Application – Environmental Assessment)
 12. The addition of twelve new residential homes in a rural setting that currently has a low to medium-low density development pattern has the potential to create light pollution and increase human-wildlife interactions. Sky Glow, glare, and light trespass are some components of light pollution. Human-wildlife interactions can include bear foraging or elk and deer grazing on landscaping features. (International Dark-Sky Association; Staff Determination)

Conclusions of Law:

13. A subdivision proposal must be reviewed for its impacts on wildlife habitat. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(v)(E))
14. Based on the findings of the Sensitive Species Report, the creation of two (2) Common Areas and a No Build/Alteration Zone to protect significant habitat features, and the recommended mitigating conditions of approval, impacts on wildlife habitat will be reduced. (Staff Determination)

Recommended Conditions to Mitigate the Effects on Wildlife Habitat

- *The notifications document shall include a provision recommending full cut-off lighting on new construction and “living with wildlife” recommendations. (Condition 1)*
- *The final plat shall show No Build/Alteration Zones that include the areas of steep and associated habitat as identified on the preliminary plat. (Condition 15)*

CRITERION 7: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. The property will be accessed via Skalkaho Highway to South Shoshone Loop, and the internal road network which includes West Shoshone Drive and West Shoshone Court. (Shoshone Lakes Preliminary Plat)
2. The preliminary plat shows the location of proposed stop signs
3. The applicant submitted evidence that an application for an approach permit was submitted to the RCRBD on May 21, 2008. (Shoshone Lakes Subdivision Application)
4. Section 5-4-4, Table B-1 of the RCSR sets the maximum cul-de-sac length at 1,400 feet. The proposed subdivision includes a cul-de-sac design that is necessarily approximately 2,700 feet long in order to provide access to all lots. (Shoshone Lakes Preliminary Plat)
5. The subdivider is re-requesting that a variance from the requirements of Section 5-4-4, Table B-1 of the RCSR due to undue hardship stemming from topographic and easement/access constraints be granted. (Shoshone Lakes Subdivision Application – Variance Request).

Emergency Vehicle Access and Response Time

6. The proposed subdivision will be served by the Hamilton Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Shoshone Lakes Subdivision Application)
7. In a letter dated August 20, 2008, Lisa Wade of the Hamilton Rural Fire Department states that the maximum length their apparatus are designed for on a cul-de-sac roadway is 1,400 feet. They requested that an emergency vehicle turn-around be constructed at the 1,400 foot distance on West Shoshone Drive to accommodate emergency vehicles. (Exhibit A-1)

Water and Wastewater

8. The subdivider is proposing individual wells and wastewater facilities. The subdivider submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Shoshone Lakes Subdivision Application)

Natural and Man-Made Hazards

9. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
10. Within this subdivision there are areas of the property identified as potentially having soils rated as very limited for roads and building sites, as shown on the plat. The location of these soils is entirely within the proposed no-build/alteration zone. (Shoshone Lakes Preliminary Plat)

Conclusions of Law:

1. A subdivision proposal must be reviewed for its impacts on public health and safety. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(v)(F))

Traffic Safety

2. The requirements listed under Roads and Pedestrian Facilities in Criterion 3 (Effects on Local Services) will mitigate the impacts of the subdivision on traffic and pedestrian safety. (Staff Determination)

Emergency Vehicle Response Time

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

Water and Wastewater

4. In accompaniment to the preliminary plat submittal, the subdivider is required to submit water and sanitation information in accordance with the requirements outlined within MCA 76-3-622(2).
5. The subdivider is required to submit a DEQ Certificate of Subdivision Approval prior to final plat approval. (Final Plat Requirement 9)
6. With the mitigating conditions of approval and requirements of final plat approval, impacts on Public Health & Safety will be reduced. (Staff Determination)

Natural and Man-made Hazards

7. Radon exposure risks can be minimized through the mitigating conditions of approval and requirements of final plat approval. (Staff Determination)

Recommended Conditions to Mitigate the Effects on Public Health and Safety

- *A notification of very limited soils shall be included in the notification document. A reduced copy of the final plat showing the approximate location of the "very limited" soils shall be included with the notifications document as an exhibit. (Condition 1)*
- *The notifications document shall include a statement regarding radon exposure. (Condition 1)*
- *The notifications document shall include a provision recommending full cut-off lighting on new construction. (Condition 1)*
- *The notifications document and protective covenants shall include statements regarding the location of the no-build/alteration zones. (Conditions 1 and 2)*
- *The final plat shall show no-build/alteration zones that include all areas containing steep slopes and soils classified "severely limited," as identified on the preliminary plat. (Condition 15)*

Commissioner Iman opened public comment.

Jeff Pearson discussed the proposed gate at the west end of the subdivision. The owner has the three adjoining lots and does not want to gate the west end in order to have access to the lots. Commissioner Chilcott questioned the road maintenance agreement and asked if these roads are within the agreement. Jeff replied he does not know.

Commissioner Iman closed public comment and opened board deliberation for the variance request.

Determination of Undue Hardship

A. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.

Commissioner Chilcott suggested accepting the findings of fact and conclusions of law within the Staff Report for undue hardship. The Board concurred (5-0).

B. Physical conditions, such as topography or parcel shape, prevent the applicant from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s). **The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)**

C. Strict compliance with these regulations will result in undue hardship. **The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)**

Determination that compliance is not essential to public welfare

A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties. **The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)**

B. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy. **The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)**

C. The variance will not cause a substantial increase in public costs. **The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)**

D. Compliance is not essential to the public welfare. **The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)**

Commissioner made a motion to approve the variance request from Section 5-4-4, Table B-1, based on the findings of fact and conclusions of law in the Staff Report. Commissioner Foss seconded the motion and all voted "aye". (5-0)

Commissioner Iman opened board deliberations for the subdivision.

Compliance with Prerequisites to Approval

The Board concurred to accept the findings of fact and conclusions of law for the compliance with the prerequisites. (5-0)

Compliance with Applicable Regulations

The Board concurred to accept the findings of fact and conclusions of law for the compliance with applicable regulations. (5-0)

Criterion 1: Effects on Agriculture: The Board concurred that Criterion 1: Effects on Agriculture has been sufficiently mitigated. (5-0)

Criterion 2: Effects on Agricultural Water User Facilities: The Board concurred that Criterion 2: Effects on Agricultural Water User Facilities has been sufficiently mitigated. (5-0)

Criterion 3: Effects on Local Services:

Fire District: Aaron stated there are negotiations for an on-site water source or cash-in-lieu payment of \$900. Commissioner Chilcott stated a letter is needed to be obtained from the Fire District prior to filing final plat of the negotiations. **The Board concurred to have a letter for either onsite water storage or \$900 per new lot. (5-0)**

School District: A bus shelter has been recommended as well as a turnout by the school district. See Exhibit A-2. Drake Lemm is in agreement with the bus turnout. Commissioner Kanenwisher recommended no mitigation fee for the school district is appropriate since it is a 12 lot subdivision that may only produce one or two children. Discussion followed for the turnout since the bus is likely to continue on the road. **The Board concurred that the applicant will obtain a letter from the school district stating that the turn-out/turnaround condition has been satisfied by final plat and that Condition 7, requiring a negotiated mitigation for impacts to the Hamilton School District be removed. Finding of fact number 12 will be replaced with no significant impact will be realized based on the increase of enrolled with a 12 lot subdivision and school enrollment increases and decreases yearly. The will be some taxable increase based on the creation of smaller lots. (5-0)**

Public Safety Services: Commissioner Kanenwisher recommended no mitigation fee due to the inability to quantify. Commissioner Chilcott stated there is a distinct difference between an impact fee and a mitigation fee. **Commissioner Kanenwisher, Commissioner Stoltz and Commissioner Foss concurred. Commissioner Chilcott and Commissioner Iman did not agree. (3-2) The Board's determination is that there is no impact to Public Safety Services, to change Finding of fact number 18 to strike the last sentence and to remove Condition 9 requiring a negotiated mitigation for impacts to Public Safety Services.**

Emergency Services: The Board concurred to accept the findings of fact and conclusions of law. (5-0)

Roads: The no-ingress/no-egress zone is to prevent additional access onto South Shoshone Loop from proposed Lots 1 and 7. Aaron noted Lot 1 has a private driveway

easement adjacent to South Shoshone Loop through Lot 7 to provide access via West Shoshone Drive. **Commissioner Chilcott requested the three lots to the west are captured in the road maintenance agreement. Tristan recommended the request be captured in a condition. After Discussion, it was determined to make it a request and not a requirement. The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)**

Water and Wastewater Districts: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

Solid Waste Services: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

Postal Service: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

Utilities: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

The Board concurred that Criterion 3: Effects on Local Services has been sufficiently mitigated. (5-0)

Criterion 4: Effects on Natural Environment:

Surface Water Features: Commissioner Iman discussed the no build/no alteration area and requested that limited alteration be allowed for gardens and fencing. Commissioner Kanenwisher disagreed due to the mitigation for the wildlife habitat. Commissioner Chilcott argued that cattails can choke out the habitat if not maintained. Tristan stated within the no build/alteration zone the removal of weeds is allowed. **The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)**

Ground Water Quality: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

Air Quality: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

Light Pollution: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

Vegetation: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

Historical/Archeological Sites: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

The Board concurred that Criterion 4: Effects on Natural Environment has been sufficiently mitigated. (5-0)

Criterion 5: Effects on Wildlife: The Board concurred that Criterion 5: Effects on Wildlife has been sufficiently mitigated. (5-0)

Criterion 6: Effects on Wildlife Habitat: The Board concurred that Criterion 6: Effects on Wildlife Habitat has been sufficiently mitigated. (5-0)

Criterion 7: Effects on Public Health & Safety:

Traffic Safety: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

Emergency Vehicle Access and Response Time: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

Water and Wastewater: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

Natural and Man-made Hazards: The Board concurred to accept the findings of fact and conclusions of law within the Staff Report. (5-0)

The Board concurred that Criterion 7: Effects on Public Health & Safety has been sufficiently mitigated. (5-0)

The Board concurred that all items have been sufficiently mitigated. (5-0)

Commissioner Chilcott made a motion to approve the Shoshone Lakes Major Subdivision based on the findings of fact and conclusions of law in the Staff Report and subject to the conditions in the Staff Report and as amended here today. Commissioner Stoltz seconded the motion and all voted "aye" (5-0)

► Commissioner Foss attended the Bitterroot College meeting at the Human Resource Center at 3:00 p.m.