

COMMISSIONERS APPROVAL

IMAN *SR*

CHILCOTT *Q*

FOSS *JK*

KANENWISHER

STOLTZ *RS*

PLETTENBERG (Clerk & Recorder)

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

Date.....June 22, 2011

► Minutes: Beth Perkins

► The Board met for a public hearing for Hinman Minor Subdivision at 9:00 a.m. Present were Planning Administrator Terry Nelson, Planner Aaron Wilson, Representative Steve Powell, Owner Steve Hinman, Earl Gray, Mrs. Golder, and Mr. & Mrs. Vieyra and several citizens. **Commissioner Kanenwisher was not present for this meeting due to another scheduled matter.**

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

Aaron presented the Staff Report as follows:

**HINMAN
TWO LOT MINOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Aaron Wilson

**REVIEWED/
APPROVED BY:** Tristan Riddell

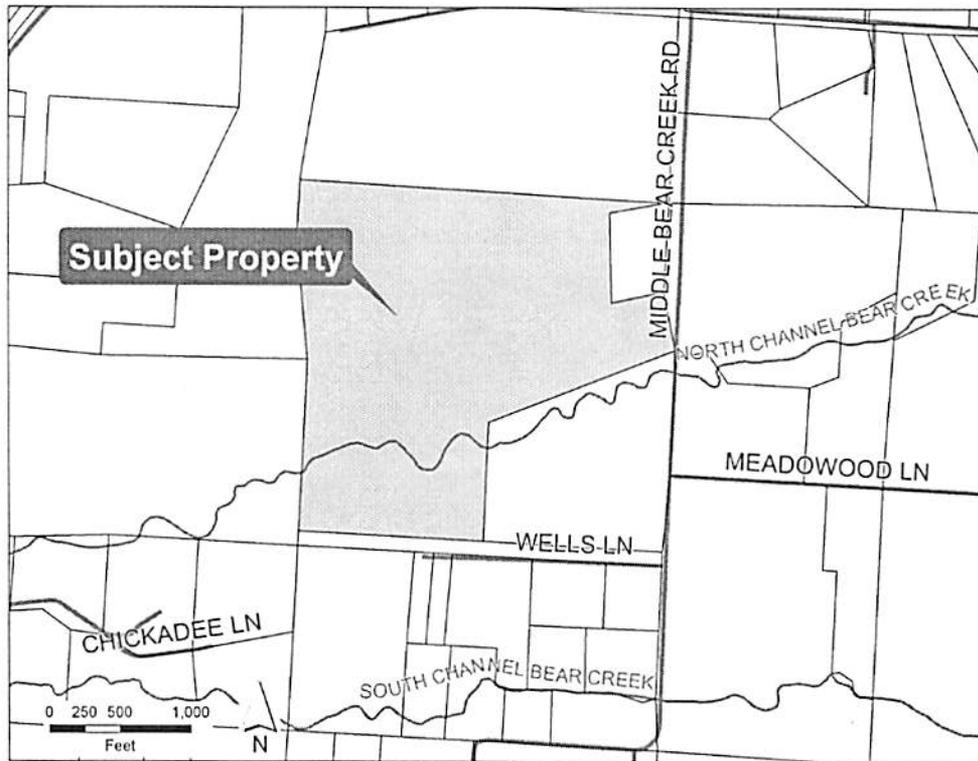
**PUBLIC HEARINGS/
MEETINGS:** BCC Public Meeting: 9:00 a.m. June 22, 2011
Deadline for BCC action: July 5, 2011

SUBDIVIDER/OWNER: Steve (Leslie) Hinman
2132 Pleasant View Dr

Victor, MT 59875

REPRESENTATIVE: Steve Powell
Powell Surveying
341 Grantsdale Rd
Hamilton, MT 59840

LOCATION OF REQUEST: The property is located southwest of Victor along Middle Bear Creek Rd. (See Map 1)



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

**LEGAL DESCRIPTION
OF PROPERTY:**

Deeds, Volume 218, Page 89, located in the E½ of Section 2, T7N, R21W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was deemed sufficient on May 16, 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-8 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended February 3, 2011.**

LEGAL NOTIFICATION: Notice of the project was posted on the property and adjacent property owners were notified by regular mail dated May 23, 2011. No public comments have been received to date.

**DEVELOPMENT
PATTERN:**

Subject property	Pasture/Temporary Residence
North	Pasture/Residential
South	Rural Residential
East	Rural Residential
West	Rural Residential/Timber

INTRODUCTION

The Hinman minor subdivision is a two-lot subdivision of approximately 114 acres located to the southwest of Victor. The proposed split will create one lot of 72 acres, and one lot 42 acres in size. Currently, the property is owned by Steve Hinman, who is proposing to continue the rural large-lot residential and agricultural grazing use of the property. Access to the subdivision from US Highway 93 is provided by 5th Avenue, in Victor, to Pleasant View Drive and then to Middle Bear Creek Road. The proposed access to the lots is for individual private driveways.

Due to the location of an existing foundation constructed in close proximity to the North Fork of Bear Creek, a partial floodplain analysis was completed for Lot 2. Based on that analysis, a suitable building envelope is designated on the plat, and the rest of Lot 2 is proposed to be included in a no-build zone.

Staff recommends conditional approval of the subdivision proposal.

RAVALLI COUNTY BOARD OF COMMISSIONERS

JUNE 22, 2011

**HINMAN
TWO-LOT MINOR SUBDIVISION**

RECOMMENDED MOTIONS

1. That the Hinman Minor Subdivision be *approved*, based on the findings of fact and conclusions of law in the subdivision report and subject to the conditions and final plat requirements within this 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*)

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*)

Notification of Water Rights. The owners of Lots 1 and 2 have private rights to water distributed through the Number 2 Ditch, the apportionment of which is dictated in the Master Irrigation Plan. Residents should consult with the Montana Department of Natural Resources for questions on water rights. (*Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities*)

Location of No-Build/Alteration Zone. Within this subdivision there is a no-build/alteration zone located on Lots 1 and 2, as shown on the plat, to restrict building in areas with riparian vegetation and wetlands. No new structure, with the exception of fences, may be constructed in this area. No new utilities, with the exception of wells, may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through this area are not permitted. (*Section 3-2-8(b)(D,E,F), RCSR, Effects on Natural Environment, Wildlife & Wildlife Habitat, Public Health & Safety*)

Location of No-Build Zone. Within this subdivision there is a no-build zone located on Lot 2, as shown on the plat, to restrict building in areas with potential for local flooding. No new structure, with the exception of fences, may be constructed in this area. Roads, trails, and utility crossings through these areas are permitted. (*Section 3-2-8(b)(D,E,F), RCSR, Effects on Natural Environment, Wildlife & Wildlife Habitat, Public Health & Safety*)

Location of Building Envelope. The entirety of Lot 2 is designated within either a "no-build/alternation" or "no-build" zone, with the exception of an approved building envelope as shown on the final plat. Within the building envelope, future accessory structures are limited to detached structures without wastewater facilities. (*Section 3-2-8(b)(D,E,F), RCSR, Effects on Natural Environment, Wildlife & Wildlife Habitat, Public Health & Safety*)

Location of "Very Limited" Soils. Within this subdivision there are areas of the property identified by the Natural Resources Conservation Service (NRCS) as potentially having soils rated as "very limited" for road construction and building

sites. The approximate locations of these areas can be found on a reduced copy of the final plat. Descriptions of the severe soils in question are included as exhibits to this document [the subdivider shall include the exhibits as attachments to the Notifications Document with the final plat submittal. (*Section 3-2-8(b)(F), RCSR, Effects on Public Health & Safety*)

Notification of Proximity to North Fork of Bear Creek. The North Fork of Bear Creek flows through Lot 2 of this subdivision. There is an inherent hazard associated with creeks, due to potential soil erosion, flooding and movement of the stream channel. It is recommended that the property owner of Lot 2 obtain flood insurance and that the lowest floor of all structures and utilities be located a minimum of 2.0 feet above the natural grade. (*Section 3-2-8(b)(F), RCSR, Effects on Public Health & Safety*)

Notification of Proximity to Unnamed Intermittent Creek. Within this subdivision there is an unnamed intermittent creek. There is an inherent hazard associated with creeks, due to potential soil erosion, flooding, and movement of the creek channel. It is recommended that property owners of this subdivision obtain flood insurance and that the lowest floor of all structures and utilities be located a minimum of 2.0 feet above the natural grade. (*Section 3-2-8(b)(D,F), RCSR, Effects on Public Health & Safety and Natural Environment*)

Notification of Potential Wetlands. Within this subdivision there are areas of potential wetlands. If an easement or boundary line relocation is not obtained to allow for continued use of the existing driveway for Lot 1, the Army Corps of Engineers shall be contacted prior to construction of a new driveway. (*Section 3-2-8(b)(D,F), RCSR, Effects on the Natural Environment and Public Health & 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*)

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

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon, wild turkey and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula 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. There is high potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners must be aware of this potential damage. They should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees or orchards** are a major wildlife attractant, and fruit-bearing trees and shrubs can regularly attract bears in the fall. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or vegetable

material can attract bears, skunks and other wildlife. Gardens should be fenced with one-foot of fencing material below ground level and be at least eight feet in height, in order to discourage wildlife such as deer from feeding in gardens. 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. Electric fencing is necessary to effectively prevent wildlife such as bears from entering a garden or fruit tree/shrub area, but only if the fence is properly constructed and regularly monitored and maintained to ensure proper use and function. Consult with the Montana Department of Fish, Wildlife and Parks on the proper techniques to develop and maintain an effective electric fence.

- c. If stored outdoors, **garbage** should be in secure bear-resistant containers; otherwise it should be stored indoors prior to curbside pick-up or transport to a centralized garbage collection site, in order to avoid attracting wildlife such as bears and raccoon. If curbside garbage pick-up is available, garbage cans may not be set out until the morning of garbage pickup and must be brought in no later than that same evening. (Consult Montana Fish, Wildlife & Parks for information on purchasing or constructing bear-resistant trash containers or storage areas.)
- 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** is an attractant to bears, and outdoor birdfeeders are strongly discouraged from April 1st through the end of November. If used, bird feeders must: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed

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

- h. **Pet food and livestock feed** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets and/or 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 or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
 - 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 and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
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 Victor 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 Victor Rural Fire District has adopted 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 Victor 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*)

Riparian Buffer Zone. The "No Build/No Alteration Zone" is depicted on Lots 1 and 2 of the plat. This is a "buffer zone" that extends a minimum of 100-feet outward from each side of the North Fork of Bear Creek. Additionally, there is a 50-foot no-build/no-alteration zone extending outward from each side of the two intermittent streams (natural drainage courses) that flow through Lots 1 and 2 (north of the North Fork of Bear Creek). The potential riparian area within these zones is protected by the following covenants (restrictions) to help avoid damage to the streams and their riparian areas, as well as enhancing these areas:

1. No building, no new roads or alteration is allowed in the buffer zones.
2. Only non-motorized access and use of the buffer zone is allowed (except for certain maintenance needs such as weed spraying).
3. Do not cut or remove live or dead vegetation, particularly shrubs and trees from the buffer zone. Wood (i.e., fallen branches, downed trees) is an important part of fish habitat and contributes significantly to overall stream health. Wood regularly causes bed scour that creates pools where fish reside to feed and seek cover. Wood also stores sediment that is used for spawning. Dead trees also function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
4. Do not plant lawns in the buffer zones. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
5. If planting is planned for the buffer zones, the goal should be to re-establish native plant species appropriate to the site.
6. Keep livestock out of the North Fork of Bear Creek or develop off-stream watering facilities (e.g., water troughs) for livestock. Use fences if necessary to keep livestock from trampling and grazing riparian vegetation in the buffer zone.
7. It is illegal to modify the streambed or streambanks of a perennial stream without a "310" permit (Montana Natural Streambed and Land Preservation Act). Any stream crossings need to follow any and all local and/or state

regulations relative to bridge/ culvert construction materials/ methods. Certain other actions near the creek may require state and/ or federal permit(s). Contact the Ravalli Conservation District office in Hamilton for further information.

8. In summary, allow riparian areas--the streams and their buffer zones--to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
9. These riparian covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

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 are required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The applicant shall include an RSID/SID waiver in a notarized document filed with the subdivision plat for the first phase that is applicable to all phases that states the following: Owners and their successors-in-interest waive all rights to protest the creation of a special/rural improvement district for any purpose allowed by law, including: developing or expanding a community water system or a community wastewater treatment system for an incorporated municipality, improving and/or maintaining the roads that access the subdivision including (i.e. 5th Street, Pleasant View Drive, Middle Bear Creek Road) related right-of-way, drainage structures, and traffic control signs, and constructing and/or maintaining any pedestrian facilities such as sidewalks, bike-lanes and trails. This waiver will expire 20 years after the date the final plat of the subdivision is filed with the Ravalli County Clerk and Recorder. *(Section 3-2-8(b)(v)(C), RCSR; 76-3-608(7), MCA, Effects on Local Services)*
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)(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 Victor 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 Victor 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)(C,F), RCSR, Effects on Local Services and Public Health & Safety)*

6. The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Victor 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 Victor 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 Victor 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 negotiate 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. (*Section 3-2-8(b)(v)(C, F), RCSR, Effects on Local Services and Public Health & Safety*)
9. The subdivider shall provide for a 10-foot-wide irrigation easement, as shown on the preliminary plat, centered on the irrigation ditch traversing the center of Lot 2, and extending through the southeast portion of Lot 1, on the final plat. A 10-foot-wide irrigation easement shall also be provided centering on the irrigation ditch originating from the North Fork of Bear Creek and traversing the central and southeastern portions of Lot 2, as shown on the preliminary plat. (*Section 3-2-8(b)(B), RCSR, Effects on Agricultural Water User Facilities*)
10. The subdivider shall submit evidence that an easement for the existing driveway accessing Lot 1 has been granted, or the driveway shall be abandoned. If the existing access is abandoned and access is provided by a new driveway from the south end of the proposed Lot boundary along Middle Bear Creek Road, a proposed driveway location within the lot will be included on the final plat. (*Section 3-2-8(b)(C,D), RCSR, Effects on Local Services and Natural Environment*)
11. The final plat shall show a "no-build/alteration zone for the protection of riparian areas" on the final plat over the area labeled as "potential wetlands" on the preliminary plat, including a 50-foot buffer surrounding the natural drainages and intermittent unnamed streams, as depicted on the USGS Topo map. (*Section 3-2-8(b)(v)(D, E, F), RCSR, Effects on Natural Environment, Wildlife, Wildlife Habitat and Public Health & Safety*)
12. The final plat shall show a 100-foot "no-build/alteration zone for the protection of riparian areas" outward from the center-line of the North Fork of Bear Creek, excepting the approved building envelope for Lot 2. (*Section 3-2-8(b)(v)(D, E, F), RCSR, Effects on Natural Environment, Wildlife, Wildlife Habitat and Public Health & Safety*)
13. The final plat shall show a "no-build zone" for the entirety of Lot 2, excepting the approved building envelope as shown on the preliminary plat, and include the

following statement: "Except for the defined building envelope, the entirety of Lot 2 is designated a *No Build Zone* as defined by the Ravalli County Subdivision Regulations." (Section 3-2-8(b)(v)(D, E, F), RCSR, Effects on Natural Environment, Wildlife, Wildlife Habitat and Public Health & Safety)

14. The final plat shall depict the approved building envelope for Lot 2 as shown on the preliminary plat, and include the following statement: "Future accessory structures within the building envelope are limited to detached structures without wastewater facilities." (Section 3-2-8(b)(F), RCSR, Effects on 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. ~~Read/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 removal of the current driveway accessing Lot 1 and installation of mail delivery infrastructure.
27. The subdivider shall pay the pro-rata share of the cost to improve the portions of Middle Bear Creek Road, Pleasant View Drive and 5th Avenue (Victor) leading to the subdivision prior to final plat approval (\$12,118). Section 5-4-5(d), RCSR)

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

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

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

Findings of Fact

1. Existing and proposed utility easements are located along Middle Bear Creek Rd. (Hinman Subdivision Application and Preliminary Plat)
2. Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)

Conclusion of Law

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 gains legal and physical access from US Highway 93, 5th Avenue (Victor), Pleasant View Dr and Middle Bear Creek Rd. (Hinman Preliminary Plat, Ravalli County GIS)
2. Middle Bear Creek Rd is a county-operated roadway. (Exhibit A, RCSR)
3. Each proposed lot in the subdivision abuts Middle Bear Creek Rd. (Hinman Preliminary Plat)
4. The subdivider has obtained preliminary approval for an approach permit from the Ravalli County Road and Bridge Department (RCRBD) for residential access onto Middle Bear Creek Rd for one additional lot. (Hinman Subdivision Application)
5. An existing approved approach exists for Lot 2. (Hinman Subdivision Application & Preliminary Plat)
6. There are no physical obstructions preventing access to the site from Middle Bear Creek Rd. (Staff Site Visit 05/18/11)
7. The potential presence of intermittent streams/natural drainages and wetlands on the east side of Lot 1 may require that the Army Corps of Engineers approve any driveway construction for the benefit of that lot. (Hinman Preliminary Plat)

Conclusions of Law

1. Legal Access will be provided to each proposed lot within the subdivision via Middle Bear Creek Rd, a county-operated roadway that abuts the subject property. (Staff Determination)
2. Based on the fact that there are no elements or features preventing unobstructed access to the site and that there are no elements or features that completely prevent unobstructed access to the proposed lots on-site, the subject property will have physical access. (Staff Determination)

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

Finding of Fact

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 any irrigation delivery system modifications. [RCSR 3-4-4(a)]

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

Findings of Fact

1. 76-3-504(1)(j), MCA states that when a subdivision creates parcels with lot sizes averaging less than 5 acres, the subdivider is required to:
 - a. Reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
 - b. If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
 - c. Reserve and sever all surface water rights from the land.
2. The property has the following water right: 76H 44322-00, priority date April 1, 1890, allowing 1.25 CFS for 37 acres drawn from the Number 2 Ditch. (Hinman Subdivision Application)
3. The water right is currently utilized for flood irrigation. (Hinman Subdivision Application)
4. The subdivider is proposing to allocate 78% of the water to Lot 1, and retain the balance for use by Lot 2. (Hinman Subdivision Application – Master Irrigation Plan)
5. The average lot size of this subdivision is 56.8 acres. (Hinman Subdivision Application – Subdivision Questionnaire)

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 surface water rights will be appropriately divided amongst the two proposed lots and the subdivider has proposed that all lot owners become party to an Irrigation Plan, the proposal meets the requirements of Section 3-1-5(a)(xxv) of the RCSR. (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 have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. The property currently has two existing irrigation ditches traversing the property—one entering from the west boundary of Lot 2 and one originating from the North Fork of Bear Creek within Lot 2—and one internal ditch supplying irrigation water to the proposed subdivision and users downstream. (Hinman Subdivision Preliminary Plat)
2. The existing irrigation ditches running through Lots 1 and 2 are proposed to be contained within a 10' easement. (Hinman Subdivision Preliminary Plat)
3. The internal ditches that run through Lots 1 and 2 are not currently within a proposed irrigation easement. (Hinman Subdivision 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. The final plat shall show 10-foot wide irrigation easements centered on all irrigation ditches on the property. (*Condition 9*)
3. Based on the proposed and required easements, Master Irrigation Plan, and proposed irrigation facilities, the subdivision proposal will conform with 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 subdivision proposal is for a two (2) lot first minor subdivision, with an average lot size of 56.8 acres. (Hinman Subdivision Application – Subdivision Questionnaire)
2. Minor subdivisions creating only one additional lot or creating lots larger than five (5) acres are exempt from parkland dedication. [RCSR 6-1-5(b)]
3. No lots in the proposed subdivision will be less than five (5) acres. (Hinman Subdivision Preliminary Plat)

Conclusion of Law

Parkland dedication is not required for this subdivision, as dictated by RCSR 6-1-5(b); all lots will be at least five (5) acres in size and only one additional lot will be created, 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. The lot layout as indicated on the preliminary plat appears to meet the design standards in Chapter 5 of the RCSR. (Hinman 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. (Hinman Subdivision File and Staff Determination)

3. The application includes all necessary and applicable information sufficient for public review. (Staff Determination)

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR. (Staff Determination)
2. The procedures for the application and review of this proposed subdivision as outlined in Chapter 3 of the RCSR have been followed. (Staff Determination)

B. Applicable zoning regulations.

Findings of Fact

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

Conclusion of Law

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

C. Existing covenants and/or deed restrictions.

Finding of Fact

There are no existing covenants or deed restrictions on the property. (Ravalli County Clerk & Recorder's Office)

Conclusion of Law

There are no covenants or deed restrictions that apply to this property. (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 pre-application conference held on February 5, 2008. (Hinman Subdivision – 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 rural farmstead land. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
2. The subject property currently supports limited grazing of less than 40 cows. (Hinman Subdivision Application – Summary of Probable Impacts)
3. The proposed subdivision will result in two lots, one 42 acres and one 72 acres in size, which will allow for continued rural farmstead activities. (Hinman Subdivision Preliminary Plat; Staff Determination)
4. There are limited agricultural activities conducted on properties to the north (pasture/grazing) and to the west (timber and pasture/grazing). (Hinman Subdivision Application – Subdivision Questionnaire; Summary of Probable Impacts)
5. To mitigate the impacts on adjacent agricultural operations, a “Notification of Proximity to Agricultural Operations” will be filed along with the subdivision. (Condition 1)
6. The subdivider submitted a Ravalli County Subdivision Noxious Weed Evaluation Form, in accordance with the element submittal requirements of the RCSR that stated Ox-eye Daisy, Spotted Knapweed and Tall Buttercup were found on the property. (Hinman Subdivision Application – Noxious Weed Evaluation)
7. Soils data obtained from the NRCS Web Soil Survey indicate that there are no prime farmland soils within the subject property. (NRCS Web Soil Survey)

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)

Overall Agriculture Conclusion

5. With the mitigating conditions of approval, requirements of final plat approval, and continued potential for agricultural uses on the property, potentially significant adverse impacts of the subdivision on local services will be sufficiently mitigated. (Staff Determination).

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. The application states there are water rights associated with this property and the subdivider is proposing to divide the rights among the proposed lots. The surface water right, 76H 44322-00, claims 1.25 CFS for 37 acres. (Hinman Subdivision Application – Master Irrigation Plan)
2. There are two existing irrigation ditches traversing the property and several internal ditches that will provide Lots 1 and 2 with access to irrigation. Ten-foot ditch easements are proposed for the two ditches traversing and continuing beyond the eastern boundary of the property. (Hinman Subdivision Preliminary Plat)
3. The subdivider is proposing to divide the water right between Lots 1 and 2. Of the 37 irrigated acres, 29 will be granted to Lot 1 and the balance will be retained by Lot 1. (Hinman Subdivision Application – Master Irrigation Plan)
4. To notify future property owners and mitigate potential impacts on agricultural water user facilities, a notification of the irrigation ditches and easements shall be filed with the final plat. (*Condition 1*)

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, complying with 76-3-504(1)(j) & 76-3-504(1)(k), MCA. (Staff Determination)
3. In accordance with section 3-4-4(a)(xxi) of the Ravalli County Subdivision Regulations, a notarized statement from each downstream water user specifically authorizing any alteration/relocation of existing irrigation infrastructure must be included with the final plat.

Overall Agricultural Water User Facilities Conclusion

4. With the proposed Irrigation Plan and irrigation easements, potentially significant adverse impacts of the subdivision on agricultural water user facilities will be sufficiently mitigated. (Staff Determination)

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire District

1. The subdivision is located within the Victor Rural Fire District. (Hinman Subdivision Application – Subdivision Questionnaire; Ravalli County GIS Data)
2. The Victor Rural Fire District has a station (Victor Station #2) approximately 2.3 miles to the southwest from the proposed subdivision, and a second station (Victor Station #1) approximately 2.7 miles to the northeast. (Ravalli County GIS)

3. The Victor 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-6)
4. Private driveways accessing off of Middle Bear Creek Road will provide emergency access to the two proposed lots. (Hinman Subdivision Preliminary Plat)
5. The Ravalli County Planning Department sent notification letters to the Victor Rural Fire District requesting comments on the proposal on December 10, 2010 and May 23, 2011; however, no agency comments have been received to date. (Hinman Subdivision File)
6. The subdivider has proposed to make a voluntary contribution to the Victor Rural Fire District to mitigate the impacts of the new residence. (Hinman Subdivision Application – Subdivision Questionnaire; Summary of Probable Impacts)

School District

7. With this subdivision, it is estimated that approximately 0.5 school-aged children may be added to the Victor School District, assuming an average of 0.5 children per household. (Census 2000; Shoshone Lakes Subdivision Application).
8. The Ravalli County Planning Department sent notification letters to the Victor School District requesting comments on the proposal on December 10, 2010 and May 23, 2011; however, no agency comments have been received to date. (Hinman Subdivision File)
9. 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 \$6,929.00 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 \$3,008.00. (Exhibit A-7)
10. 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)
11. 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 Victor School District would be \$1,504.00, which is half of the \$3,008.00 tax levy per public excluding capital budget allotment for the Victor School District. This amount (\$1,504.00) 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 Victor School District. Monetary contributions are not the only acceptable form of mitigation. (Staff Determination)
12. The subdivider states that there may be an anticipated increase in the burden to public schools as a result of this subdivision; the subdivider proposes making a voluntary contribution (amount not stipulated) to the Victor School District at the time

of initial sale of Lot 1. (Hinman Subdivision Application – Summary of Probable Impacts & Subdivision Questionnaire)

Public Safety Services

13. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Hinman Subdivision Application – Subdivision Questionnaire)
14. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on December 10, 2010 and May 23, 2011; however, no comments have been received to date. (Hinman Subdivision File)
15. The average number of people per household in Ravalli County is 2.5. This subdivision proposal has the potential to add approximately 2.5 people. (Census 2000)
16. 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)
17. The subdivider states that the proposed subdivision will create additional demand on services provided by Ravalli County Sheriff's Office and other Public Safety Services based on the addition of a new residence. (Hinman Subdivision Application – Summary of Probable Impacts)
18. The subdivider proposes to offer mitigation for impacts the additional homes may have on public safety services at the time of initial sale of Lot 1. (Hinman Subdivision Application – Summary of Probable Impacts)

Emergency Services

19. 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)

Roads

20. There are two proposed residential lots within this subdivision. It is estimated at build-out that this subdivision could generate a total of 8 additional vehicular trips per day, assuming eight trips per day per lot. (Hinman Subdivision Application – Subdivision Questionnaire)
21. The property can be accessed via US Highway 93 N to 5th Avenue (Victor), Pleasant View Dr and then to Middle Bear Creek Rd. (Hinman Subdivision Application)
22. Middle Bear Creek Rd is a county-maintained roadway. (RCRBD)
23. Each lot is proposed to be accessed by an individual driveway. The applicant submitted evidence that the RCRBD has issued a preliminary approach permit for the proposed lot onto Middle Bear Creek Road. (Hinman Subdivision Application)
24. Lot 1 was initially proposed to access via a new private driveway to be constructed entering from the south end of the property boundary along Middle Bear Creek Rd. However, limitations on access due to the presence of potential wetlands may be restrictive. (Hinman Subdivision Preliminary Plat)
25. Lot 1 currently has a constructed driveway that crosses the southeast corner of the neighboring lot to the north. This driveway may continue to provide access if a

boundary line adjustment or access easement can be obtained from the adjacent landowner. (Hinman Subdivision Preliminary Plat)

26. The subdivider is required to pay the pro-rata share of the cost to improve the portions of Middle Bear Creek Road, Pleasant View Drive and 5th Avenue (Victor) leading to the subdivision to meet County Standards. The preliminary pro-rata estimate for this subdivision is \$12,118.00, based on the estimated 8 additional vehicular trips per day that this subdivision will generate. (Hinman Subdivision File)

Water and Wastewater Districts

27. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Hinman Subdivision Application)
28. The subdivision is exempt from state subdivision wastewater and water review under MCA 76-4-101, however local review will still occur. (Hinman Subdivision File)

Solid Waste Services

29. Bitterroot Disposal provides service to this site. (Hinman Subdivision Application – Summary of Probable Impacts)
30. Notification letters were sent to Bitterroot Disposal requesting comments on December 10, 2010 and May 23, 2011; however, no comments have been received to date. (Shoshone Lakes Subdivision File)

Postal Service

31. 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-5).
32. This subdivision is proposing two (2) lots. (Hinman Subdivision Preliminary Plat)

Utilities

33. Existing utility easements are located on the east side of the proposed subdivision, within the public road and utility easement for South Shoshone Loop. (Hinman Subdivision Preliminary Plat)
34. The proposed subdivision will be served by the Ravalli Electric Cooperative and Qwest Communications. (Hinman Subdivision Application – Subdivision Questionnaire)
35. Notification letters were sent to Ravalli Electric Cooperative and Qwest Communications requesting comments on December 10, 2010 and May 23, 2011; however, no comments have been received to date. (Hinman 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 Victor 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 Victor School District has not completed and Impact Fee Study nor has the Board of County Commissioners adopted impact fees. (Staff Determination)

Roads

7. The RCRBD's Access Encroachment Policy establishes guidelines for the issuance of approach permits. Section III(c) sets the standards associated with new approaches onto local access roadways. The proposal meets the RCRBD adopted policy. (Ravalli County Resolution No. 2287)
8. Based on the lot configuration and proposed private access driveways, all lots will have legal and approvable access. (Staff Determination)
9. Physical access for Lot 2 is provided by the driveway to the existing building foundation. (Staff Determination)
10. Physical access for Lot 1 will be provided by either the existing driveway, or that driveway will be abandoned and a new one constructed through a location depicted on the final plat and subject to approval by the Army Corps of Engineers if wetlands will be impacted. (Condition 10)
11. The subdivider shall submit a final approved approach permit from the RCRBD prior to final plat approval. (Final Plat Requirement 13)
12. The subdivider shall pay the pro-rata share of the cost to improve Middle Bear Creek Road, Pleasant View Drive and 5th Avenue (Victor) over their relative lengths from US Highway 93 leading to the subdivision prior to final plat approval. (Final Plat Requirement 27)

Water and Wastewater Districts

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

Solid Waste Services

14. 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)

The subdivider shall submit utility availability certifications prior to final plat approval. (Final Plat Requirement 18)

Overall Local Services Conclusion

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

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Surface Water Features

1. The North Fork of Bear Creek traverses the southern portion of proposed Lot 1. (Hinman Subdivision Preliminary Plat)
2. Several intermittent streams/natural drainages run through the central portion of the property, including the southeast corner of Lot 1 and the north half of Lot 2. (Hinman Subdivision Preliminary Plat; staff site visit – 05/18/2011)
3. Section 5-8-1(f) of the RCSR states that natural drainage ways shall be preserved.
4. A network of irrigation ditches cross the property, including two supply ditches that provide water distribution to users downstream of the proposed subdivision property. (Hinman Subdivision Application; Preliminary Plat)

Floodplain

5. The property is located adjacent to the North Fork of Bear Creek, which drains an area greater than 15 square miles. (Hinman Subdivision Preliminary Plat; Ravalli County GIS)
6. An existing building foundation was constructed on the bank of the North Fork of Bear Creek by the current property owner in 2006. (Hinman Subdivision Application – Floodplain Analysis)
7. A limited floodplain analysis for the existing foundation constructed on Lot 2 was submitted and reviewed by the Ravalli County Floodplain Administrator. The conclusions of the limited analysis were accepted on the condition that a no-build zone covering the entirety of Lot 2, excepting the approved building envelope shown on the preliminary plat, be placed on the final plat. (Hinman Subdivision File; Exhibit A-1)

Ground Water Quality

8. The subdivider is proposing individual wells and wastewater facilities. (Hinman Subdivision Application)
9. The Ravalli County Environmental Health Department (RCEH), in a letter dated February 28, 2011, state that the subdivider is exempt from water and sanitation review under MCA 76-4-125. All proposed lots are over 20 acres in size. However, the lots are not exempt from local review by RCEH. (Exhibit A-3)
10. According to RCEH, the proposed building site for Lot 1 was evaluated for septic, and Lot 2 had a system installed in 1996. Lot 1 has an existing well, however Lot 2 has not been evaluated for water availability. (Exhibit A-3)

Air Quality

11. This proposed subdivision would add one additional residential lot to an area of existing rural residential and farmstead development to the southwest of Victor. (Hinman Subdivision Preliminary Plat)
12. 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.
13. Sources of particulate from this subdivision could include vehicles, wood-burning stoves and open burning. (Staff Determination)

Light Pollution

14. The addition of one new residential home in an area that currently has low to medium density development has a limited 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

15. The subdivider submitted a Ravalli County Subdivision Noxious Weed Evaluation Form, in accordance with the element submittal requirements of the RCSR that stated Ox-eye Daisy, Spotted Knapweed and Tall Buttercup were found on the property. (Hinman Subdivision Application – Noxious Weed Evaluation)
16. According to the Montana Natural Heritage Program, no plant species of concern were identified within the same section as the proposed subdivision. (Hinman Subdivision File)
17. There are several areas of potential wetland and riparian vegetation shown on the preliminary plat, located along the intermittent unnamed streams stretching across the center of the property and along the North Fork of Bear Creek. (Hinman Subdivision Preliminary Plat; staff site visit – 05/18/2011).
18. Additional vegetation on the property consists primarily of open pasture and a mix of wooded habitat species. (Staff site visit – 05/18/2011)

Historical/Archeological Sites

19. A letter dated November 17, 2010 from Damon Murdo of the State Historic Preservation Office (SHPO) states that, based on the absence of any previous cultural resource inventory for the site, a full inventory is suggested. (Exhibit A-8)
20. During a phone conversation on March 16, 2011 Mr. Murdo amended his statement regarding the requirement of a full cultural resource inventory, stating that, based on proposed home sites, level of disturbance and limitations due to floodplain issues, a full inventory will not be required. In lieu of the inventory, additional language will be included in the protective covenants requiring suspension of ground disturbance activities and notification of SHPO if any evidence of cultural resources is found on the property. (Exhibit A-2)

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. The North Fork of Bear Creek will be protected by the placement of a no-build/alteration zone on the final plat. (*Condition 12*)
4. The unnamed intermittent stream corridors and drainages will be protected by no-build/alteration zones surrounding those features. (Staff Determination)

Floodplain

5. The floodplain analysis concluded that the existing foundation and proposed building site on Lot 2 is above the 100-year floodplain elevation, and was approved by the Ravalli County Floodplain Administrator. (Exhibit A-1)
6. The proposed no-build zone will mitigate floodplain impacts for the rest of Lot 2. (Staff Determination)

Ground Water Features

7. 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 final RCEH approval of the subdivision. (Staff Determination and Final Plat Requirement 9)

Vegetation

8. 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)
9. 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)
10. The proposed No Build/Alteration Zone will protect the existing valuable riparian and wetland vegetation from future disturbance as a result of this subdivision. In order to mitigate impacts on the wetland features of the natural environment, notification of the no-build/alteration zone shall be included in the notifications document and the no-build/alteration zone shall be depicted on the final plat. (Staff Determination)
11. 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)

Overall Natural Environment Conclusion

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

CRITERION 5: EFFECTS ON WILDLIFE

Findings of Fact:

1. Notification letters were sent to Montana Fish, Wildlife, & Parks requesting

- comments on December 10, 2010 and May 23, 2011. (Hinman Subdivision File)
2. In a letter dated January 6, 2011, FWP states that a range of wildlife species, including deer, elk, coyote, fox, raccoon, black bear and mountain lion are likely to be encountered on the property. Consequently, there is a higher probability of human-wildlife conflict within the proposed subdivision and FWP recommends including "living with wildlife" covenants. (Exhibit A-4)
 3. The letter from FWP further states that due to the location of the North Fork of Bear Creek flowing west to east through the southern portion of Lot 2, they recommend a 100-foot no-build/alteration zone to protect the associated riparian and aquatic habitat of that creek, protect the property from eroding stream banks, and allow for natural channel migration. FWP also recommends that these areas be included in and covered by "riparian area" covenants. (Exhibit A-4)
 4. FWP also recommends including a 50-foot no-build/alteration buffer surrounding the natural drainages/wetlands, including the areas identified as "potential wetland" on the preliminary plat, and include these in the riparian covenants for the subdivision to protect riparian areas. (Exhibit A-4)
 5. At the time of preliminary plat submittal and according to the Montana Natural Heritage Program (MNHP), the Gray Wolf, Western Skink, Northern Alligator Lizard, Bull Trout, Westslope Cutthroat Trout, Bobolink, Lewis' Woodpecker, Townsend's Big-eared Bat, and a subterranean amphipod were identified as species of concern within the same section as the proposed subdivision. (Ravalli County GIS; Hinman Subdivision Application – MNHP Report)
 6. A sensitive species report was completed for the subject property on April 22, 2010 by certified wildlife biologist John Ormiston. In that report, Mr. Ormiston indicates that potential habitat exists, and occurrence on the property is therefore likely, for the Western Skink, Northern Alligator Lizard, Bobolink, and Lewis' Woodpecker. In addition to likely resident species, Gray Wolves, Bull Trout, Westslope Cutthroat Trout, and Townsend's Big-eared Bat are likely transient species occurring on the property. (Hinman Subdivision Application – Sensitive Species Report)
 7. In the sensitive species report, Mr. Ormiston states that the property does provide habitat for white-tail deer and transient elk, and therefore gray wolves are likely to move through the property. However, a lack of denning areas and the presence of higher levels of traffic on Red Crow and Lower Bear Creek roads, and the presence of human activity indicate that wolves should be considered transients of the property. Mr. Ormiston concludes that the addition of one buildable lot is unlikely to have any impact on wolf populations in the area. (Hinman Subdivision Application – Sensitive Species Report)
 8. The North Fork of Bear Creek, according to the sensitive species report, does support Bull and Westslope Cutthroat Trout populations, however neither species has been recorded in the reach of the creek flowing through the subject property. The report concludes that the proposed subdivision will have limited, if any, impact on these aquatic species. (Hinman Subdivision Application – Sensitive Species Report)
 9. The sensitive species report also concludes that the absence of typical roost sites for Townsend's Big-eared Bat indicates that the species is likely to be unaffected by the proposed subdivision. (Hinman Subdivision Application – Sensitive Species Report)
 10. Mr. Ormiston states that suitable habitat for the Western Skink, Northern Alligator Lizard, Bobolink, and Lewis' Woodpecker exists on the property and likely supports

the presence of these species. The report concludes that the proposed subdivision will likely have little to no impact on the species due to the large lot size and limited additional development potential within important habitat. (Hinman Subdivision Application – Sensitive Species Report)

11. The subject property lies within identified potential elk winter range habitat. However, the subdivision of the property into two large lots is unlikely to significantly impact available elk habitat on the property, and is unlikely to significantly increase human impacts on elk populations utilizing the property. (Ravalli County GIS; Staff Determination)
12. All of Lot 2 and the portion of Lot 1 identified as a wetland/natural drainage on the preliminary plat and by FWP (including much of the potential wildlife habitat) are recommended to be included in no-build or no-build/alteration zones, providing additional protection of habitat to support continued existence of wildlife species on the property. (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. (Staff Determination)

Overall Wildlife Conclusion

3. Based on the findings of the Sensitive Species Report and the recommended mitigating conditions of approval, potentially significant adverse impacts of the subdivision on wildlife habitat will be sufficiently mitigated. (Staff Determination)

CRITERION 6: EFFECTS ON WILDLIFE HABITAT

Findings of Fact:

4. Notification letters were sent to Montana Fish, Wildlife, & Parks requesting comments on December 10, 2010 and May 23, 2011. (Shoshone Lakes Subdivision File)
5. In a letter dated January 6, 2011, FWP states that a range of wildlife species, including deer, elk, coyote, fox, raccoon, black bear and mountain lion are likely to be encountered on the property. Consequently, there is a higher probability of human-wildlife conflict within the proposed subdivision and FWP recommends including "living with wildlife" covenants. (Exhibit A-4)
6. The letter from FWP further states that due to the location of the North Fork of Bear Creek flowing west to east through the southern portion of Lot 2, they recommend a 100-foot no-build/alteration zone to protect the associated riparian and aquatic habitat of that creek, protect the property from eroding stream banks, and allow for natural channel migration. FWP also recommends that these areas be included in and covered by "riparian area" covenants to protect valuable habitat. (Exhibit A-4)
7. FWP also recommends including a 50-foot no-build/alteration buffer surrounding the natural drainages/wetlands, including the areas identified as "potential wetland" on the preliminary plat, and include these in the riparian covenants for the subdivision to further protect riparian areas. (Exhibit A-4)
8. At the time of preliminary plat submittal and according to the Montana Natural

Heritage Program (MNHP), the Gray Wolf, Western Skink, Northern Alligator Lizard, Bull Trout, Westslope Cutthroat Trout, Bobolink, Lewis' Woodpecker, Townsend's Big-eared Bat, and a subterranean amphipod were identified as species of concern within the same section as the proposed subdivision. (Ravalli County GIS; Hinman Subdivision Application – MNHP Report)

9. A sensitive species report was completed for the subject property on April 22, 2010 by certified wildlife biologist John Ormiston. The report concludes that the proposed subdivision will have little, if any, impact on habitat critical to the identified species of concern. (Hinman Subdivision Application – Sensitive Species Report)
10. The subject property lies within identified potential elk winter range habitat. However, the subdivision of the property into two large lots is unlikely to significantly impact available elk habitat on the property. (Ravalli County GIS; Staff Determination)
11. All of Lot 2 and the portion of Lot 1 identified as a wetland/natural drainage on the preliminary plat and by FWP (including much of the potential wildlife habitat) are recommended to be included in no-build or no-build/alteration zones, providing additional protection of habitat to support continued utilization of habitat on the property by wildlife. (Staff Determination)

Conclusions of Law:

12. 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))

Overall Wildlife Habitat Conclusion

13. Based on the findings within the Sensitive Species Report and the recommended mitigating conditions of approval, including no-build and no-build/alteration zones, potentially significant adverse impacts of the subdivision on wildlife habitat will be sufficiently mitigated. (Staff Determination)

CRITERION 7: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. The property will be accessed via 5th Avenue (Victor) to Pleasant View Drive and Middle Bear Creek Road, and two private accesses. (Hinman Subdivision Preliminary Plat)
2. The applicant submitted evidence that preliminary approach approval had been granted by the RCRBD on October 26, 2010. (Hinman Subdivision Application)

Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Victor Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Hinman Subdivision Application)
4. Notification letters were sent to the Victor Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department requesting comments on December 10, 2010 and May 23, 2011; however, no comments have been received to date. (Shoshone Lakes Subdivision File)

Water and Wastewater

5. 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)

6. The Ravalli County Environmental Health Department (RCEH), in a letter dated February 28, 2011, state that the subdivider is exempt from water and sanitation review under MCA 76-4-125. All proposed lots are over 20 acres in size. However, the lots are not exempt from local review by RCEH. (Exhibit A-3)
7. According to RCEH, the proposed building site for Lot 1 was evaluated for septic, and Lot 2 had a system installed in 1996. Lot 1 has an existing well, however Lot 2 has not been evaluated for water availability. (Exhibit A-3)

Natural and Man-Made Hazards

8. 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)
9. 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. To educate property owners and to mitigate potential impacts of this subdivision on Public Health & Safety, a notification of the potential for severe soils shall be included in the notifications document filed with the final plat. A reduced plat showing the approximate locations of soils rated as severe for roads and building construction and descriptions of the severe soils in question shall be attached to the notifications document as an exhibit. (Hinman Subdivision Application; Preliminary Plat)
21. The North Fork of Bear Creek traverses Lot 2 and an unnamed tributary of the North Fork of Bear Creek traverses the southeastern portion of Lot 1 and the northern portion of Lot 2. (Hinman Subdivision Preliminary Plat)
22. The applicant requested a waiver from the floodplain analysis requirement for the North Fork of Bear Creek. A floodplain analysis was not required for the unnamed tributary of the North Fork of Bear Creek. (*Section 3-1-5(a)(xl), RCSR*, and Hinman Subdivision Application)
23. The Ravalli County Floodplain Administrator waived the floodplain analysis for the North Fork of Bear Creek because the applicants are proposing no-build/alteration zones over the entirety of Lot 2. The Ravalli County Floodplain Administrator made the following recommendations (Exhibit A-1):
 - The lowest floor of all proposed structures and utilities should be located a minimum of 2.0 feet above the natural grade.
 - The no-build zone, as proposed on the preliminary plat, should be on the final plat.
 - A single, pre-defined building envelope for Lot 2, as shown on the preliminary plat, be included on the final plat.
 - The property owner of Lot 2 should obtain flood insurance due to the proximity of the creek's estimated 100-year floodplains.
 - Permits required from other agencies should be obtained before proceeding with the project.

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 Victor 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. Because the new lot is over 20 acres, review of the water and wastewater treatment facilities for the subdivision will be completed by the Ravalli County Environmental Health Department (RCEH) instead of DEQ. (RCSR 5-3-1(b))
5. The applicant is required to submit documentation from the RCEH stating their approval of the subdivision, or stating that the subdivision is exempt from review, prior to final approval. (Final Plat Requirement 9)

Natural and Man-made Hazards

6. Radon exposure risks can be minimized through the mitigating conditions of approval and requirements of final plat approval. (Staff Determination)
7. Floodplain risks will be mitigated by limiting construction to the approved building envelope, as depicted on the preliminary plat, and by designating the remainder of Lot 2 as a no-build or no-build/alteration zone. (Staff Determination)

Overall Public Health and Safety Conclusion

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

Commissioner Iman opened public comment.

Steve Powell gave background of the property. The intention is to sell the first lot in the future with covenants for no future splits to keep the lots in large pieces. He then discussed the building envelope where additional structures could be built. Under section 6, there is some flexibility with Victor Fire District for the width of the driveway. He requested no mitigation for the schools since the subdivision would produce under one child. Steve discussed Road Certification and the pro rata share for the road in the amount of \$12,118. He expressed his concern with the overall improvement for the roads since there is a limitation of when the funds could be spent.

Mr. Vieyra expressed his concern over the driveway. If a new driveway needs to be constructed, it would have to have an easement for the driveway from the Vieyras. Steve Powell replied the Vieyras property is not an issue. Mr. Vieyra discussed an issue with a tree and his fence not being repaired after the tree had fell on it. Steve Hinman cleared the tree however the tree was 2 feet onto the Vieyra property. He felt the fence was not his responsibility.

Mrs. Golder asked about the commercial lot. Aaron Wilson replied there will not be any "commercial" lots. Further questions were asked by Mrs. Golder such as concerns over the water rights and an irrigation plan. She discussed the driveway and an agreement with Mr. Merrick, the previous owner to lease a portion of her property for the driveway. Mr. Hinman only made one payment for the driveway lease and she put up a gate with a padlock when payments ceased. Her issue is the fence line. Steve Powell was working with Mrs. Golder to relocate the boundary line and build the fence in another location. The Golders have not come to an agreement on the fence line. Steve Hinman agreed to pay for $\frac{3}{4}$ of the fence with a signed agreement. Commissioner Iman noted for record the access to the property via the existing driveway on Lot 1 is now in question. The easement to Lot 1 may have a cloud on it; a second proposed driveway access location may have some physical limitations.

Commissioner Iman requested any further public comment. Hearing none, he then closed public comment and opened Board deliberations.

Commissioner Iman confirmed this proposal has met the requirements of the prerequisites for approval. Aaron replied yes it has.

Compliance with Prerequisites to Approval

A. Provides easements for the location and installation of any planned utilities: There are existing utilities easements. **The Board concurred with the Planning Staff's findings of fact and conclusions of law. (4-0)**

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: Commissioner Iman 30 foot alternative access exists with possible restrictions for wetlands mitigation. **The Board concurred with the Planning Staff's findings of fact and conclusions of law. (4-0)**

C. Assures that all required public or private improvements: **The Board concurred with the Planning Staff's findings of fact and conclusions of law. (4-0)**

D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted: **The Board concurred with the Planning Staff's findings of fact and conclusions of law. (4-0)**

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

final plat is submitted: **The Board concurred with the Planning Staff's findings of fact and conclusions of law. (4-0)**

F. Provides for the appropriate park dedication or cash in lieu, if applicable: **The Board concurred with the Planning Staff's findings of fact and conclusions of law. (4-0)**

Commissioner Chilcott made a motion to accept items A-F, based on the findings of facts and conclusions of law as presented by Staff. Commissioner Foss seconded the motion and all voted "aye". (4-0)

Compliance with Applicable Regulations:

A. These regulations, including but not limited to, the standards set forth in Chapter 5. **The Board concurred with the Planning Staff's findings of fact and conclusions of law. (4-0)**

B. Applicable zoning regulations: **The Board concurred with the Planning Staff's findings of fact and conclusions of law. (4-0)**

C. Existing covenants and-or deed restrictions: **The Board concurred with the Planning Staff's findings of fact and conclusions of law. (4-0)**

D. Other Applicable regulations: **The Board concurred with the Planning Staff's findings of fact and conclusions of law. (4-0)**

Commissioner Foss made a motion to accept items A-D, based on the findings of fact and conclusions of law as presented by Staff. Commissioner Stoltz seconded the motion and all voted "aye". (4-0)

Criterion 1: Effects on Agriculture: Commissioner Iman noted there isn't any portion of the parcel under any soils of local or statewide importance. **Commissioner Chilcott made a motion to accept the findings of fact and conclusions of law as presented by Staff. Commissioner Stoltz seconded the motion and all voted "aye". (4-0)**

Criterion 2: Effects on Agricultural Water User Facilities: Commissioner Iman discussed the elevation of the ditch and the two ten-foot ditch easements proposed for the ditches traversing. Aaron would change Condition 9 from 10 foot easement to 20 foot easement. **Commissioner Stoltz made a motion to accept the findings of fact and conclusions of law as presented by Staff and amended to include the change to Condition 9 for 20 foot irrigation easements. Commissioner Foss seconded the motion and all voted "aye". (4-0)**

Criterion 3: Effects on Local Services:

Fire District: Steve Powell offered \$900 to Victor Fire District for mitigation. **The Board concurred that the offer sufficiently mitigated effects on the Victor Fire District.**

School District: Steve Powell offered \$0 to Victor School District due to the projection of 0.5 children may be added. **The Board concurred that effects on the School District were sufficiently mitigated.**

Public Safety Services: \$0 was offered for mitigation to Public Safety Services. **The Board concurred that effects on Public Safety Services were sufficiently mitigated.**

Emergency Services: The Board concurred with the findings of fact and conclusions of law in the Staff Report determining that effects on Emergency Services are sufficiently mitigated.

Roads: Commissioner Chilcott discussed the pro rata share for Middle Bear Creek Road, Pleasant View Drive and 5th Avenue in the amount of \$12,118.00 and an SID waiver. Discussion followed regarding the impact to the roads and when it would take place. Commissioner Chilcott requested striking “improving and/or maintaining the roads that access the subdivision including (i.e. 5th Street, Pleasant View Drive, Middle Bear Creek Road) related right-of-way, drainage, structures, and traffic control signs and constructing and/or maintaining any pedestrian facilities such as sidewalks, bike-lanes and trails” from Condition 3. The Board concurred with findings of fact and conclusions of law in the Staff Report as amended to include the change to Condition 3.

Water and Wastewater Districts: The Board concurred with the findings of fact and conclusions of law in the Staff Report determining that effects on Water and Wastewater Districts are sufficiently mitigated.

Solid Waste Services: The Board concurred with the findings of fact and conclusions of law in the Staff Report determining that effects on Solid Waste Services are sufficiently mitigated.

Postal Service: The Board concurred with the findings of fact and conclusions of law in the Staff Report determining that effects on Postal Service are sufficiently mitigated.

Utilities: The Board concurred with the findings of fact and conclusions of law in the Staff Report determining that effects on Utilities are sufficiently mitigated.

Conclusions of Law: Commissioner Stoltz made a motion to accept Criterion 3: Effects on Public Services as being sufficiently mitigated based on the the Findings of Fact and Conclusions of Law in the Staff Report and as amended here today. Commissioner Foss seconded the motion and all voted “aye”. (4-0)

Criterion 4: Effects on Natural Environment:

Surface Water Features: Commissioner Foss requested changing the no build/no alteration zone to a no build zone. Commissioner Chilcott agreed as some alterations can benefit the riparian areas. Aaron agreed as long as the riparian buffer is included. The Board concurred to amend Condition 11 to change “no alteration” to “riparian protection buffer zone” and excepting the building envelope; and amend Condition 13 to include the language of “in lieu of floodplain analysis”.

Floodplain: The Board concurred to accept the findings of fact under Floodplain.

Ground Water Quality: The Board concurred to accept the findings of fact.

Air Quality: The Board concurred to accept the findings of fact.

Light Pollution: The Board concurred to accept the findings of fact.

Vegetation: The Board concurred to accept the findings of fact.

Historical/Archeological Sites: The Board concurred to accept the findings of fact.

Conclusions of Law: Commissioner Chilcott made a motion to accept Criterion 4: Effects on the Natural Environment as being sufficiently mitigated based on the findings of fact and conclusions of law in the Staff Report and as amended here today. Commissioner Stoltz seconded the motion and all voted “aye”. (4-0)

Criterion 5: Effects on Wildlife: Commissioner Chilcott made a motion to accept Criterion 5: Effects on Wildlife as being sufficiently mitigated based on the findings of fact and conclusions in the Staff Report. Commissioner Stoltz seconded the motion and all voted “aye”. (4-0)

Criterion 6: Effects on Wildlife Habitat: Commissioner Stoltz made a motion to accept Criterion 6: Effects on Wildlife Habitat as being sufficiently mitigated based on the findings of fact and conclusions of law in the Staff Report, and amending the conclusions of law to change no build/no alteration zone to no build riparian protection zone. Commissioner Foss seconded the motion and all voted "aye". (4-0)

Criterion 7: Effects on Public Health & Safety: Commissioner Foss made a motion to accept Criterion 7: Effects on Public Health & Safety as being sufficiently mitigated based on the findings of fact and conclusions of law in the Staff Report, as amended. Commissioner Stoltz seconded the motion and all voted "aye". (4-0)

Commissioner Chilcott made a motion to conditionally approve the Hinman Minor subdivision, based on the findings of fact and conclusions of law in the Planning Staff report and subject to the conditions and final plat requirements within this staff report and as amended here today. Commissioner Stoltz seconded the motion and all voted "aye" (4-0)

► The Board met for discussion and possible decision on an Ordinance for reduced speed limits on unpaved roadways at 1:30 p.m. Present were Road & Bridge Department Supervisor David Ohnstad, Environmental Health Director Lea Guthrie and Ravalli Republic Reporter Whitney Bernes.

David gave a brief review of House Bill 61 allowing local authority to post speed limits on unpaved roadways. He discussed a policy for petition to reduce speed limits and then adopt an Ordinance once the speed limit is changed. There would be fees associated with the petition for signage. The effective date needs to be verified. Discussion followed regarding defining goals for what is to be accomplished, citizen involvement, concern of public health and safety focusing on reduction of air particulate and high pedestrian areas. Commissioner Chilcott suggested utilizing citizen-initiated zoning district criteria as a process guideline. The benefit is to the people who reside on the road.

Commissioner Iman stated this new bill provides the opportunity but not the obligation. Discussion followed regarding posting all gravel roads to 35 mph categorically according to State law and then petition for other speed limits. Commissioner Stoltz stated if there is going to be a blanket policy, then the citizens should vote on it. David stated once a speed limit is posted, it is perceived to be safe to drive although it is the maximum limit. There is no way to predict the condition of an unpaved road once weather has affected it such as rain, etc. Lea Guthrie discussed air particulate and TMDL.

Commissioner Chilcott is not in favor of having a lengthy public process. He recommended having a petition process with final review from the Board. Discussion followed regarding the revenue derived from the penalty phase and how it should go into the general fund. **The Board concurred to have the funds go into the general fund, have a meeting for public comment (two weeks for legal notice), and consult with the County Attorney. David suggested an umbrella ordinance. The Board concurred with David and to include criteria.**

► Minutes: Glenda Wiles

► The Board met for discussion and possible decision on recovering the costs of the softball fencing at the ball fields near the Fairgrounds at 2:40 p.m. Present were Chief Financial Officer Klarryse Murphy, Fairgrounds Manager Deb Rogala, Fairground Commission Members Lee Scharff, Ran Pigman and ball player Tristan Riddell. Klarryse gave a recap of the decision by the Board leading up to the costs for the softball fencing. \$9,456.20 has been expended by the county thus far. Klarryse will now send the current bill due in 30 days, \$3,000 at 0% interest (billing will occur on an annual basis until the balance is clear). Tristan indicated he is not sure the association has any money to pay this bill because they did not work out any signage advertising agreement on the fence with the City of Hamilton. **The Board concurred to send the association the bill and wait for their response or first check.**

► The Board met for discussion and possible decision on the irrigation system for the Fairgrounds at 3:00 p.m. Present was Fairgrounds Manager Deb Rogala, Fairground Commission Members Lee Scharff and Ran Pigman. Ran gave a recap of this issue, noting the collective wells on the fair property are inadequate to properly irrigate the grass. After calculations on needed water, two wells have been drilled, permits received with Certificate of Water rights received. The issue now is getting the water out of the ground with a proper irrigation system. Previous Commissioners asked the Fair Commission Members to design a system and prices for the system. The pump installation has gone forward with an award to Adams Pump Service. Ran gave an overview of the irrigation system (estimate from Valley Irrigation for \$14,500 of which Valley Irrigation is donating certain portions of the system including winterization). Other monies received for this system have been donated which will leave the county's portion up to \$9,000. Ran asked the Commissioners for the \$9,000 from the Capital Improvement Fund for three irrigation systems and for the Commission to handle the money. **Commissioner Stoltz made a motion to approve the expenditure up to \$9,000 for this system, monies being given to Fairgrounds Manager Deb Rogala for management. Commissioner Kanenwisher seconded the motion. Discussion: Commissioner Chilcott asked where this \$9,000 would come from. It was agreed to take the money from the Commissioners' Special Project Fund.** Ran indicated Valley Irrigation has a good work history with the Fair, they have donated to this project plus Ran knows that this estimate is lower than a previous bid. Chair Iman stated he received another competitive bid and it was delivered to the Fair Commission, at a cost of \$6,900 totally installed. Discussion included the different options (plastic pipe and polyethylene pipe, difference being a 2" versus 3" main line – 3" main line being preferred). Commissioner Kanenwisher indicated the Valley Irrigation Bid is for alternative supplies being preferred over the lower bid, thus there is fiscal responsibility when they review these bids. **All voted "aye".**

► Public Comment not otherwise on the agenda: Lee Scharff had a concern about Commissioner Iman's comment at a previous meeting about volunteers not being responsible with money. Lee stated Commissioner Stoltz is the Fair Commission Liaison and Commissioner Iman needs to back off and let Commissioner Stoltz do his job. Lee noted the other bid Commissioner Iman received was brought in when the Fair Commission Committee had not even begun to look at the system. Lee stated the bid Commissioner Iman presented listed the job as Commissioner Iman's design and he considers that to be a conflict of interest. He stated the volunteers in this community have handled lots of money and they do a good job. Commissioner Iman stated Lee misunderstood his comment about volunteers handling money and for that misunderstanding he apologizes.

► The Board met to approve the GASB 45 Valuation Engagement Letter with Leif Associates at 3:50 p.m. Present at this meeting was Chief Financial Officer Klarryse Murphy.

Commissioner Kanenwisher made a motion to have the Chair execute this engagement letter with Lief Associates for a June 2011 valuation not to exceed \$6,000. Commissioner Chilcott seconded the motion and all voted “aye”.

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**WESTERN MONTANA ADDICTION SERVICES
1325 WYOMING STREET
MISSOULA, MT 59801**

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**Ravalli County Detention Center Contract
FY '12 Contract Renewal**

History of Contract

- Developed in response to 3 suicides in detention and identification of lack of services for clients while in County custody.
- Costs were developed through pilot period and anticipated demand for services.
- Considered to be a good way to decrease County liability.
- Seen as a way to help detention staff and link inmates with services upon release.

Since inception:

- There have been no suicides.
- No break in service.
- Relationship has been good, no conflicts. Feedback has been positive.
- Successful referrals-links with treatment (both mental health and substance abuse) have been made.

Benefits of WMAS:

- Strength of established agency.
- Contract is with the State Approved and licensed provider of the Department of Health and Human Services Chemical Dependency Bureau.
- Referrals have better access to State Block Grant and other resources (Medicaid, Private Insurance).
- Better credibility in the event of an incident or need to defend program.
- Strong affiliation with Western Montana Mental Health Center.
- Ability to directly refer to MCDC.

o many are OUI offenders.