

COMMISSIONERS APPROVAL

IMAN  
CHILCOTT  
FOSS  
KANENWISHER  
STOLTZ  
PLETTENBERG (Clerk & Recorder)

*19 17*  
*20 18*  
*Irrigation*  
*Assessment*

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

Date.....September 1, 2011

- ▶ Minutes: Beth Perkins
- ▶ Commissioner Iman attended a pre-construction meeting for Corvallis CTEP at 8:00 a.m.
- ▶ The Board met for a public meeting for Hamilton Heights Block 6, Lot 12 Minor Subdivision at 9:00 a.m. Present were Planning Administrator Terry Nelson, Planner Aaron Wilson, Representatives Jake and Jean Kammerer.

Commissioner Chilcott called the meeting to order and requested any conflicts of interest be disclosed. Hearing none, he then requested the Staff Report be read. Commissioner Chilcott yielded chair to Commissioner Iman upon arrival.

Aaron read the Staff Report as follows:

**HAMILTON HEIGHTS BLOCK 12, LOT 6 AP**

**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. August 31, 2011

Deadline for BCC action:

September 14, 2011

**SUBDIVIDER/OWNER:** Max Taylor  
571 Willow Creek Cross Rd  
Corvallis, MT 59828

**REPRESENTATIVE:** Jean Kammerer  
Kammerer Environmental Consulting, LLC  
PO Box 134  
Stevensville, MT 59870

**LOCATION OF REQUEST:** The property is located to the southeast of Corvallis near the intersection of Willow Creek Cross Rd and Hamilton Heights Rd. (See Map 1)



**Map 1: Location Map**

(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION**

**OF PROPERTY:** Certificate of Survey #595808-TR, Lot 6

**APPLICATION**

**INFORMATION:** The subdivision application was deemed sufficient on July 27, 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-4 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 August 3, 2011. No public comments have been received to date.

**DEVELOPMENT**

<b>PATTERN:</b>	Subject property	Rural Farmstead
	North	Rural Farmstead
	South	Rural Farmstead
	East	Rural Farmstead/Agricultural
	West	Rural Farmstead/Vacant Rural

**INTRODUCTION**

The Hamilton Heights Block 12, Lot 6 AP minor subdivision is a two-lot subdivision on approximately 9.76 acres, located to the southeast of Corvallis. The proposed lots, 6A and 6B, will each be 4.88 acres. Currently, the property is owned by Nina W. Taylor and Tamela J. Meyer, with Max Taylor submitting the subdivision proposal. Access to the subdivision from the Eastside Highway is provided by Hamilton Heights Road to Willow

Creek Cross Road. The back lot, 6B, will be provided access by a private 30-foot road and utility easement across the southern portion of lot 6A. The proposed access to the lots is for an individual private driveway to Lot 6A and a shared common access point for Lot 6B and Lot 5 (adjacent lot to the south of the subject property).

*Staff recommends conditional approval of the subdivision proposal.*

## RAVALLI COUNTY BOARD OF COMMISSIONERS

AUGUST 31, 2011

### HAMILTON HEIGHTS BLOCK 12, LOT 6 AP

### TWO-LOT MINOR SUBDIVISION

#### RECOMMENDED MOTION

1. That the Hamilton Heights Block 12, Lot 6 AP Minor Subdivision be ***conditionally 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 Shares.** The owners of Lots 1 and 2 are within and have an allocation of water with the Bitter Root Irrigation District. Residents should consult with the Bitter Root Irrigation District for questions on water shares. *(Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)*

**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 location of these soils can be found on 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)*

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

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

- a. 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. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting wildlife such as raccoon and black bear. If stored indoors, it is best not to set garbage cans out until the morning of garbage pickup; bring cans back indoors by the end of the day.
- d. **Do not feed wildlife** or offer supplements (including salt blocks), attractants, or bait for deer, wild turkey or other wildlife, including during the winter. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract any ungulates (deer, elk, etc.), bears, or mountain lions with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer and wild turkey can attract mountain lions to an area.
- e. Bears can be attracted to food smells associated with **outdoor food storage**; therefore, freezers and refrigerators should not be placed outdoors on porches or in open garages or buildings. If a freezer/ refrigerator must be located outdoors, attempt to secure it against potential bear entry by using a stout chain and padlock around the girth of the freezer.
- f. **Birdseed** in bird feeders attracts bears. If used, bird feeders should: 1) be suspended a minimum of 20 feet above ground level, 2) be at least 4 feet

from any support poles or points, and 3) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.

- g. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the 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 hooved 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 Corvallis 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 Corvallis 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 Corvallis Rural Fire District for further information. *(Section 3-2-8(b)(v)(C and F), RCSR, Effects on Local Services and Public Health & Safety)*

***Control of Noxious Weeds.*** A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s) pursuant to the Weed Control Plan. Contact the Ravalli County Weed District for further information. *(Section 3-2-8(b)(v)(A and D), RCSR, Effects on Agriculture and Natural Environment)*

***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 (i.e. Hamilton Heights Rd and Willow Creek Cross Rd) including related right-of-way, drainage structures, and

traffic control signs, and constructing and/or maintaining any pedestrian facilities such as sidewalks, bike-lanes and trails. This waiver will expire 20 years after the date the final plat 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 Corvallis 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 contribution has been made to the Corvallis 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 Corvallis 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 Corvallis 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 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)*
8. The subdivider shall provide for a 10-foot-wide irrigation easement, as shown on the preliminary plat, centered on the irrigation ditch traversing through the southern portion of Lot 6A. Additional 10-foot-wide irrigation easements shall be centered on the irrigation ditches traversing the eastern edge of Lot 6A. *(Section 3-2-8(b)(B), RCSR, Effects on Agricultural Water User Facilities)*
9. The shared access point for Lots 5 & 6B shall be labeled as "common access and utility easement" on the final plat. The subdivider shall include a Common Access Maintenance Agreement for these shared accesses. *(Section 3-2-8(b)(v)(C), RCSR, Effects on Local Services)*

10. The subdivider shall provide for, and the final plat shall show, a 30-foot Private Access and Public Utility Easement, as depicted on the preliminary plat, for the benefit of Lot 6B. *(Section 3-2-8(b)(v)(C), RCSR, Effects on Local Services)*
11. The final plat shall show a no-ingress/egress strip along the subdivision frontage with Willow Creek Cross Road, excepting the approved private driveway for Lot 6A and the approved common access for Lots 5 and 6B, as depicted on the preliminary plat. The final plat shall also show a no-ingress/egress strip along the northern edge of the 30-foot Private Access Easement for Lot 6B. *(Section 3-2-8(b)(v)(C ,F), RCSR, Effects on Local Services and Public Health & Safety)*

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

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

1. A statement from the project surveyor or engineer prior to final plat approval outlining how each final plat requirement or condition of approval has been satisfied.
2. One paper and two Mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) The final plat shall conform to the preliminary plat decision. In accordance with the conditions of approval and RCSR Section 3-4-4(a)(ii), the following features are required on the Final Plat:
  - a. Project name
  - b. Title block
  - c. Certificate of registered owner – notarized
  - d. Certificate of registered land surveyor with seal
  - e. Certificate of governing body approval
  - f. Signature block for Clerk and Recorder, preferably in lower right hand corner
  - ~~g. Certificate of public dedication~~
  - ~~h. Certificate of park cash in lieu payment~~
  - i. Other certifications as appropriate
  - j. North arrow
  - k. Graphic scale
  - l. Legal description
  - m. Property boundaries (bearings, lengths, curve data)
  - n. Pertinent section corners and subdivision corners
  - o. Names of adjoining subdivisions/certificates of survey
  - p. Monuments found

- q. Witness monuments
  - r. Acreage of subject parcel
  - s. Curve data (radius, arc length, notation of non-tangent curves)
  - t. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
  - u. Lots and blocks designated by number (dimensions/acreage)
  - v. Easements/rights of ways (location, width, purpose, ownership)
  - w. ~~Dedication for public use (boundaries, area, purpose)~~
  - x. ~~No build/alteration zones~~
  - y. No-ingress/egress zones
  - z. Water resources (rivers, ponds, etc.)
  - aa. ~~Floodplains~~
  - bb. Irrigation canals including diversion point(s), etc.
  - cc. ~~High pressure gas lines~~
  - dd. Existing and new roads (names, ownership, etc.)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
  4. ~~Any variance decisions shall be submitted with the final plat submittal.~~
  5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
  6. The final plat review fee shall be submitted with the final plat submittal.
  7. ~~A Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.~~
  8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
  9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
  10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
  11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
  12. ~~A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of the submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurer's Office for the payment of cash-in-lieu of parkland dedication, shall be submitted with the final plat submittal.~~
  13. Road and driveway approach and encroachment permits shall be submitted with the final plat submittal.
  14. ~~Evidence of a Ravalli County approved road name petition(s) for each new road shall be submitted with the final plat submittal.~~
  15. ~~Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineered plans shall be submitted with the final plat submittal.~~
  16. ~~Final Road Plans and Grading and Storm Water Drainage Plan shall be submitted with the final plat submittal.~~
  17. Road certification(s) shall be submitted with the final plat submittal.

18. Utility availability certification(s) shall be submitted with the final plat submittal.
19. Road/common access maintenance agreement(s), signed and notarized, shall be submitted with the final plat submittal.
20. A signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property shall be submitted with the final plat submittal.
21. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch shall be submitted with the final plat submittal.
22. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
23. ~~Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.~~
24. A copy of the letter sent to the appropriate school district(s) stating the subdivider has made a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities shall be submitted with the final plat submittal.
25. ~~Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations shall be submitted with the final plat submittal.~~
26. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.)
  - a. Specific infrastructure improvement potentially required for this subdivision is the installation of the common driveway access.
27. The subdivider shall pay the pro-rata share of the cost to improve the portions of Hamilton Heights Road and Willow Creek Cross Road leading to the subdivision prior to final plat approval (\$4,922). 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 Willow Creek Cross Road. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application and Preliminary Plat)
2. A proposed 30-foot private access and utility easement along the southern portion of Lot 6A will provide utility access for Lot 6B. (Hamilton Heights Block 12, Lot 6 AP Preliminary Plat)

#### Conclusions of Law

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

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

##### Findings of Fact

1. The subject property gains legal and physical access from Eastside Highway via Hamilton Heights Road and Willow Creek Cross Road. (Hamilton Heights Block 12, Lot 6 AP Preliminary Plat, Ravalli County GIS)
2. Hamilton Heights Road and Willow Creek Cross Road are county-operated roadways. (RCSR, Exhibit A)
3. Proposed Lot 6A abuts Willow Creek Cross Road. A proposed 30-foot private access easement across the southern portion of Lot 6A will provide access to Willow Creek Cross Road for Lot 6B (Hamilton Heights Block 12, Lot 6 AP Preliminary Plat)
4. The subdivider has obtained preliminary approval for an approach permit from the Ravalli County Road and Bridge Department (RCRBD) for the proposed common access onto Willow Creek Cross Road for the benefit of Lot 6B and Lot 5 of Hamilton Heights Block 12 Subdivision. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application)
5. Dennis and Barbara Pitman, owners of record of Hamilton Heights Block 12, Lot 5, have signed a Reciprocal Easement and Common Access Maintenance Agreement, granting the owners of Hamilton Heights Block 12, Lot 6B an easement for use as a common approach. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application)
6. An existing approved approach exists for Lot 6A. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application & Preliminary Plat)
7. There are no physical obstructions preventing access to the site from Willow Creek Cross Road. (Staff Site Visit 08/04/11)

#### Conclusions of Law

1. Legal Access will be provided to each proposed lot within the subdivision via Willow Creek Cross Road, 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 the common driveway for Lot 6B and Lot 5. [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 or a Subdivision Improvements Agreement and Guaranty will ensure that all improvements are installed. (Staff Determination)

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

Findings of Fact

1. The property does not currently have water rights. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Subdivision Questionnaire)
2. The property does have allocated water from the Bitter Root Irrigation District, in the amount of 9.6 irrigated acres. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Subdivision Questionnaire)
3. The subdivider is proposing to divide the BRID water allowance between the two lots, as determined appropriate and approved by BRID and as described in the proposed Irrigation Agreement. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Irrigation Agreement)
4. The average lot size of this subdivision is 4.88 acres. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Subdivision Questionnaire)

### Conclusions of Law

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:
  - (i) 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;
  - (ii) 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
  - (iii) Reserve and sever all surface water rights from the land.
2. Section 3-1-5(a)(xxv) of the RCSR requires documentation of all existing water rights. (RCSR)
3. Since no water rights are owned by the owner of the parcel subject to the proposed subdivision, MCA 76-3-504(1)(j) does not apply to this subdivision. (Staff Determination)
4. Since the property's allocated water from BRID 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 an existing irrigation ditch that traverses proposed Lot 6A from the distribution ditch along Willow Creek Cross Rd to the middle of proposed Lot 6B. The distribution ditch traverses the eastern edge of proposed Lot 6A, from south to north. There are several additional internal ditches that distribute irrigation water throughout proposed Lot 6A. (Hamilton Heights Block 12, Lot 6 AP Subdivision Preliminary Plat)
2. The irrigation ditch running from east to west through Lot 6A is proposed to be contained within a 10' easement. (Hamilton Heights Block 12, Lot 6 AP Subdivision Preliminary Plat)
3. The internal ditches that run through Lot 6A are not currently within an existing or proposed irrigation easement. (Hamilton Heights Block 12, Lot 6 Subdivision Preliminary Plat)

4. The irrigation ditch that runs from south to north across the eastern edge of Lot 6A is not currently proposed to be contained within an easement. (Hamilton Heights Block 12, Lot 6 AP 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:
  - (i) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
  - (ii) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
  - (iii) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. The final plat shall show 10-foot wide irrigation easements centered on all irrigation ditches that traverse the property for the benefit of down-stream water users. (Condition 8)
3. Based on the proposed and required easements, Irrigation Agreement, 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.**

##### Finding of Fact

The subdivision proposal is for a two (2) lot first minor subdivision, with an average lot size of 4.88 acres. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Subdivision Questionnaire)

##### Conclusion of Law

This prerequisite is not applicable because minor subdivisions are exempt from meeting parkland dedication. [RCSR 6-1-5(b)]

#### **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 lot and road design standards in Chapter 5 of the RCSR. (Hamilton Heights Block 12, Lot 6 AP 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. (Hamilton Heights Block 12, Lot 6 AP 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. (Hamilton Heights Block 12, Lot 6 AP 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. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Subdivision Questionnaire; 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 May 18, 2010. (Hamilton Heights Block 12, Lot 6 AP Subdivision File)
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 conditions of approval and 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 homestead. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
2. The subject property currently supports an 8 acre hay crop. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Summary of Probable Impacts)
3. The proposed subdivision will result in two lots, each 4.88 acres, which will allow for continued hay crop production with a reduction in acreage consistent with construction of a home site on Lot 6B. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application; Staff Determination)
4. There are hay production activities conducted on the surrounding properties, with similar property sizes and home site densities. (Hamilton Heights Block 12, Lot 6 AP 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 "very little Canada Thistle" and a small infestation of Common Tansy were found on the property along with a scattering of Tall Buttercup. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Noxious Weed Evaluation)
7. Soils data obtained from the NRCS Web Soil Survey indicate that the majority of the property is classified as farmland of statewide importance (>90%). (NRCS Web Soil Survey)
8. The applicant intends to continue the small-scale agricultural use on Lot 6B, including continued hay production and personal gardening, with only approximately ¼ acre reduction to accommodate a home. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Summary of Probable Impacts)

### **Conclusions of Law:**

1. A subdivision proposal must be reviewed for its impacts on agriculture. (MCA 76-3-608(3), Section 3-2-7(b)(1), RCSR)
2. The proposal will impact statewide important farmland soils according to information from the NRCS. However these classifications are not generally intended for site-specific evaluations. (Staff Determination; NRCS Web Soil Survey)
3. Continued use of the property for hay production will minimize the impacts to agriculture in the area, and will not significantly change the rural homestead use of the property. (Staff Determination)
4. 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)

5. The approved Ground Disturbance and Noxious Weed Management Plan will be submitted prior to final plat approval. (Final Plat Requirement 11)

#### Overall Agriculture Conclusion

6. With the mitigating conditions of approval, requirements of final plat approval, and continued potential for a comparable agricultural use 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 no water rights associated with this property, however the property has water shares administered by BRID. The parcel proposed for subdivision has an allowable 9.6 irrigated acres from BRID. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Questionnaire; Summary of Probable Impacts)
2. There are several existing irrigation ditches traversing the property and several internal ditches that will provide Lots 6A and 6B with access to irrigation water. A 10-foot ditch easement is proposed for the ditch traversing Lot 6A for the benefit of Lot 6B. No additional easements are proposed for other irrigation ditches crossing and serving the subject property. (Hamilton Heights Block 12, Lot 6 AP Subdivision Preliminary Plat)
3. The subdivider is proposing to divide the allowable irrigated acres between the two lots, subject to applicable BRID guidelines and approval. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Irrigation Agreement; Summary of Probable Impacts)
4. No changes to the amount of irrigation water provided to the subject property are proposed, so there will be no anticipated impacts to other water users. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Summary of Probable Impacts)
5. 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. No water rights are associated with the subject parcel and the proposed subdivision includes a plan for dividing and retaining existing irrigation water provided by BRID, 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 Agreement and irrigation easements, conditions of approval and requirements for filing the final plat, 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 Corvallis Rural Fire District. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Subdivision Questionnaire; Ravalli County GIS Data)
2. The Corvallis Rural Fire District has a station (Corvallis Station #1) approximately 4.6 miles to the northwest from the proposed subdivision. (Ravalli County GIS)
3. The Corvallis 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 is acceptable. (Exhibit A-1)
4. Private driveways accessing off of Willow Creek Cross Road will provide emergency access to the two proposed lots. (Hamilton Heights Block 12, Lot 6 AP Subdivision Preliminary Plat)
5. The Ravalli County Planning Department sent notification letters to the Corvallis Rural Fire District requesting comments on the proposal on March 28, 2011 and August 3, 2011; however, no agency comments have been received to date. (Hamilton Heights Block 12, Lot 6 AP Subdivision File)
6. The subdivider has proposed to make a \$900 per-new-lot contribution to the Corvallis Rural Fire District, in lieu of on-site water storage, to mitigate the impacts of the new residence. (Hamilton Heights Block 12, Lot 6 AP 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 Corvallis School District, assuming an average of 0.5 children per household. (Census 2000; Hamilton Heights Block 12, Lot 6 AP Subdivision Application).
8. The Ravalli County Planning Department sent notification letters to the Corvallis School District requesting comments on the proposal on March 28, 2011 and August 3, 2011; however, no agency comments have been received to date. (Hamilton Heights Block 12, Lot 6 AP 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 \$7,572.00 for the Corvallis School District which includes capital needs and funds gathered from federal, state, and local sources. The local tax levy per pupil excluding capital, federal, and state funds is \$2,345.00. (Exhibit A-2)

10. Taxes from new residents may not be immediately available to School Districts. There is currently no known available data on the average amount of time between when additional students from new residences will enroll in the School District and when School Districts receive tax money from the new residences. (Staff Determination)
11. The subdivider states that there will be no anticipated increase in the burden to public schools as a result of this subdivision; the proposed new lot is intended for Mr. Taylor, who is retired and has no children living with him. No new children are anticipated to impact the school district during the approximate time between subdivision and additional tax revenue received by the School District. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Summary of Probable Impacts & Subdivision Questionnaire; Staff Determination)

#### Public Safety Services

12. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Subdivision Questionnaire)
13. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on March 28, 2011 and August 3, 2011; however, no comments have been received to date. (Hamilton Heights Block 12, Lot 6 AP Subdivision File)
14. 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)
15. 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)
16. The subdivider proposes to offer a voluntary contribution to mitigate impacts the additional homes may have on public safety services at the time platting of the subdivision occurs. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Summary of Probable Impacts)

#### Emergency Services

17. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. Marcus Daly Hospital was contacted on March 28, 2011 and August 3, 2011; however, no comments have been received to date. (Hamilton Heights Block 12, Lot 6 AP Subdivision File)

#### Roads

18. 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. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Subdivision Questionnaire)
19. The property can be accessed via Eastside Highway (a state-maintained roadway) to Hamilton Heights Road and then to Willow Creek Cross Road. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application)
20. Willow Creek Cross Road is a county-maintained roadway. (RCRBD)
21. Each lot is proposed to be accessed by an individual driveway. Lot 6B will share a common driveway with Hamilton Heights Block 12, Lot 5, which is not a part of this subdivision, and via a private access easement across the southern portion of Lot 6A. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application & Preliminary Plat)
22. The applicant submitted evidence that the RCRBD has issued a preliminary approach permit for the proposed common access driveway, serving Lot 6B and Lot 5, onto Willow Creek Cross Road. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application)
23. The subdivider is required to pay the pro-rata share of the cost to improve the portions of Hamilton Heights Road and Willow Creek Cross Road leading to the subdivision to meet County Standards. The preliminary pro-rata estimate for this subdivision is \$4,922, based on the estimated 8 additional vehicular trips per day that this subdivision will generate. (Hamilton Heights Block 12, Lot 6 AP Subdivision File; Final Plat Requirement 27)

#### Water and Wastewater Districts

24. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application)

#### Solid Waste Services

25. Bitterroot Disposal provides service to this site. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application)
26. Notification letters were sent to Bitterroot Disposal requesting comments on March 28, 2011 and August 3, 2011; however, no comments have been received to date. (Hamilton Heights Block 12, Lot 6 AP Subdivision File)

#### Postal Service

27. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS (Exhibit A-3).
28. This subdivision is proposing two (2) lots. (Hamilton Heights Block 12, Lot 6 AP Subdivision Preliminary Plat)

#### Utilities

29. Existing utility easements are located on the east side of the proposed subdivision, within the public road and utility easement for Willow Creek Cross Rd. Utilities access will be provided to Lot 6B via the proposed 30' Private Road and Public Utility Easement along the southern portion of Lot 6A. (Hamilton Heights Block 12, Lot 6 AP Subdivision Preliminary Plat)
30. The proposed subdivision will be served by the Ravalli Electric Cooperative and Qwest Communications. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Subdivision Questionnaire; Summary of Probable Impacts)
31. Notification letters were sent to Ravalli Electric Cooperative and Qwest Communications requesting comments on March 28, 2011 and August 3, 2011; however, no comments have been received to date. (Hamilton Heights Block 12, Lot 6 AP 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 Corvallis 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 Corvallis 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 6A is provided by the driveway to the existing single family dwelling. (Staff Determination)
10. Physical access for Lot 6B will be provided by the proposed Private Road and Public Utility Easement across the southern portion of Lot 6A and through a designated common access shared with Lot 5. (Conditions 9 and 10)

11. The subdivider shall submit a final approved approach permit from the RCRBD for the common access driveway prior to final plat approval. (Final Plat Requirement 13)
12. The subdivider shall pay the pro-rata share of the cost to improve Willow Creek Cross Road and Hamilton Heights Road over their relative lengths from the Eastside Highway 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

15. 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

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

#### Overall Local Services Conclusion

18. 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. There are no existing surface water features within the subject property boundary, exclusive of irrigation ditches. (Hamilton Heights Block 12, Lot 6 AP Subdivision Preliminary Plat)
2. There are no wetlands or other riparian areas within the subject property boundary, exclusive of irrigation ditches. (Hamilton Heights Block 12, Lot 6 AP Subdivision Preliminary Plat)

##### Ground Water Quality

3. The subdivider is proposing individual wells and wastewater facilities. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application)
4. The subdivider submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department (RCEH) provided documentation indicating that they have received adequate information for local subdivision review

to occur. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – RCEH review checklist)

### Air Quality

5. This proposed subdivision would add one additional residential lot to an area of existing rural residential and farmstead development to the southeast of Corvallis. (Hamilton Heights Block 12, Lot 6 AP Subdivision Preliminary Plat)
6. 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.
7. Sources of particulate from this subdivision could include vehicles, wood-burning stoves and open burning. (Staff Determination)

### Light Pollution

8. 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

9. The subdivider submitted a Ravalli County Subdivision Noxious Weed Evaluation Form, in accordance with the element submittal requirements of the RCSR that stated Canada Thistle, Common Tansy, and Tall Buttercup were found on the property. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application – Noxious Weed Evaluation)
10. According to the Montana Natural Heritage Program, no plant species of concern were identified within the same section as the proposed subdivision. (Hamilton Heights Block 12, Lot 6 AP Subdivision File)
11. Additional vegetation on the property consists primarily of open pasture and residential landscaping. (Staff site visit – 08/4/2011)

### Historical/Archeological Sites

12. A letter dated November 29, 2010 from Damon Murdo of the State Historic Preservation Office (SHPO) states that there are no known sites of historical significance on the property and a cultural resource inventory is unwarranted at this time. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application)

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

#### Ground Water Features

3. 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

4. Impacts from this subdivision on natural vegetation will be minimal given the existing conditions. The impacts on weeds will be sufficiently mitigated with implementation of an approved weed management plan. (Staff Determination)

#### Overall Natural Environment Conclusion

5. 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 the natural environment will be sufficiently mitigated. (Staff Determination)

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

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

1. Notification letters were sent to Montana Fish, Wildlife, & Parks requesting comments on March 28, 2011 and August 3, 2011. (Hamilton Heights Block 12, Lot 6 AP Subdivision File)
2. In a letter dated April 15, 2011, FWP states that the small-acreage agricultural, rural area in close proximity to the Calf Creek Wildlife Management Area is likely to foster increased human/wildlife interactions. FWP notes that a range of wildlife species, including deer, elk, coyote, fox, skunk, magpie, black bear and mountain lion are likely to be encountered on the property, along with numerous small bird species. 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. At the time of preliminary plat submittal and according to the Montana Natural Heritage Program (MNHP), Bull Trout and Townsend's Big-eared Bat were identified as species of concern within the same section as the proposed subdivision. (Ravalli County GIS; Hamilton Heights Block 12, Lot 6 AP Subdivision Application – MNHP Report)
4. The subdivider requested and received a waiver from the requirement to submit a sensitive

species report for the above-listed species due to lack of potential habitat on the property. (Hamilton Heights Block 12, Lot 6 AP Subdivision File)

**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 Waiver 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:**

1. Notification letters were sent to Montana Fish, Wildlife, & Parks requesting comments on March 28, 2011 and August 3, 2011. (Hamilton Heights Block 12, Lot 6 AP Subdivision File)
2. In a letter dated April 15, 2011, FWP states that the small-acreage agricultural, rural area in close proximity to the Calf Creek Wildlife Management Area is likely to foster increased human/wildlife interactions. FWP notes that a range of wildlife species, including deer, elk, coyote, fox, skunk, magpie, black bear and mountain lion are likely to be encountered on the property, along with numerous small bird species. 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. At the time of preliminary plat submittal and according to the Montana Natural Heritage Program (MNHP), Bull Trout and Townsend's Big-eared Bat were identified as species of concern within the same section as the proposed subdivision. (Ravalli County GIS; Hamilton Heights Block 12, Lot 6 AP Subdivision Application – MNHP Report)
4. The subdivider requested and received a waiver from the requirement to submit a full sensitive species report for the above-listed species due to lack of potential habitat on the property. (Hamilton Heights Block 12, Lot 6 AP Subdivision File)

**Conclusions of Law:**

1. 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**

2. Based on the findings within the Sensitive Species Report Waiver 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 Hamilton Heights Road and Willow Creek Cross Road; Lot 6A will be accessed via a private driveway and Lot 6B will be accessed via a common driveway shared with Lot 5 to the south and then via a 30' private access easement across the southern portion of Lot 6A. (Hamilton Heights Block 12, Lot 6 AP Subdivision Preliminary Plat)
2. The applicant submitted evidence that preliminary approach approval for the common driveway had been granted by the RCRBD on July 14, 2011. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application)

#### **Emergency Vehicle Access and Response Time**

3. The proposed subdivision will be served by the Corvallis Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application)
4. Notification letters were sent to the Corvallis Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department requesting comments on March 28, 2011 and August 3, 2011; however, no comments have been received to date. (Hamilton Heights Block 12, Lot 6 AP 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. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application)

#### **Natural and Man-Made Hazards**

6. 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)
7. 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. (Hamilton Heights Block 12, Lot 6 AP Subdivision Application; Preliminary Plat)

### **Conclusions of Law:**

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

## Traffic Safety

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

## Emergency Vehicle Response Time

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

## Water and Wastewater

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

## Natural and Man-made Hazards

7. Radon exposure risks can be minimized through the mitigating conditions of approval and requirements of final plat approval. (Staff Determination)
8. Hazards posed by limited soils can be minimized through the mitigating conditions of approval and requirements of final plat approval. (Staff Determination)

## Overall Public Health and Safety Conclusion

9. 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.

Jake Kammerer agreed with the Staff Report. The applicant will not have any impact to schools due to having no children.

Commissioner Kanenwisher expressed concern with the pro rata assessed for this subdivision. Discussion followed regarding the formula utilized for assessing pro rata.

Commissioner Iman closed public comment and opened board deliberations.

**Compliance with Prerequisites to Approval:**

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

**The Board concurred the proposed subdivision application provides for public utility easements. (5-0)**

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.

**The Board concurred. (5-0)**

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.

**The Board concurred. (5-0)**

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. (5-0)**

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.

Commissioner Kanenwisher made a motion to amend finding of fact 2 to 20 feet and conclusions of law 2 to 20 feet, and to amend Condition of Approval 8 to change the 10-foot ditch easement width to 20-foot easement. Commissioner Stoltz seconded the motion and all voted “aye”. (5-0)

Commissioner Kanenwisher made a motion to accept the findings of fact and conclusions of law for E as amended. Commissioner Chilcott Seconded the motion and all voted “aye”. (5-0)

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

**The Board concurred. (5-0)**

**Commissioner Chilcott made a motion to accept the findings of fact and conclusions of law for F. Commissioner Kanenwisher seconded the motion**

**Compliance with Applicable Regulations**

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

**The Board concurred. (5-0)**

**B. Applicable Zoning regulations.**

**The Board concurred. (5-0)**

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

**The Board concurred. (5-0)**

**D. Other applicable regulations.**

**The Board concurred. (5-0)**

**Criterion 1: Effects on Agriculture**

**Commissioner Kanenwisher made a motion to strike “local service” and replace with “Agriculture” in conclusion of law 6 and with the mitigating conditions of approval, requirements of final plat approval, and continued potential for a comparable agricultural use on the property, potentially significant adverse impacts of the subdivision on agriculture will be sufficiently mitigated.. Commissioner Stoltz seconded the motion and all voted “aye”. (5-0)**

**Criterion 2: Effects on Agricultural Water User Facilities**

**Commissioner Chilcott made a motion to changes all ditches across Lot 6A to 20 feet. Commissioner Foss seconded the motion and all voted “aye”. (5-0)**

**Commissioner Chilcott made a motion to with the proposed irrigation agreement and the irrigation easements, conditions of approval and requirements for filing the final plat, potentially significant adverse impacts of the subdivision on agricultural water user facilities will be sufficiently mitigated. Commissioner Foss seconded the motion and all voted “aye”. (5-0)**

**Criterion 3: Effects on Local Services**

**Fire District: The Board concurred to accept the findings of fact. (5-0)**

**School District: The Board concurred to accept the findings of fact. (5-0)**

**Public Safety Services: Commissioner Kanenwisher made a motion to strike finding of fact 16 and add 17 for mitigation offer from consultant in the amount of \$100. Commissioner Stoltz seconded the motion and all voted “aye”. (5-0)**

**Roads: The Board concurred to accept the findings of fact. (5-0)**

**Water and Wastewater Districts: The Board concurred to accept the findings of fact. (5-0)**

**Solid Waste Services: The Board concurred to accept the findings of fact. (5-0)**

**Postal Service: The Board concurred to accept the findings of fact. (5-0)**

**Utilities: The Board concurred to accept the findings of fact. (5-0)**

**Conclusions of Law:**

**Fire District: Commissioner Chilcott made a motion to accept the offered mitigation of \$900 for the Fire District and to include an additional Conclusion of Law reflecting that the payment in lieu of water storage sufficiently mitigates the impact of the additional lot. Commissioner Kanenwisher seconded the motion and all voted “aye”. (5-0)**

**School District: The Board concurred (5-0)**

**Public Safety Services: Commissioner Chilcott made a motion to add conclusion of law for public safety with accepting the offered mitigation of \$100. Commissioner Kanenwisher seconded the motion and all voted “aye”. (5-0)**

**Commissioner Chilcott made a motion based on the findings of fact and conclusions 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 mitigation as amended. Commissioner Kanenwisher seconded the motion and all voted “aye”. (5-0)**

**Criterion 4: Effects on Natural Environment**

**Surface Water Features: The Board concurred (5-0)**

**Ground Water Quality: The Board concurred (5-0)**

**Air Quality: The Board concurred (5-0)**

**Light Pollution: The Board concurred (5-0)**

**Vegetation: The Board concurred (5-0)**

**Historical/Archeological Sites: The Board concurred (5-0)**

**Conclusions of Law:**

**Commissioner Kanenwisher made a motion 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 the natural environment will be sufficiently mitigated. Commissioner Chilcott seconded the motion and all voted “aye”. (5-0)**

**Criterion 5: Effects on Wildlife**

**Commissioner Chilcott made a motion based on the findings of the Sensitive Species Report Waiver and the recommended mitigating conditions of approval, potentially significant adverse impacts of the subdivision on wildlife will be sufficiently mitigated. Commissioner Kanenwisher seconded the motion and all voted “aye”. (5-0)**

#### **Criterion 6: Effects on Wildlife Habitat**

**Commissioner Kanenwisher made a motion based on the findings of fact within the Sensitive Species Report Waiver and the recommended mitigating conditions of approval, potentially significant adverse impacts of the subdivision on wildlife habitat will be sufficiently mitigated. Commissioner Foss seconded the motion and all voted “aye”. (5-0)**  
Commissioner Kanenwisher noted for record that both Criterion 5 and 6 have been reviewed both separately and combined.

#### **Criterion 7: Effects on Public Health & Safety**

**Commissioner Chilcott made a motion based on the findings of fact and conclusions 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. Commissioner Stoltz seconded the motion and all voted “aye”. (5-0)**

**Commissioner Chilcott made a motion that Hamilton Heights Block 12, Lot 6 AP Minor Subdivision be conditionally 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 the staff report and as amended her today. Commissioner Foss seconded the motion and all voted “aye”. (5-0)**

► The Board met for discussion and possible decision on Bitterroot Economic Development Gardening Pilot program at 10:30 a.m.

Commissioner Chilcott gave background of the program. **Commissioner Kanenwisher made a motion to withdraw Ravalli County from the Bitterroot Economic Development District. Commissioner Foss seconded the motion and all voted “aye”. (5-0)**

► **Commissioner Reports:** Commissioner Kanenwisher and Commissioner Stoltz attended a group meeting with the Sheriff’s Office and the City of Hamilton regarding the closure of Juvenile Detention for suggestions of how to transport juvenile inmates to Missoula without any results. Commissioner Iman noted his meeting in Corvallis for CTEP this morning as a site visit.

► Commissioner Foss and Commissioner Iman attended a site visit for White Feather Ranch Open Lands Bond program at 3:00 p.m.