

COMMISSIONERS APPROVAL

FOSS SF

CHILCOTT G

IMAN JR

STOLTZ

BURROWS JB

Members Present.....Commissioner Suzy Foss, Commissioner Greg Chilcott,
Commissioner J.R. Iman, Commissioner Ron Stoltz and Commissioner Jeff Burrows

Date.....September 19, 2012

► Minutes: Glenda Wiles

► The Board met at 8:30 a.m. for a Sawtooth Fire update with Fire Personnel.

► The Board met at 9:00 a.m. for a public hearing on a Request for Action on AP Lot 5, Big Creek Meadows Subdivision by Mack Capers. This public hearing was broadcast live on WEB Ex. Planner Kevin Waller and Planning Administrator Terry Nelson were present for this hearing as well as Engineer John Horat who represented the Developer. Citizen Chris Hockman joined the hearing via WEB Ex.

Kevin presented a power point presentation on the Request for Commission Action (see attached).

Commissioner Iman addressed the one acre lot and access as well as the water course and water rights to Coleman Ranch which will need an easement if these changes occur. John stated they will place blanket easements for anything that is already there.

Commissioner Chilcott asked for lot delineation in regard to paving.

John Horat stated he has enjoyed working with planning staff on this project. Generally they agree with the conditions but John addressed the need to have the shed area for the livestock on Lot 5-B which is mapped outside the current flood plain. This could be re-addressed when the new floodplain maps surface. The warehouse on proposed lot (Lot 5-A) has been there since 1996, so he addressed the need for the developer to pay the \$900 to the fire department.

Commissioner Iman addressed the no-alteration (natural state forever) and the possibility of farming at a later time. He also shared concern over the 'flag lot', but understands the owners desire to separate the lot. John stated the separation comes because of the DEQ requirements.

Terry stated the purpose of this subdivision is to split the two buildings at the top portion of the parcel. This allows the owner to address the flood plain and wetland delineation at a later time if

and when he would like any agriculture or building development. This proposal places a no-build alteration zone on Lot 5-B parcel.

Discussion included an easement of the small 11' strip by 1,000' at the top of Lot 5-B. Terry stated the developer has agreed to an exclusive easement from Lot 5-A to Lot 5-B. The Board concurred to that exclusive easement change. Commissioner Iman addressed changing the exclusive agreement to the west side of Lot 5-B. John stated they prefer this proposal.

The Board addressed the Compliance with prerequisites to approval on Page 14:

A. Provides easements for Location and installation of any planned utilities. Commissioner Chilcott noted he concurs with the finding of fact and conclusions of law as presented by staff. The Board concurred as well.

B. Provides legal access and physical access to the subdivision, and to each lot within the subdivision, and the notation of that access is included on the preliminary plat and in any instrument transferring the lot. Commissioner Chilcott noted he concurs with the findings of fact and conclusions of law 1 & 2 as presented by staff. The Board concurred as well.

C. Assures that all required improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Appendix I of these regulations. Commissioner Chilcott noted he concurs with findings of fact and conclusion of law. The Board concurred as well.

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 12 have been considered and will be accomplished before the final plat application is submitted. Commissioner Iman concurs with findings of fact and conclusion of law and for the record transfer of water rights Lot 5-A to 5-B.. Commissioner Chilcott noted it is not for commercial use. The Board concurred as well.

E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 12 have been considered and will be accomplished before the final plat application is submitted. Commissioner Iman concurred with the findings of fact and conclusion of law. The Board concurred as well.

Compliance with Applicable Regulations on Page 17:

A. These regulations, including, but not limited to, the standards set forth in Chapter 12. Commissioner Stoltz noted he concurs with the findings of fact and conclusion of law. The Board concurred as well.

B. Any applicable zoning regulations. Commissioner Chilcott noted he concurs with the findings of fact and conclusion of law. The Board concurred as well.

C. Existing covenants and/or deed restrictions. Commissioner Iman asked if the developer wants to make this a permanent easement along the north side of Lot 5-B? John stated it will be an exclusive easement on the final plat. Terry stated it will be an easement not a deed restriction. The easement can be changed by both parties at a later date between Lot 5-B and 5-A. A document will be filed for this exclusive easement. Terry further noted this easement has force just like a deed restriction does. If the county wants enforcement they would need a different mechanism. Commissioner Iman stated with that clarification he concurs with findings of fact and conclusion of law. The Board concurred as well.

D. Other applicable regulations. Commissioner Chilcott noted he concurs with the findings of fact and conclusions of law. The Board concurred as well.

Commissioner Iman made a motion to approve the prerequisites A-D. Commissioner Stoltz seconded the motion and all voted "aye". (5-0)

E. The MDPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria: Criterion #1 (page 18):

Criterion #1 Effects on Adjacent Agricultural Operations: **Commissioner Chilcott made a motion to accept this criterion noting with findings of fact and conclusions of law it is sufficiently mitigated. Commissioner Stoltz seconded the motion and all voted "aye". (5-0)**

Criterion #2: Effects on Agricultural Water User Facilities: **Commissioner Iman made a motion to accept this criterion with findings of fact and conclusions of law and with the fact that water courses to other properties will have easements. Commissioner Burrows seconded the motion.** Discussion: Commissioner Chilcott stated it is important to note that the Board identified and make the easements part of the final plat requirements. **Commissioner Iman then amended his motion to state that the effects of Criterion #2 are sufficiently mitigated under conclusions of law allowing for easements and maintenance for downstream users. Commissioner Burrows seconded the motion and all voted "aye" (5-0)**

Criterion #3: Effects on Local Services:

1- 5) Fire District: Commissioner Chilcott asked about the amount of money being offered to the Fire District. John stated the Fire District wants \$900, but with the existing structure the Commissioners has some discretion. Terry stated a general letter from All Valley Fire Council addresses the dollar or additional water supply on site. Commissioner Stoltz noted this structure is already there and it does not increase any services. John stated the building is rented out for commercial use and has been since 1996. Commissioner Stoltz noted the additional finding of facts present that the commercial building and house has been in existence since 1996 and they have been paying their taxes to Victor Fire so he does not feel additional mitigation is required. NOTE: This will change the numbering, changing School District to #7 instead of #6.

7-12) School District: Due to Lot A having been taxed for 15 years and contributions to School District, the Board determined no effects to mitigate.

9-12) Public Safety: The Board agreed to accept the \$250 contribution.

Public Comment under WEB Ex Chat: Chris Hockman questions if the flag strip results in the existing structure on the large lot to be closer than permissible to the new property line? Terry responded that it will contain an Exclusive easement to Lot 5-B from Lot 5A, thus no setbacks are required.

13) Emergency Services: Commissioner Chilcott noted he accepts the findings of fact as presented with no comments. The Board concurred as well. Commissioner Chilcott also stated that Marcus Daly is private non-governmental entity. (Change findings to include that).

14-16) Roads: Commissioner Iman stated he concurs with findings of fact. The Board concurred as well.

17) Water and Wastewater: Commissioner Chilcott stated he concurs with findings of fact. The Board concurs as well.

18-19) Solid Waste: Commissioner Chilcott stated he concurs with findings of fact. The Board concurs as well.

20-21) Postal Service: Commissioner Chilcott stated he concurs with findings of fact. The Board concurs as well.

22) Utilities: Commissioner Chilcott stated he concurs with findings of fact. The Board concurs as well.

Conclusions of Law: It was noted that under all conclusions of law under Criterion #3 - Effects on Local Services the Board concurs with Fire District; School District; Roads; Water and Wastewater; Solid Waste; Mail Delivery Services; & Utilities. **Commissioner Chilcott made a motion that based on the findings of fact, conclusions of law, and subject to the conditions, requirements of final plat approval, and requirements of final plat application approval, potentially significant adverse impacts of the subdivision on local services will be sufficiently mitigated. Commissioner Burrows seconded the motion and all voted "aye".**
(5-0)

Criterion#4: Effects on Natural Environment:

1-6) Findings of fact for Surface Water Features; Floodplain & Wetlands: Commissioner Iman stated he concurs with findings of fact 1-6. The Board concurs as well.

7-8) Finding of fact for Ground Water Quality: Commissioner Iman stated he concurs with findings of fact 7-8. The Board concurs as well.

9-11) Findings of fact for Air Quality: Commissioner Iman stated he concurs with the findings. The Board concurs as well.

12) Findings of fact Light Pollution: Commissioner Stoltz stated he concurs with the findings. Commissioner Chilcott asked if the Developer would be amenable to full cut off lighting on the highway frontage. John stated for future lighting there should be issues with this compliance. The Board concurs as well.

13-16) Findings of fact Vegetation: Commissioner Chilcott stated he concurs with the findings of fact. The Board concurred as well.

17) Historical/Archeological Sites: Commissioner Chilcott stated he concurs with the findings of fact. The Board concurred as well.

Under Conclusions of Law (page 23 & 24) Commissioner Chilcott made a motion that based on the findings of facts and conclusions of law, and subject to the conditions, requirements of final plat approval, and requirements of final plat application approval, the potentially significant adverse impacts of the subdivision on the natural environment will be sufficiently mitigated. Commissioner Iman seconded the motion and all voted "aye" (5-0)

Criterion #5 Effects on Wildlife:

1-4) Under the Findings of Fact and 1-3) Conclusions of Law, **Commissioner Iman made a motion that based on these findings within the recommended mitigating conditions of approval and final plat requirements, the potentially significant adverse impacts of the subdivision on wildlife will be sufficiently mitigated. Commissioner Stoltz seconded the motion and all voted "aye". (5-0)**

Criterion #6 Effects on Wildlife Habitat:

1-3) Under Findings of Fact and 1) Conclusions of Law, **Commissioner Stoltz made a motion that based on the findings within the recommended mitigating conditions of approval and final plat requirements, the potentially significant adverse impacts of the subdivision on wildlife habitat will be sufficiently mitigated. Commissioner Iman seconded the motion and all voted "aye". (5-0)**

Criterion #7 Effects on Public Health and Safety:

1-5 Under Findings of Fact for Traffic Safety, Emergency Vehicle Access & Response Time, Water & Wastewater, and Natural and Man-Made Hazards, and 1-7) Conclusions of Law Commissioner Chilcott made a motion that based on the findings of fact and conclusions of law, and subject to the conditions of approval, requirements of final plat approval, and requirements of final plat application 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)

The Board then made a review of Adjusted Conditions to reflect the changes made here today. Kevin reviewed those changes as follows:

1) An additional condition with addendum for no build alteration: Per Terry they will identify those areas on the final plat. John stated any building is subject to flood plain. In regard to wetlands that delineation has not been done; leaving the island out of the no build alteration zone which would keep the owners from having to come back to the county at a later date. The Board concurred for that map delineation.

2) Strike #5, on Page 7

3) #7 on page 7 reflect the \$250.00

4) #8 on page 7 add language 'on each side of bank'

5) #11 page 7, capture the bubble piece of land, with no build alteration shown on the final plat identified as preliminary wetlands and determined on the final plat. Identify this description in #1 and John will identify it on the map.

Commissioner Chilcott made a motion that the AP Lot 5, Big Creek Meadows minor Subdivision be approved, based on the findings of fact and conclusions of law in the staff report, and subject to the staff report as amended today at this public hearing. Commissioner Stoltz seconded the motion and all voted "aye" (5-0).

Hearing was adjourned.

► The Board met at 11:00 a.m. for an update on a petition to move the boundary on the James Duus Estate. Present was Deputy County Attorney Howard Recht, Planning Administrator Terry Nelson, Surveyor Steve Powell, Attorney Royce McCarty, Jeff Duus and Lindy Wemple.

Royce McCarty gave some background to this land in trust that is adjacent to the Golf Course on the east side. The trust is set in place to pass the family farm to siblings (children of Mr. and Mrs. Duus; Jeff Duus and Lindy Wemple) so farming can continue on this ground. There are restrictions on the farm due to federal estate taxes. The large flat portion of the ranch had a special use valuation by IRS which allows the continuation of farming and ranching. If Jeff and Lindy sell the land and don't continue ranching they would have to pay a recapture tax to the IRS. This potential boundary line (division of land between the siblings) has taken several months to negotiate and it allows both to continue their agriculture operations.

Surveyor Powell explained the boundary line modifications by survey/mapping as well as the surrounding parcels. There are six separate parcels and they hope to achieve 9 parcels (A-H) through this boundary line adjustment.

Commissioner Chilcott addressed the public's right to participate as well as MCA under Title 76, indicating the Commissioners must make sure no evasion of the subdivision laws occur. He asked why this land division was not being handled through a family transfer or the subdivision process. Steve stated the family transfer would be to a younger child that does not have commitment to the ranch as does Lindy and Jeff who currently work the land. The court order is simply an expediency.

Lindy explained how she and her brother decide what is planted on all the land, also explaining the existing houses owned by parents and grandparents, the natural topography of the land, fencing, past and current work and money put into the houses as well as the barn and corrals. They do not want any of the land changed and they do not want any subdivision of the land. Lindy stated it is tough to hang on to the land for agriculture purposes. She actually has to have an outside job. All first options for possible sale apply to the other sibling.

Commissioner Chilcott addressed Lots A & B being contiguous but both belonging to Jeff. He felt this could be challenged for subdivision criteria and the citizens right to participate. The Commissioners do not want litigation to result from this boundary relocation nor do they want to be accused of creating lots w/o participation.

Steve stated this charges the District Court Judge to make that call. He suggested the Commissioners express that concern to the Judge and let him make that call.

Commissioner Iman agreed to defer this division to the court, but to express the Commissioners' concerns of going from 6 to 9 lots. While there could be reasons for the manner in which it has been drawn up for lot division, he too sees issues with Lots A & B and A & E.

Attorney Recht stated the Commissioners have raised their concerns in regard to this looking like a subdivision. Under MCA 6-3-207 the requirement is for the Commissioners to look at the lots and make comment to the court. The Commissioners do question some of the lot configurations. It is important and just that the Commissioners explain those concerns to the Judge, while understanding the need to divide the properties between two siblings and keep it in the family.

Attorney Recht also addressed parcels E,G, & H which are involved (because of their location) in the current litigation over the golf balls coming from the golf course. He suggested the Commissioners make comment to the court on that issue as well. Also to note that parcels A & E have the lack of sanitation approval; make that part of the record so a potential new owner would have that notice.

Commissioner Iman concurred with Attorney Recht noting that while the Commissioners do not have the right to tell the court what to do, they should express their concerns based on the criteria for the creation of lots as well as addressing the lack of septic approval to two of those lots. Commissioner Chilcott reiterated that the Commissioners do not advocate evasion and the need to express their concerns on the lots being created, deferring it to the court. Terry will work with Attorney Recht on the letter to be sent to the court.

► The Board met for a public hearing at 1:30 p.m. for fee increase/decrease for Public Health. This hearing was streamed live by WEB Ex. Legal notice was in the paper of record.

Present at this meeting was PHN Director Judy Griffin and Staff Kerry McKillip. Kerry presented a proposal of the changes (see attached). She noted most of these changes are from the changes in cost from the State of Montana Lab. They received these cost changes in July and the proposal if accepted will simply cover the increase.

Commissioner Iman asked about the cost for drawing blood. Kerry stated these are in-house charges for blood draws and are figured in by Accounting/Payroll (includes for personnel salary and benefit). She noted those in-house charges are also on page 2. Commissioner Stoltz asked about rounding up the charges. Commissioner Chilcott state he is not comfortable exceeding .12 cents. Kerry stated it is not unreasonable to round in this manner as supplies fluxuate due to the market driven economy. She pointed out in some items they have rounded down and up. Commissioner Chilcott suggested they approve this contingent upon Co. Attorney's approval

and following the Montana Law. **Commissioner Iman made a motion to approve the Fee Increase and Decrease as proposed subject to review and approval of the County Attorney. Commissioner Chilcott seconded the motion. No public comment was received. All voted "aye". (5-0)**

► The Board met at 2:00 p.m. for a road update with Road Administrator Eric Anderson which included discussion/decision on additional purchase for recycled asphalt projects, sign installation fee update and pro rata basis update. This meeting was moved from Tuesday, September 18th. Also present was Planning Administrator Terry Nelson.

- Regulatory street signs: Discussion included standards for signs/fee schedules and installation by private sector versus the road department. Agreed to stay out of the business of installing signs that are not county roads.
- Pro Rata: Eric would like to see a comprehensive update of the numbers and bid tabs. Eric would like a third party to do the analysis as it would be less challengeable. The first step will be to ascertain the costs associated with this analysis. The Board concurred.
- Asphalt Roto-millings from MDOT: Eric noted they received extra road millings from MDOT. In order to utilize them they will need more reclamite products. This provides a good seal on top of the roto-millings. The FY 2013 budget does not allow him to purchase all of the materials needed to complete the Stevi W River Road Project or the Meadow Vista Project. He estimates the cost at \$29,100 for a full load (6,000) (4,700 gallons Stevi; 1,400 gallons on Meadow Vista - thus short 4,900 gallons short). He stated remaining loads could be utilized on other roads. Discussion included the ADT on the roads and cost thereof. Commissioner Chilcott expressed concern over the dust particulate from Stevi River Road as it is right on the river. **Commissioner Iman made a motion to forgo buying more extend (reclamite products) but to place the millings remaining on Meadow Vista and Stevi River Road.. Commissioner Burrows seconded the motion.** Public Comment: Chris Hockman will there be cost savings for maintenance on one year? Board stated they would not know that information yet.. **Commissioners Foss, Burrows, Iman, Stoltz voted "aye". Commissioner Chilcott voted "nay". Motion carried (4-1).**



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OG-12-09-208

STAFF REPORT UPDATE MEMO

To: BCC
From: Kevin Waller, Planner
Subject: **AP Lot 5, Big Creek Meadows 2-Lot Minor Subdivision**
Date: September 18, 2012
Cc: Applicant/Consultant/Outgoing Mail File/Subdivision File

In a discussion with the applicant's consultant, John Horat of Bitterroot Engineering, on the above-referenced subdivision Tuesday, September 14, 2012, I was informed of new information regarding potential future development on proposed Lot 5-B.

The subdivider is exploring the option of placing a livestock stable, possibly 60'X60' in size, on Lot 5-B sometime in the near future. The stable would provide protection for horses and cattle, in addition to food storage and other resources.

Placement of the structure on Lot 5-B, however, could present previously unforeseen impacts to the apparent wetlands, natural watercourses, and riparian vegetation on the lot. In addition, the existing FEMA-mapped floodway encumbers a sizeable portion of Lot 5-B, on both its west-central and eastern ends. The *proposed* floodway and 100-year floodplain boundaries, however, encompass *all areas* the stable would potentially locate upon.

Given the constraints on potential siting locations, Planning Staff recommends that the following modifications be made to the staff report issued September 12, 2012:

Planning Staff Recommended Condition (1) *Modified*

Addition to the Notifications Document, as follows:

Notification of Future Building Site(s) on Lot 5-B. Any future building sites on the downslope portion of Lot 5-B will require either a floodplain permit from the Ravalli County Floodplain Program, or provide evidence that the development is outside of the proposed FEMA-mapped 100-year floodplain and/or floodway boundaries, as set forth in Condition (12) of Planning Staff's report. Development cannot be located within the natural watercourses or associated riparian areas identified on the final plat. Development proposed in wetland areas will require a wetland delineation study by a qualified professional. *(RCSR Section 4-7(B)(5)(d-g), Effects on Natural Environment, Wildlife, Wildlife Habitat, and Public Health and Safety)*

Planning Staff Recommended Condition (12) *Added*

Any future development proposed on Lot 5-B, specifically, east of the area labeled "Significant Topographic Break" on the preliminary plat, shall require a floodplain permit from the Ravalli County Floodplain Program, or evidence that the development is outside of the flood hazard boundaries, with documentation of either submitted to Planning. Such evidence that the development is outside of the flood hazard boundaries must be certified by a Montana-licensed professional engineer or land surveyor. In any event, the development shall not be placed within the identified natural watercourses or associated areas of riparian vegetation. Development proposed within wetland areas shall require a wetland delineation study by a qualified professional, with evidence submitted to Planning. *(RCSR Section 4-7(B)(5)(d-g), Effects on Natural Environment, Wildlife, Wildlife Habitat, and Public Health and Safety)*



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OG-12-08-187

Date: August 29, 2012
To: Interested Agencies
From: *KW* Kevin Waller, Planner
Cc: Outgoing Correspondence File, Subdivision File
Enc: Reduced plat & vicinity map

Subject: Agency Comment on AP Lot 5, Big Creek Meadows Minor Subdivision

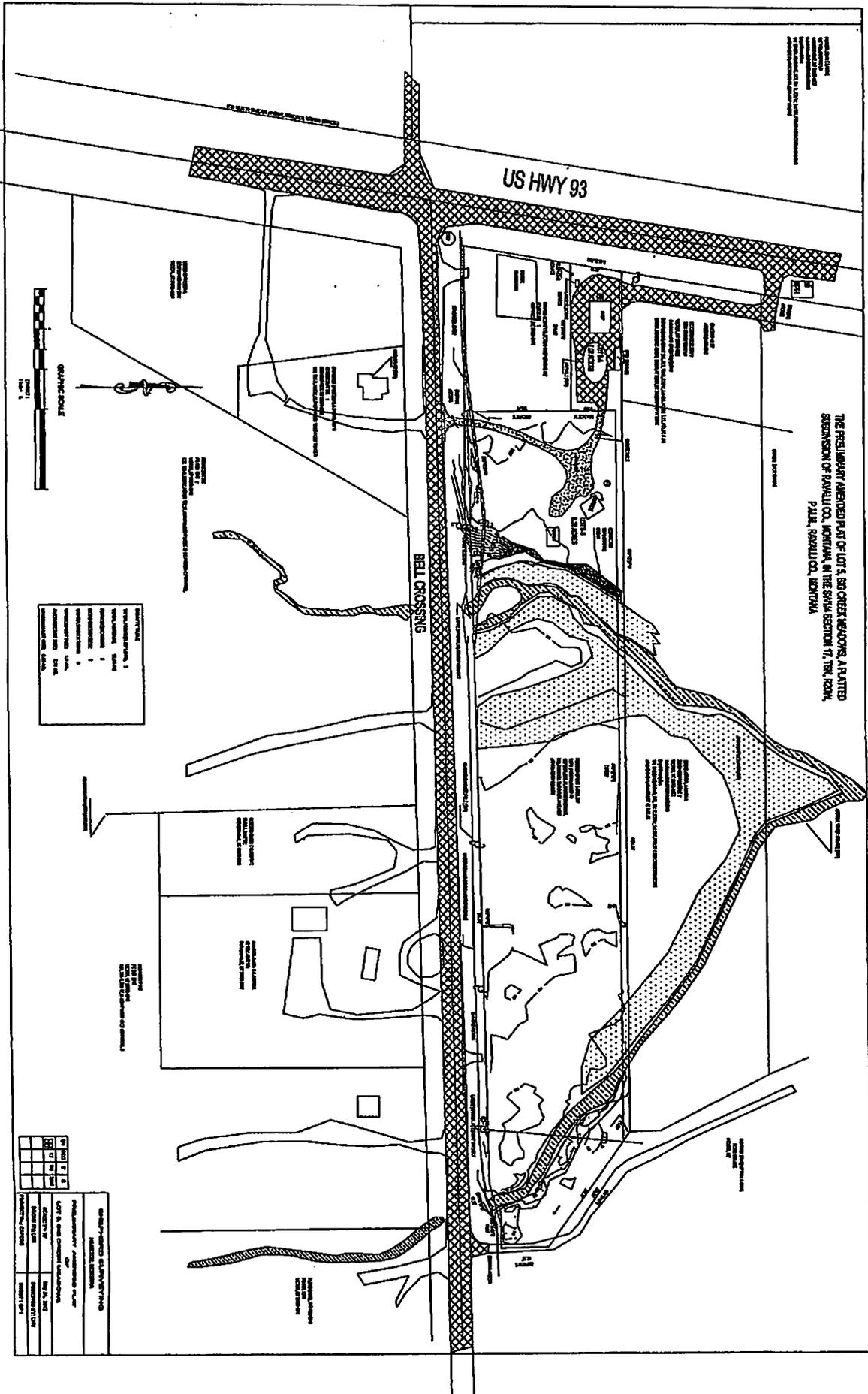
The Planning Department solicited comments from your office regarding the above mentioned subdivision on July 10, 2012. In that letter, you were informed that we would notify you when the subdivision was deemed sufficient for public review.

This letter is to inform you that the subdivision has been deemed sufficient, and is scheduled for review by the Ravalli County Board of County Commissioners at **9:00 am. on Wednesday, September 19th, 2012**, in the Commissioners' Conference Room on the third floor of the Administrative Center (215 S. 4th, Hamilton).

AP Lot 5, Big Creek Meadows is a two-lot minor subdivision proposed on 10.50 acres, located at the intersection of U.S. Highway 93 and Bell Crossing W., approximately 1 ½ miles northeast of the community of Victor, as shown on the enclosed location map. Both lots will continue to serve existing residential and commercial activities. The lots will remain connected to the existing septic systems and wells. Access to this property is via U.S. Highway 93 and Bell Crossing W. The subdivision will add no children to the School District. No additional or expanded structures or uses are proposed, and as such, the property's current estimated average number of daily vehicular trips (20) is not expected to change after the subdivision.

Although the Planning Department encourages agencies to submit feedback upon the initial notification, comments will be accepted at any time prior to the public hearing. Comments may also be delivered in person at the BCC public hearing. Please note, however, that only under select circumstances will new information be allowed into the record *after* the public hearing.

Please be advised that the meeting time noted above indicates when the hearing/meeting begins, and that there may be multiple items on the agenda.



THE FOLLOWING AMENDED PART OF LOT 4, 800 GREEN WOODS, A PLANNED SUBDIVISION OF BAYVIEW CO., MONTANA, IN THE SHAW SECTION 17, T20N, R20W, PAUL, BAYVIEW CO., MONTANA

LEGEND

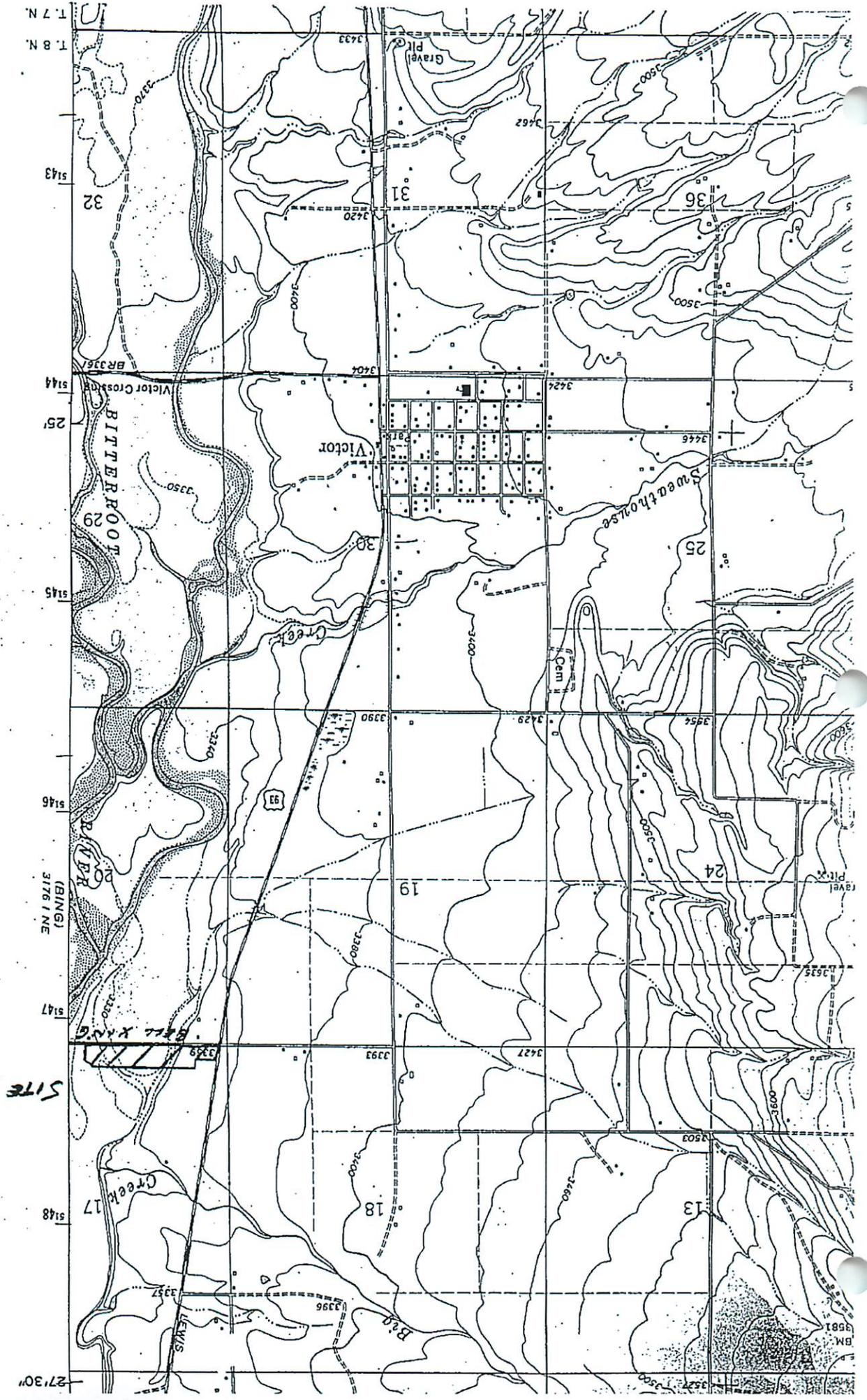
1	EXISTING LOT BOUNDARIES
2	EXISTING BUILDINGS
3	EXISTING DRIVEWAYS
4	EXISTING UTILITY LINES
5	EXISTING EASEMENTS
6	EXISTING ENCROACHMENTS
7	EXISTING SURVEY DATA
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99	EXISTING ADJACENT ROADS
100	EXISTING ADJACENT UTILITIES

AMENDED SUBDIVISION

REVISIONS

NO.	DATE	DESCRIPTION
1	10/1/87	INITIAL PLAN
2	10/1/87	AMENDMENT
3	10/1/87	AMENDMENT
4	10/1/87	AMENDMENT
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6	10/1/87	AMENDMENT
7	10/1/87	AMENDMENT
8	10/1/87	AMENDMENT
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THE PAPER CLIP
228 Main—Box 1
Hamilton, MT. 59
Phone: 363-54



SITE



REQUEST FOR COMMISSION ACTION

OG-12-09-201

Hearing: September 19th, 2012 at 9:00 A.M.

Request: **To act on the AP Lot 5, Big Creek Meadows Minor Subdivision.**

I. Action Requested

This is a request from Mack Capers, represented by John Horat of Bitterroot Engineering, to approve the AP Lot 5, Big Creek Meadows Minor Subdivision.

II. Subdivision Proposal

A. Overview

The AP Lot 5, Big Creek Meadows subdivision is a 2-lot proposed residential and commercial subdivision on 10.50 acres, located at the intersection of U.S. Highway 93 N. and Bell Crossing W.

B. Additional Information

1. Planning Department Staff Report
 2. Agency Comments
-

III. Planning Staff Recommendation

Planning Staff recommends conditional approval of the subdivision. (See attached Staff Report)

Enc: Staff Report
Agency Comments
Subdivision Application Packet

Staff: *KW* Kevin Waller
Date: September 12, 2012
Cc: Bitterroot Engineering and Design
Mack Capers

**AP LOT 5, BIG CREEK MEADOWS
TWO-LOT MINOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: *KW* Kevin Waller

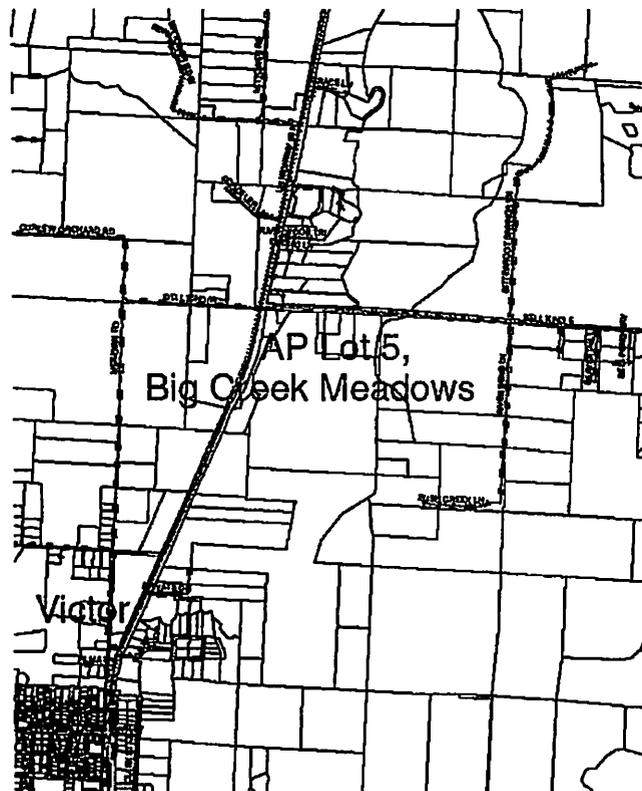
**REVIEWED/
APPROVED BY:** *TN* Terry Nelson

PUBLIC MEETING: BCC Public Meeting: 9:00 a.m., September 19, 2012
Deadline for BCC action (35 working days): October 15, 2012

SUBDIVIDER: Mack Capers
P.O. Box 372
Victor, MT 59875

REPRESENTATIVE: Bitterroot Engineering and Design, Inc. (John Horat, P.E.)
1180 Eastside Highway
Corvallis, MT 59828

LOCATION OF REQUEST: The property is located at the intersection of U.S. Highway 93 and Bell Crossing W., approximately 1 ½ miles northeast of the community of Victor. *(See Map 1, below)*



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

**LEGAL DESCRIPTION
OF PROPERTY:**

Lot 5 of Big Creek Meadows, located in the SW ¼ of Section 17, T8N, R20W, P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was deemed sufficient for public review on August 23rd, 2012. Agencies were notified of the subdivision on July 10th, 2012 and August 29th, 2012. Comments received from agencies are Exhibits A-1 through A-6 of the staff report. **This subdivision is being reviewed under the Ravalli County Subdivision Regulations (RCSR) amended June 4th, 2012.**

LEGAL NOTIFICATION:

Notice of the project was posted on the property, and adjacent property owners were notified by mail dated September 4th, 2012. A legal notice was placed in the Ravalli Republic on September 2nd, 2012. No public comments have been received to date.

**DEVELOPMENT
PATTERN:**

Subject property:	Existing single family residence and commercial warehouse
North:	Residential
South:	Highway – Residential
East:	Recreational
West:	Highway – Agriculture

INTRODUCTION

AP Lot 5, Big Creek Meadows Subdivision is a two-lot minor subdivision, proposed on 10.50 acres. Both lots are proposed to serve existing residential and commercial activities. The proposed lots currently contain individual well and septic systems.

Staff recommends approval of the subdivision proposal.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS
SEPTEMBER 19, 2012

AP Lot 5, Big Creek Meadows Subdivision
TWO-LOT MINOR SUBDIVISION

PLANNING STAFF RECOMMENDED MOTION

That the AP Lot 5, Big Creek Meadows Minor Subdivision be *approved*, based on the findings of fact and conclusions of law in the staff report, and subject to the conditions in the staff report.

PLANNING STAFF RECOMMENDED CONDITIONS

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

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (RCSR Section 4-7(B)(5)(a), *Effects on Adjacent Agricultural Operations*)

Notification of Irrigation Facilities and Easements. An irrigation ditch traverses the western portion of Lot 5-B and a portion of Lot 5-A's flaglot, 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. 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. (RCSR Section 4-7(A) and Section 4-7(B)(5)(b), *Effects on Agricultural Water User Facilities*)

Notification of Water Rights. Residents within Lot 5-A do not currently have the right to take irrigation water out of the irrigation ditch traversing this subdivision. Taking water without a water right for any purpose is illegal. Water rights in this subdivision are expressly reserved for Lot 5-B. Residents should consult with the Montana Department of Natural Resources for questions on water rights. (RCSR Section 4-7(B)(5)(b), *Effects on Agricultural Water User Facilities*)

Notification of No-Build/Alteration Zone. Within this subdivision is a no-build/alteration zone, as shown on the final plat. No new structure may be constructed in this area. No new utilities may be constructed in this area. Roads, trails, and utility crossings through this area are permitted. The no-build/alteration zone shall be strictly enforced, unless a floodplain analysis determines that a specified area of Lot 5-A and/or Lot 5-B is outside the identified FEMA-mapped proposed 100-year floodplain and/or proposed floodway boundaries. However, the presence of wetlands and/or natural watercourse(s) in the specified area would still require a no-build/alteration zone be placed over those features. In this scenario, a 100' no-build/alteration zone would be measured from the center-point of the wetlands or watercourse, and need not overlap onto adjacent properties or roadways. If a wetland delineation study indicates the lack of wetland presence where wetlands are shown to be present on the final plat, that area may also be removed from the no-build/alteration zone, *only if* the area is also shown to be outside of the floodplain/floodway boundaries. (RCSR Section 4-7(B)(5)(d), *Effects on Natural Environment; and (g) Effects on Public Health and Safety*)

Notification of Proximity to the Bitterroot River. This subdivision is located in close proximity to the Bitterroot River. There is an inherent hazard associated with rivers, due to potential soil erosion, flooding, and movement of the river channel. (RCSR Section 4-7(B)(5)(g), *Effects on Public Health and Safety*)

Notification of Proximity to a Potential Dam Inundation Area in the Event of a Catastrophic Failure of the Painted Rocks Reservoir Dam and/or Lake Como Reservoir Dam. A portion of the property may be located within the dam inundation area for the Painted Rocks Reservoir Dam and Lake Como Reservoir Dam. The Painted Rocks Reservoir Dam is owned and operated by the State of Montana, Department of Natural Resources and Conservation District, Water Resources Division, Dam Safety Program (48 North Last Chance Gulch, P.O. Box 201601, Helena, Montana, 59620-1621). The Lake Como Reservoir Dam is owned and operated by the United States Department of the Interior, Bureau of Reclamation Division (1917 Marsh Rd., Yakima, WA 98901). A map of the probable extent of the inundation areas is included as an exhibit to this document [the subdivider shall include the exhibit as an attachment]. These areas are also shown on the final plat. (RCSR Section 4-7(B)(5)(g), *Effects on Public Health and Safety*)

Recommendation for Flood Insurance. Although the property's existing structures are outside of the FEMA-mapped floodplain, the Ravalli County Floodplain Manager recommends that property owners obtain flood insurance, since standard homeowner's insurance policies do not cover flood damages. (RCSR Section 4-7(B)(5)(g), *Effects on Public Health and Safety*)

Notification of Access Easement to Service Lot 5-A. The access easement for the benefit of Lot 5-A is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County, nor the State, assumes any liability for lacking or improper maintenance. Documentation of the easement was filed with this subdivision, and outlines which parties are responsible for maintenance, and under what conditions. (RCSR Section 4-7(B)(5)(c), *Effects on Local Services*)

Notification Regarding Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (RCSR Section 4-7(B)(5)(d), *Effects on Natural Environment; (e) and (f), Effects on Wildlife and Wildlife Habitat; and (g), Effects on Public Health and Safety*)

Notification of Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their structures tested for radon. Contact the Ravalli County Environmental Health Department for further information. (RCSR Section 4-7(B)(5)(g), *Effects on Public Health and Safety*)

Living with Wildlife. Owners and/or renters of lots in this residential and commercial subdivision (hereafter, "residents") must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, livestock feed, and other potential attractants. Residents must be aware of

potential problems associated with the presence of wildlife such as deer, black bear, coyote, fox, raccoon, skunk, wild turkey, magpie, and other species. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help owners "live with wildlife." Alternatively, see FWP's web site at <http://fwp.mt.gov>.

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

- a. Residents must be aware of the potential for **vegetation damage by wildlife, particularly from deer** feeding on landscaping such as green lawns, flowers, ornamental shrubs and trees in this subdivision. Residents should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting animals such as bears, raccoons, other wildlife, or dogs.
- c. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer, elk, pheasant, wild turkey or other wildlife, including during winter. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (§ 87-3-130, MCA) to purposely or knowingly attract any ungulates (deer, elk), bears, or mountain lions with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, residents must be aware that deer and wild turkey can attract mountain lions to an area.
- d. If **pets** are allowed on site, they must be confined to buildings, in a fenced yard, or in an outdoor kennel area, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (§ 87-3-124, MCA). **Pet food** should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bear, raccoon, and skunk. When feeding pets, do not leave food out overnight, and consider feeding pets indoors so that wild animals do not learn to associate food with your buildings.
- e. Fencing:
 - i. Use **wildlife-friendly fencing**. For wooden rail fences: no more than 3 rails, with the bottom of the bottom rail at least 18 inches off the ground and the top of the top rail no higher than 42 inches off the ground. For wire fences: use smooth wire, no more than 3 wires, with the top wire no higher than 42 inches off the ground and bottom wire at least 18 inches from the ground. These designs allow fawn deer and other wildlife to crawl under the fencing, while allowing adult deer to jump the fence with less chance of becoming entangled.
 - ii. If tall **security fencing** is utilized and if lot location relative to adjacent lots allows, consider installing a second egress gate in the back of the lot, away from the main entry

gate. It is not uncommon for wildlife such as deer to become trapped inside large fenced compounds, and being able to leave a back gate open for awhile when this happens can often facilitate getting the wildlife out of the compound without risking animal or human injury by wildlife leaving through the main gate onto a busy highway.

(RCSR Section 4-7(B)(5)(d-g), Effects on Natural Environment, Wildlife, Wildlife Habitat, and Public Health and Safety)

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

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. *(RCSR Section 4-7(B)(5)(a), Effects on Adjacent Agricultural Operations; and (d), Effects on Natural Environment)*

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Victor Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. *(RCSR Section 4-7(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety)*

Access Requirements for Lots within this Subdivision. Victor Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6", and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Victor Rural Fire District for further information. *(RCSR Section 4-7(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety)*

Floodplain Restrictions. The Ravalli County Floodplain Regulations require that no building, nor fill, will be allowed inside the limits of the floodplain. *(RCSR Section 4-7(B)(5)(g), Effects on Public Health and Safety)*

State Commercial Building Standards. The State of Montana has building codes for commercial buildings. For more information, contact the Montana Department of Labor and Industry, at PO Box 1728, Helena, MT 59624-1728 or call 406-444-2840. *(RCSR Section 4-7(B)(5)(c), Effects on Local Services; and (g), Effects on Public Health & Safety)*

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. *(RCSR Section 4-7(B)(5)(d), Effects on Natural Environment)*

No-Build/Alteration Zone. Within this subdivision is a no-build/alteration zone, as shown on the final plat. No new structure may be constructed in this area. No new utilities may be constructed in this area. Roads, trails, and utility crossings through this area are permitted. *(RCSR Section 4-7(B)(5)(d), Effects on Natural Environment; and (g) Effects on Public Health and Safety)*