

63. The access for Flatiron Ranch Road will have to cross an existing unnamed drainage ditch and associated riparian area to access Golf Course Road. The proposed location of the Flatiron Ranch Road access is in a suitable location as to minimize disturbance of the existing ditch and riparian areas. (Staff Site Visit 10/12/10)

Pedestrian Facilities

64. The applicant is proposing to construct 8-foot wide gravel pedestrian paths throughout the subdivision common areas and within some of the public access and utility right-of-ways adjacent to the major internal roads. (Flatiron Ranch Preliminary Plat and Flatiron Ranch Subdivision Application)
65. The covenants indicate that the Homeowners Association is the entity responsible for management, maintenance, operation and control of the Common Areas, roadways, pedestrian facilities, stormwater facilities, irrigation facilities and floodplain berm maintenance within the property. (Flatiron Ranch Covenants)
66. Many of the offsite roadways impacted by the proposed Flatiron Ranch Subdivision traffic have little or no facilities to safely accommodate bike and pedestrian uses. (Staff Determination)
67. Comments were received from the City of Hamilton on November 19, 2009, requesting that the BCC review the need for a non-motorized trail along Golf Course Road as part of this subdivision. Additionally, two public comments were submitted expressing concerns related to the needs for off-site pedestrian facilities. (Exhibits A-1, B-8 and B-16)
68. The applicant has proposed a public bike/pedestrian path within the C.A. Lots along Golf Course Road. This path would end at each end of the subdivision and would only connect with the subdivisions internal trails system. Bicyclists and pedestrians wanting to access the City of Hamilton would then be required to utilize the existing shoulder of Golf Course Road, as no dedicated trail currently exists between the subdivision and the City of Hamilton along Golf Course Road. (Flatiron Ranch Subdivision Plat Sheets and Staff Determination)

Water and Wastewater Districts

69. Flatiron Ranch will be served by an onsite public water supply system. (Flatiron Ranch Subdivision Application)
70. Wastewater treatment and disposal for Flatiron Ranch will be provided by a centralized on-site treatment facility, consisting of a central wastewater treatment plant and two large subsurface drainfields. (Flatiron Ranch Subdivision Application)
71. Both the public water system and wastewater treatment facilities will be maintained by a private utility company not yet created. (Flatiron Ranch Subdivision Application)
72. The applicant will create a private utility company or water and sewer district prior to filing the plat for Phase 1. The company or district will operate in the same manner as other private utility companies and will be regulated by the Montana Public Service Commission (PSC) and will report to Montana Department of Environmental Quality (MDEQ). The PSC ensures that public utilities in Montana provide adequate service to their customers at reasonable rates. (Flatiron Ranch Subdivision Application)
73. The utility company or water and sewer district will be responsible for operation, maintenance and regular inspection of its facilities. The company or district will also

be responsible for communication and coordination with the FlatIron Homeowners' Association. (FlatIron Subdivision Application)

74. An offsite utility lot is proposed for the storage of water for the public water system and to provide the necessary water storage for the required fire flows. (FlatIron Ranch Preliminary Plat and Subdivision Application Package)

Solid Waste Services

75. Bitterroot Disposal provides service to this site. (FlatIron Ranch Application – Element xli)
76. Notification letters were sent to Bitterroot Disposal requesting comments on March 19, 2009, October 28, 2009 and November 15, 2010, but no comments have been received to date. (FlatIron Ranch Subdivision File)

Postal Service

77. 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-8)
78. An updated letter from the USPS dated January 26, 2011 expresses concern with the original proposal for the CBU. The USPS requests to determine appropriate sites for mail delivery prior to final plat approval of Phase 1. (Exhibit A-13)
79. The applicant has proposed CBU's at each of the two accesses onto Golf Course Road, FlatIron Ranch Road and Legend Trail. (FlatIron Ranch Preliminary Plat Sheets 3 and 5)

Utilities

80. An existing buried electrical line runs from Golf Course Road/State Hwy S-277 northeast to the existing pivot, and lies on the boundary of the proposed subdivision. This electrical line is proposed to be abandoned and relocated to be within the proposed street right of ways, except where it leaves FlatIron Ranch Road on the west side of Lot 267 and runs north to the subdivision boundary. The electrical line will be located within a proposed 20-foot irrigation easement along with the relocated irrigation line. (FlatIron Ranch Preliminary Plat Sheets 3, 4 and 7)
81. Proposed utilities will be located within the 60-foot public road and public utility easements. (FlatIron Ranch Preliminary Plat and FlatIron Subdivision Application)
82. There will be a blanket access and utility easement placed on the proposed offsite utility lot for the purpose of a proposed water storage tank and a proposed water system mechanical building. (FlatIron Ranch Preliminary Plat Sheet 7 and Conditions of Preliminary Plat Approval)
83. All common area lots will be covered by a blanket public and private utility, access, and pedestrian easement for the benefit of FlatIron Ranch Homeowner's Association and FlatIron Ranch residents. (FlatIron Ranch Preliminary Plat Sheet 2)
84. C.A. Lot 17 and Lot 21 are proposed to have wastewater infiltration/percolation areas. These wastewater facilities will be protected by the blanket utility easement placed on all C.A. lots within the subdivision. (FlatIron Ranch Preliminary Plat Sheet 3 and 7)
85. Existing overhead power runs along Golf Course Road/State Hwy S-277, Duus Lane and the southern portion of the proposed subdivision. This existing overhead power

is not proposed to be removed as it provides service to other properties in the area. (FlatIron Ranch Preliminary Plat Sheets 3-5 and FlatIron Ranch Application)

86. Existing overhead power runs from Golf Course Road/State Hwy S-277, through C.A. Lot 1 and connects into the existing buried power within the existing 60-foot access and utility easement to be abandoned. (FlatIron Ranch Preliminary Plat Sheet 4)
87. The proposed subdivision will be served by Ravalli Electric Cooperative, Northwestern Energy Company and Qwest Communications. (FlatIron Ranch Subdivision Application)
88. Notification letters were sent to Northwestern Energy Company and Qwest Communications requesting comments on March 19, 2009, October 28, 2009 and November 15, 2010, but no comments have been received to date. (FlatIron Ranch Subdivision File)

Conclusions of Law

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

Fire District

2. Each lot shall be located within a fire district. (Section 5-7-4(a), RCSR)
3. Because the subject property is located within the Hamilton Rural Fire District, the proposal complies with Section 5-7-4(a), RCSR. (Staff Determination)
4. The applicant has met the requirements of the Hamilton Rural Fire District by providing a central water system with fire hydrants spaced every 500 feet and fire flows of 1,500 gpm for two hours. The applicant has also proposed to install an emergency access road between the subdivisions internal road network and Tammany Lane as requested by the fire district. (Staff Determination)
5. The developer and the Hamilton Rural Fire District have reached an agreement with the regarding the proper diameter of the water mains throughout the subdivision. (Staff Determination)

School District

6. 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 each final plat submittal. (Final Plat Requirement 24)
7. 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))
8. Impact fees can be levied only when a jurisdiction has followed the guidelines and requirements as specified within 7-6-1601, *et seq.*, MCA. The Hamilton School District has not completed an Impact Fee Study nor has the Board of County Commissioners adopted impact fees. (Staff Determination)

Roads

9. A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval of each phase, if applicable. (Final Plat Requirement 10)
10. The applicant shall submit final approved approach permits from Ravalli County prior to final plat approval of Phase 1 and Phase 7. (Final Plat Requirement 13)

11. The applicant shall submit evidence of a Ravalli County-approved road name petition(s) for each new road, which shall be submitted with the final plat submittal of each phase. (Final Plat Requirement 14)
12. Final Road Plans and Grading and Storm Water Drainage Plans, approved by the Ravalli County Road and Bridge Department, shall be submitted with the final plat submittal of each phase. (Final Plat Requirement 16)
13. Road certification(s) shall be submitted with the final plat submittal of each phase. (Final Plat Requirement 17)
14. Road/common access maintenance agreement(s), signed and notarized, shall be submitted with the final plat submittal of each phase. (Final Plat Requirement 19)
15. Traffic control signs shall be installed in accordance with the final approved road plans for each phase. (RCSR Section 5-4-10)
16. Road name signs shall be installed at each intersection. (RCSR Section 5-4-11(a))
17. All fees collected for improvements to capital facilities must be expended on the capital facilities for which the payments were required. (76-3-510(2), MCA)

Pedestrian Facilities

18. Off-site and on-site improvements may be required, as appropriate, to ensure pedestrian safety. (RCSR Section 5-4-8)
19. Providing new and interconnected public pedestrian facilities will greatly enhance the usability and safety for residents of the proposed Flatiron Ranch Subdivision, by providing for alternate means of pedestrian travel other than the internal roadway network. (Staff Determination)

Water and Wastewater Districts

20. The applicant has provided minimum necessary information for public review as required by 76-3-622, MCA. (Flatiron Ranch Subdivision Application – Element xii)

Solid Waste Services

21. The method of solid waste disposal was specified during preliminary plat review, as required by RCSR Section 5-7-2(a).

Mail Delivery Services

22. Where mail delivery will not be provided to each individual lot, the applicant shall provide an off-road area for central mail delivery within the subdivision. (RCSR Section 5-7-3)
23. The applicant has complied with the above section by proposing CBU's at each of the two accesses off of Golf Course Road, Flatiron Ranch Road and Legend Trail. (Staff Determination)

Utilities

24. Existing and proposed utility easements shall be shown on the final plat of each phase. (Final Plat Requirement 2)
25. The applicant shall submit utility availability certifications prior to final plat approval of each phase. (Final Plat Requirement 18)

Overall Conclusion

26. 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)
- 27.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Surface Water Features

1. An existing irrigation ditch, Gird Creek (Ward Ditch Lateral W-19) enters the property on the western boundary of proposed Lot 206 and continues north, at which point the irrigation ditch leaves the subdivision on the northern boundary of Lot 222 and re-enters the subdivision on the western boundary of proposed Lot 241 and continues north beyond the proposed subdivision boundary. (FlatIron Ranch Preliminary Plat Sheets 5, 6 and 7)
2. An unnamed drainage flows along the north side of Golf Course Road, beginning where the road curves to the northwest and flows off-site at the western property boundary. (FlatIron Ranch Preliminary Plat Sheets 3, 4, and 5)
3. The Bitterroot River is located approximately three miles west of the property. (FlatIron Ranch Subdivision Application)
4. Skalkaho Creek flows northwest into the Bitterroot River approximately two miles south of the property. (FlatIron Ranch Subdivision Application)
5. Ward Ditch flows generally to the north and is located approximately 1,000 feet from the property. (FlatIron Ranch Subdivision Application)
6. The Bitterroot Irrigation District Canal, the source of water for the Ward Ditch, flows north and is approximately 5,000 feet from the property. (FlatIron Ranch Subdivision Application)
7. The Hedge Ditch runs along the northwest property boundary and generally flows from the southwest to the northeast. (FlatIron Preliminary Plat Sheet 8)
8. A floodplain analysis was completed for Gird Creek (Ward Ditch Lateral W-19). (FlatIron Ranch Subdivision Application)
9. Two berms are proposed along Gird Creek (Ward Ditch Lateral W-19), at locations identified in the floodplain study, to prevent flood water from cutting new channels through the developed areas within the proposed subdivision. (FlatIron Ranch Subdivision Application)
10. A 50-foot no-build/alteration zone has been provided along Gird Creek, affecting lots 206, 210, 211, C.A. #9, 213, 214, 215, 218, 219-224, 229, 230, and 241-244. (FlatIron Ranch Preliminary Plat Sheets 5-7)
11. The Department of the Army Corps of Engineers sent Paul Hintz, of Territorial Landworks, a letter on September 22, 2009 stating that there are waters of the U.S. on the project site. (FlatIron Ranch Correspondence)

Ground Water Quality

12. The applicant is proposing a community water system and a community wastewater treatment facility. (FlatIron Ranch Subdivision Application)
13. The applicant 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. (FlatIron Ranch Ravalli County Environmental Health Department Subdivision Review Checklist)
14. Groundwater monitoring occurred on the site in 2005. The groundwater study shows that groundwater depths vary from 0 feet to greater than 6 feet across the site. Average groundwater depth appears to be between 3 to 6 feet for the majority of the site. (FlatIron Ranch Subdivision Application Package)
15. Public comment questions the validity of the groundwater monitoring and points out that since groundwater monitoring occurred on-site in 2005 irrigation practices on adjacent properties have changed. Public comment also questions the amount of

- effluent being generated on-site and its impact to groundwater quality. (Exhibits B-3, B-4, B-5, B-9, B-10, B-14, B-15, B-16, B-18, B-19, B-20, B-21, B-22)
16. Roger DeHaan, P.E. with Pinnacle Engineering submitted site evaluation information for an adjacent property located north of the subdivision at 709 Tammany Lane. The information shows that groundwater monitoring on the site failed (<48 inches) for five of the six test holes. The information submitted includes comments from adjacent landowner Dan Leonardi. (Exhibit B-15)
 17. The applicant has proposed to conduct additional groundwater monitoring and submit that information prior to the submittal of Phase 1. (Territorial-Landworks Updated Comments – 5/23/11)
 18. The subdivision is estimated to generate approximately 170,780 gallons/day of domestic wastewater. (AMEC Geomatrix, Inc. Report – EA - FlatIron Ranch Subdivision Application)
 19. The on-site community wastewater treatment facility is proposed to be a Membrane Bioreactor capable of level II treatment. The Membrane Bioreactor is projected to function at a level equal to or greater than the City of Hamilton's wastewater treatment facility. (Territorial-Landworks Updated Comments – 5/23/11)
 20. Planning Board member William Menager submitted a report titled: Membrane Bioreactor for Municipal Wastewater Treatment – An Australian Perspective. (Exhibit B-7)
 21. The effluent from the MBR will meet the requirements for unrestricted use per MDEQ Circular 2 and thus does not pose a significant water quality degradation risk. The potential risk to groundwater quality would stem from leaks to the sewer lines upgradient of the Membrane Bioreactor System. (AMEC Geomatrix, Inc. Report – EA - FlatIron Ranch Subdivision Application)
 22. The AMEC Report outlines mitigation measure to limit the potentially significant adverse impacts of the subdivision on groundwater quality resulting from wastewater. Those mitigation measures include the use of gasketed-joint PVC pipe for all gravity fed wastewater lines, pressure testing of the lines during installation and use of High Density Polyethylene pipes for pressurized wastewater lines. (AMEC Geomatrix, Inc. Report – EA - FlatIron Ranch Subdivision Application)
 23. The wastewater treatment report submitted by HDR in the subdivision application materials shows that the proposed system will be able to meet the Department of Environmental Quality nitrate and phosphorous breakthrough requirements as reviewed in accordance with DEQ Circular 2. The developer will apply to the Montana Department of Environmental Quality for a Groundwater Pollution Control System Permit (General Discharge Permit), to allow the community system to directly discharge treated wastewater into the ground via several discharge areas. The system will be approved by the Montana Department of Environmental Quality prior to final plat approval of Phase 1. (FlatIron Ranch Subdivision Application Package)
 24. Groundwater Discharge Permits are required to be updated every 5 years. Additionally, DEQ requires continual monitoring to ensure water quality and compliance with the General Discharge Permit. (Exhibit A-19)
 25. The City of Hamilton submitted comments during the agency comment periods outlining their concerns with the wastewater systems impacts on groundwater quality. Specifically, that seasonal high groundwater in the areas of the drainfields may be higher than the discharge elevations and may not provide for the proper treatment of discharge water prior to entering the aquifer. (Exhibit A-1)

26. The applicant's representative responded to the City of Hamilton's comment in a letter dated December 13, 2010. In collaboration with AMEC they indicate that the primary drainfield location was tested and found to have sufficient separation to groundwater. The other area was not thoroughly monitored but the groundwater depth was found to be between 3 to 6 feet in that area based on information from WGM. Additional monitoring and testing for infiltration will be performed prior to final design. (Exhibit A-14)
27. The wastewater treatment facilities and conveyance system will be required to go through review by the Montana Department of Environmental Quality and meet the design requirements for a public wastewater system. This review will occur after preliminary plat, but will be required prior to final plat of Phase 1 and prior to final plat of each subsequent phase. (Staff Determination)
28. The community water supply system will be supplied via three groundwater wells that will be centrally located on the project site. The proposed system will need to be permitted by the Montana Department of Environmental Quality prior to installation. Further, water rights for the system will need to be obtained from the Montana Department of Natural Resources and Conservation. These processes and permits will ensure that groundwater quality and quantity are maintained for existing and future users. (FlatIron Ranch Subdivision Application Package and Staff Determination)
29. The applicant will be required to obtain a Beneficial Water Use Permit for the community water system from the Montana Department of Natural Resources and Conservation prior to final plat approval of Phase 1. Comments were received from Larry Schock with the DNRC on November 20, 2009. He indicated that the new community water system will require a new water right. The water right application process requires an extensive groundwater analysis and will likely take 6 to 12 months, depending on the quality of the application and whether or not any objections to the application are received. Further, if the groundwater analysis indicates that wells have the potential to impact any surface waters, mitigation of the impacts will have to be addressed as per the guidelines of House Bill 831. The water right will have to be in place prior to diversion of the water for the proposed subdivision. (FlatIron Ranch Subdivision File)
30. A preliminary grading and drainage plan was submitted to the Ravalli County Road and Bridge Department for review and approval. The RCRBD deemed the preliminary grading and drainage report and design sufficient for public review on July 3, 2010. (FlatIron Ranch Subdivision Application and File)
31. The grading and drainage plan defines the storm water conveyance and treatment systems for the subdivision. The roads within this subdivision are proposed to be paved with curb and gutter on the shoulders of the road that will convey storm water to inlets and catchbasins. The catchbasins will collect the storm water from the roads and direct the flows into a system of underground pipes and open shallow drainage swales. The applicant proposes to construct eight detention ponds within the common areas throughout the subdivision. These ponds have been designed to detain the peak flows from the 2-year, 10-year and 24-hour storms. (FlatIron Ranch Subdivision Application)
32. The grading and drainage report submitted by the applicant indicates that the proposed storm water infrastructure will improve the surface water quality. Detention ponds will allow some suspended sediments to settle out before they are washed into receiving waters. The wide drainage swales will carry only a few inches of water during most storm events, allowing maximum contact between water and vegetation to filter out sediments and other pollutants. (FlatIron Ranch Subdivision Application)

33. The AMEC Report outlines mitigation measure to limit the potentially significant adverse impacts of the subdivision on groundwater quality resulting from storm water. These measures include using gasketed-joint PVC for storm sewer lines, require a robust vegetative cover on all catchbasins, design the storm water system to minimize ponding, and include covenants outlining the use of fertilizers and herbicides. (AMEC Geomatrix, Inc. Report – EA - FlatIron Ranch Subdivision Application)
34. The applicant has proposed to include recommended covenants outlining the use of fertilizers and herbicides. (Territorial-Landworks Updated Comments – 5/23/11)

Wetlands

35. There are wetlands located on the subject property that fall under the jurisdiction of the Army Corps of Engineers. (FlatIron Ranch Preliminary Plat Sheets 3-8)
36. Wetlands associated with Gird Creek occupy 0.97 acres of the property. (FlatIron Ranch Subdivision Application)
37. Wetlands associated with the un-named drainage on the southern boundary of property occupy 1.47 acres (FlatIron Ranch Subdivision Application)
38. Wetlands associated with Hedge Ditch occupy 0.53 acres of the property. (FlatIron Ranch Subdivision Application)
39. No build zones have been provided for all of the wetlands identified by Joe Elliot in the Biological Resources and Wetlands Survey for FlatIron Ranch dated September 2009. (FlatIron Ranch Subdivision Application and Preliminary Plat Sheets 3-8)
40. The applicant provided wetland determination forms for the wetlands associated with the subject property. (FlatIron Ranch Subdivision Application)
41. The U.S. Army Corp of Engineers (USACE) has indicated that if fill materials or disturbance of jurisdictional wetlands are proposed then jurisdictional determination with proper documentation should be submitted to the corps for review and issuance of a 404 permit. At this stage the USACE noted that it is unclear whether waters of the U.S. are present on the subject property. (Exhibit A-15)

Air Quality

42. This proposed subdivision would add 551 new units to an area of rural agricultural and medium density development southeast of Hamilton. (FlatIron Ranch Preliminary Plat)
43. The Montana Department of Environmental Quality (DEQ) has reviewed the PM2.5 (particulate matter ≤ 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.
44. Sources of particulate from this subdivision could include vehicles and wood-burning stoves. (Staff Determination)
45. The Board of Health (BOH) submitted a standard comment letter to be considered for all subdivision proposals on August 17, 2009 (Exhibit A-9). Within the letter, the BOH requests that wood burning stoves meet EPA rated low emission standards and that new lot owners are notified of the rules associated with open burning.
46. The BOH submitted an updated comment on December 21, 2010 recommending that due to the density and size of the development, the applicant should only allow for EPA rated low emission standard wood burning stoves to be installed by future residents. (Exhibit A-10)

47. The applicant is proposing to only allow the installation of EPA-certified wood stoves for homes within the subdivision. (Territorial-Landworks Updated Comments – 5/23/11)

Light Pollution

48. The addition of 389 residential lots, 3 condominium lots, and 4 commercial lots in an area that currently is used for agricultural purposes has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)

Vegetation

49. The majority of the subdivision has had the native vegetation removed and has been planted with alfalfa and agronomic grass species. (FlatIron Ranch Subdivision Application)
50. The areas along the stream courses and irrigation canals have native vegetation. (FlatIron Ranch Subdivision Application)
51. There is a strip of cottonwoods that extend through the middle of the proposed subdivision and there are trees located throughout the subdivision. (FlatIron Ranch Subdivision Application)
52. The applicant states that the trees located within the wetland areas and common areas will more than likely remain. However, the trees located in the areas proposed to be developed will be removed. (FlatIron Ranch Subdivision Application)
53. The applicant submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated common tansy, Canadian thistle, spotted knapweed, houndstongue, tall buttercup and ox-eye daisy were found on the property. (FlatIron Ranch Subdivision Application – Element 10)
54. The Montana Natural Heritage Program identified the Sapphire Rockcress, Sandweed, Scalegod, and Shining Flatsedge as plant species of concern within the same section as the subject property. (FlatIron Ranch Subdivision Application – Sensitive Species Report)
55. Following an on-site investigation, ecological consultant Joe C. Elliot states within the Sensitive Species Report that the plant species of concern identified by the Montana Natural Heritage Program were not located on the property. The property can be classified as dryland pasture made up of agronomic grasses and invasive weeds. (FlatIron Ranch Subdivision Application Package and Biological Resources Report)

Noise Levels

56. This subdivision is adjacent to several agricultural properties. (FlatIron Ranch Preliminary Plat, Montana Cadastral Mapping)
57. Some activities associated with agricultural operations produce noises that some may find objectionable, such as the operation of mechanical equipment. (Staff Determination)
58. Due to the proximity of this proposed subdivision to the agricultural properties, there is a possibility of conflict between agricultural operations and residents of the subdivision. (Staff Determination)
59. The entire project site is located outside of the 65 DNL noise contour as identified on the current Airport Layout Plan for the Ravalli County airport.
60. While on site on December 14, 2010, staff observed that sound from airplanes taking off from the airport could be heard on the subject property, although it was dampened by distance. Furthermore, the property is located under an area airplanes

use to make their landing approach to the airport. Some may find noises associated with aircraft landings and takeoffs objectionable. (Staff Determination)

Historical/Archeological Sites

61. An email from Damon Murdo of the Montana State Historic Preservation Office confirms that there are a few previously recorded sites in the search locale and there is a low likelihood of cultural properties being impacted by the subdivision, and thus did not require a cultural resource inventory to be completed for the subject property. (Exhibit A-4)
62. The Hedge Ditch was determined to be of historical significance. In the early stages of the proposed subdivision application, the Hedge Ditch was part of the proposed subdivision. However, the subdivision layout has changed and the Hedge Ditch lies outside the boundaries of the subdivision. (FlatIron Ranch Preliminary Plat Sheet 8)
63. A cultural resource report was prepared by Brian Herbel of Historical Research Associates, Inc. for the subject site. The Hedge Ditch was determined to have historical significance. (FlatIron Ranch Subdivision Application)
64. The results of the cultural resources report show that no new historic or archaeological resources were identified. The Hedge Ditch is now located adjacent to the project site and therefore will generally not be impacted by the development. The emergency access road between the subdivision and Tammany Lane will cross the Hedge Ditch at an existing farm road crossing. (FlatIron Ranch 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. Wells must be setback a minimum of 10 horizontal feet from all property boundaries and 100 horizontal feet from all drainfields. (ARM 17.36.323, Table 3)
3. The existing irrigation ditches and drainage features will be protected by drainage easements and no-build zones on the each final plat. Further these ditches and drainages will be fenced. (FlatIron Ranch Preliminary Plat and Subdivision Application Package)
4. Flood control berms will be placed adjacent to Gird Creek (Ward Ditch Lateral W-19) as indicated in the floodplain study. These structures will be in place prior to final plat approval Phase 11.
5. Subdivisions of this size may have an impact on surface water quality due to the application of herbicides and pesticides on each individual lot. (Staff Determination)

Ground Water Quality

6. The draft wastewater report indicates that the proposed community wastewater system will not affect groundwater quality in the area by treating site wastewater to acceptable levels as required by DEQ. The community wastewater system and wastewater discharge permit will be reviewed and approved by the DEQ in accordance with DEQ Circular 2 prior to final plat approval of Phase 1. (Staff Determination and Final Plat Requirement 9)
7. Per 75-5-401(5)(g), MCA, storm water facilities are exempt from groundwater discharge permitting.
8. The community water system will be approved by the DEQ prior to final plat approval of Phase 1. The applicant will obtain water rights for the community water system from the DNRC prior to final plat approval of Phase 1. These approvals will ensure that the community water system will not have adverse impacts on groundwater quality or quantity. (Staff Determination and Condition of Approval 15 and 16)

9. Subdivisions of this size may have an impact on groundwater quality due to the application of herbicides and pesticides on each individual lot. The inclusion of covenants detailing limiting the use of fertilizers and herbicides and requiring those fertilizers to be approved by the Environmental Protection Agency for use in shallow groundwater or riparian areas will help mitigate this potential impact. (Staff Determination)

Wetlands

10. For any disturbances that occur within wetlands under the jurisdiction of the Army Corps of Engineers, permits must be obtained prior to the disturbance. (Staff Determination and Final Plat Requirement 23)

Air Quality

11. Open burning season is administered and enforced by the MDEQ and is allowed between March 1st and August 31st. (ARM 17.8.606)
12. Only EPA-certified wood stoves will be installed within this subdivision. The installation of EPA-certified wood stoves will help mitigate impacts of the subdivision on air quality. (Staff Determination)

Vegetation

5. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)
6. An 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 will be provided prior to final plat approval of each phase. (Final Plat Requirement 11)

Overall Conclusion

7. 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 19, 2009, October 28, 2009 and November 15, 2010. (Flatiron Ranch Subdivision File)
2. Montana Fish, Wildlife, & Parks submitted comments requesting the inclusion of "Living with Wildlife" covenants due to the probable interaction of homeowners and wildlife common to the area and consideration of the inclusion of a north-south wildlife corridor. (Exhibit A-5)
3. Common wildlife on the project include white-tailed deer, mule deer, ring-necked pheasant, Canada goose, coyote, red fox, raccoon, striped skunk, Columbian ground squirrel, pocket gopher, red-tailed hawk, great horned owl, American kestrel, black billed magpie, raven, American robin, savannah sparrow, western meadowlark,

mourning dove, and spotted frog. Additionally moose, elk, and black bear occasionally use the property. (FlatIron Ranch Subdivision Application Biological Resources and Wetlands Survey)

4. The applicant is proposing approximately 117 acres of open space which will serve as corridors for wildlife. (Staff Determination)

Sensitive Species

5. At the time of preliminary plat submittal and according to the Montana Natural Heritage Program (MNHP), the Western Toad, Bald Eagle, Peregrine Falcon, Lewis's Woodpecker, Westslope Cutthroat Trout, Fringed Myotis, Townsend's Big-eared Bat, Gray Wolf, Fisher, Wolverine, Canada Lynx, Northern Alligator Lizard, Western Skink and the Marbled Jumping-slug were listed as species of concern that have been identified within the same section as the subject property. (Correspondence from the Montana Natural Heritage Program and FlatIron Ranch Subdivision Application)
6. Updated correspondence from MNHP submitted November 16, 2010 indicates five species of concern as potentially having habitat within the vicinity the subject property. These species are: Bald Eagle, Lewis's Woodpecker, Westslope Cutthroat Trout, Townsend's Big-eared Bat and Grey Wolf. (Exhibit A-3)
7. The applicant contracted Joe Elliot, PHD, ecological consultant, to conduct a Biological Resources and Wetlands Survey. The report identifies six species of concern that may inhabit the subject property and provides detailed information about these species. None of the identified species were cited on the property. Proposed 50-foot no-build zones extending from Gird Creek, Hedge Ditch and the un-named drainage will not be disturbed by the development. These areas were identified as marginal habitat. (FlatIron Ranch Subdivision Application Biological Resources and Wetlands Survey)

Conclusions of Law:

8. A subdivision proposal must be reviewed for its impacts on wildlife. (MCA 76-3-608(3), RCSR Section 3-2-8(b)(v)(E))
 - i. 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.
 - j. Based on the findings of fact and conclusions of law, the findings within the Biological Resources and Wetlands Survey and the recommended condition of approval, potentially significant adverse impacts on wildlife will be sufficiently mitigated. (Staff Determination)

CRITERION 6: EFFECTS ON WILDLIFE HABITAT

Findings of Fact:

- a. Notification letters were sent to Montana Fish, Wildlife, & Parks (MFWP) requesting comments on March 19, 2009, October 28, 2009, and November 15, 2010. (FlatIron Ranch Subdivision File)
2. MFWP submitted comments stating that the layout of the proposed subdivision may promote human/wildlife conflict due to the lack of through corridors. In order to prepare homeowners for dealing with potential conflict, MFWP has recommended the inclusion of "Living with Wildlife" covenants. (Exhibit A-5)
- c. MFWP states within their letter that the property provides winter range for white-tailed deer.
- d. The property is located within a quarter mile of elk and mule deer winter range. (FlatIron Ranch Subdivision Application – Element xli, FWP Data)
- e. A Biological Resources and Wetland Survey was completed to evaluate the habitat suitability for the species of concern identified by the Montana Natural Heritage Program. Based

on the existing habitat on the project site, the Bald Eagle and the Peregrine falcon may forage in the project area and the Lewis's Woodpecker may forage or nest in the row of large cottonwood trees in the center of the project. Additionally, there is marginal habitat for both the Boreal/Western toad and Marbled jumping slug. These marginal habitat areas are to be preserved within the 50-foot no-build buffer along Gird Creek, Hedge Ditch and the un-named drainage is proposed to remain intact. (FlatIron Ranch Subdivision Application)

Conclusions of Law:

6. 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))
7. Based on the findings of fact and conclusions of law, the findings within the Biological Resources and Wetlands Survey, the fact that the property does not contain critical wildlife habitat and the recommended condition of approval, potentially significant adverse impacts on wildlife habitat will be sufficiently mitigated. (Staff Determination)

CRITERION 7: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety (Vehicular and Pedestrian)

1. The property will be accessed via Golf Course Road and the proposed internal road network. Additionally there will be an emergency access constructed and connected to Tammany Lane. The emergency access will have knock down gates installed to prevent through traffic. (FlatIron Ranch Preliminary Plat, Ravalli County GIS)
2. The applicant provided approach permit applications to the Ravalli County Road and Bridge Department for one proposed and one relocated access onto Golf Course Road and the new emergency access approach permit onto Tammany Lane. (FlatIron Ranch Subdivision Application Package)
3. The preliminary road plans show the location of proposed stop and road name signs. (FlatIron Ranch Subdivision Application)
4. The applicant is proposing to construct 8-foot wide pedestrian facilities that will be separated from and located throughout the Common Areas and along most of the major roads throughout the subdivision. (Attachment A)
5. The preliminary road plans were approved July 3, 2010 by the RCRBD. (FlatIron Ranch Subdivision Application)
6. Public comments have been submitted expressing concern with the amount of traffic being generated from the subdivision and the impact it will have on the existing roadway infrastructure. Comments specifically ask how the roadway improvements will be paid for and when the roadway improvements will be completed. (Exhibits B-2, B-4, B-8, B-10, B-13, B-14, B-16, B-17, B-18, B-20)
7. The TIA was approved on September 28, 2010 by the RCRBD. Addendums to the TIA were submitted on March 8, 2011 and May 13, 2011 addressing the applicant's proposed mitigation plan. The mitigation strategy has been proposed in coordination with the Ravalli County adopted Hamilton Area Transportation Plan. (Exhibit A-11 and Territorial-Landworks Updated Comments – 5/23/11)
8. The TIA prepared for the subdivision identifies several offsite roads and intersections that will be adversely impacted by the proposed subdivision. The traffic impact study also identifies mitigation for offsite roads and intersections impacted by the subdivision. See Criterion 3 Effects on Local Services above for a summary of the traffic impact study. (FlatIron Ranch Subdivision Application Package)

Emergency Vehicle Access and Response Time

9. The proposed subdivision will be served by the Hamilton Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (FlatIron Ranch Subdivision Application)

10. HRFD Secretary Lisa Wade signed correspondence, provided by Territorial-Landworks on November 23, 2009 (FlatIron Ranch Subdivision Application – Agency Correspondence), stating that two accesses onto Golf Course Road is not sufficient for providing emergency services to the subdivision and that a third permanent access connecting to Tammany Road would mitigate this concern. Additional comments received from the HRFD regarding the initial proposal stated that there are no negative effects to providing adequate fire protection services based on the fire flow water system proposed by the subdivision as summarized below:
 - a. The subdivision will provide a fire flow of 180,000 gallons of water in order to supply the required 1,500 GPM for two hours. Maintenance of the water supply will be the responsibility of the subdivision.
 - b. The commercial buildings will need to be engineered by the developer to determine if the proposed 1,500 GPM will be sufficient. If not, additional fire flow will need to be provided and/or the buildings will need to be sprinkled.
 - c. The subdivision will provide fire hydrants with spacing of 500 feet, or to State code. Responsibility for maintaining accessibility to the hydrants will be a part of the homeowner's association covenants.
 - d. All buildings are to be built to IRBC code.
11. HRFD Secretary Lisa Wade signed a second correspondence, provided by Territorial-Landworks on January 19, 2010 (FlatIron Ranch Subdivision Application – Agency Correspondence), stating that the HRFD agrees to an alternative proposal regarding the third access to provide fire protection service since access to the subdivision is a major concern. The HRFD requests the following for the emergency access:
 - a. The emergency access easement could be gated.
 - b. The emergency access must be a permanent 22-foot road width with an all weather surface suitable of carrying emergency vehicle and have a suitable permanent bridge structure over the Hedge Ditch.
 - c. The gate could be a knock down gate.
 - d. The emergency access must be completed in Phase 1 of the development.
 - e. The road maintenance should be part of the homeowner's association covenants.
12. The Hamilton Rural Fire District, and the Ravalli County Sheriff's Office are located approximately 3.1 miles from the proposed subdivision and the Marcus Daly Memorial Hospital EMS Department is approximately 3.9 miles. (FlatIron Ranch Subdivision Application)
13. HRFD Secretary Lisa Wade signed correspondence on May 5, 2011, verifying that the proposed installation of 8-inch water mains and 6-inch hydrant lead pipes was acceptable to the HRFD as long as prior to phase filing flow testing prove that the minimum required water flow rate of 1,500 gpm, maintained for two hours is certified by the applicant. (Territorial-Landworks Updated Comments – 5/23/11)

Water and Wastewater

14. The applicant is proposing a community water system and a community wastewater treatment facility. (FlatIron Ranch Subdivision Application)
15. The applicant 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.

(FlatIron Ranch Ravalli County Environmental Health Department Subdivision Review Checklist)

16. Groundwater monitoring occurred on the site in 2005. The groundwater study shows that groundwater depths vary from 0 feet to greater than 6 feet across the site. Average groundwater depth appears to be between 3 to 6 feet for the majority of the site. (FlatIron Ranch Subdivision Application Package)
17. Public comment questions the validity of the groundwater monitoring and points out that since groundwater monitoring occurred on-site in 2005 irrigation practices on adjacent properties have changed. Public comment also questions the amount of effluent being generated on-site and its impact to groundwater quality. (Exhibits B-3, B-4, B-5, B-9, B-10, B-14, B-15, B-16)
18. Roger DeHaan, P.E. with Pinnacle Engineering submitted site evaluation information for an adjacent property located north of the subdivision at 709 Tammany Lane. The information shows that groundwater monitoring on the site failed (<48 inches) for five of the six test holes. The information submitted includes comments from adjacent landowner Dan Leonardi. (Exhibit B-15)
19. The applicant has proposed to conduct additional groundwater monitoring and submit that information prior to the submittal of Phase 1. (Territorial-Landworks Updated Comments – 5/23/11)
20. The proposed HDR Membrane Bioreactor utilizes a rapid infiltration system and does not require 4 feet of separation to groundwater. The system is reviewed in accordance with DEQ Circular 2. Additionally, the effluent from the proposed system will be treated to a level near drinking water standards. (Exhibit A-19)
21. The Membrane Bioreactor is projected to function at a level equal to or greater than the City of Hamilton's wastewater treatment facility. (Territorial-Landworks Updated Comments – 5/23/11)
22. The wastewater treatment report submitted by HDR in the subdivision application materials shows that the proposed system will be able to meet the Department of Environmental Quality nitrate and phosphorous breakthrough requirements. The developer will apply to the Montana Department of Environmental Quality for a wastewater discharge permit, to allow the community system to directly discharge treated wastewater into the ground via several drainfield areas. The system will be approved by the Montana Department of Environmental Quality prior to final plat approval of Phase 1. (FlatIron Ranch Subdivision Application Package)
23. The City of Hamilton submitted comments during the agency comment periods outlining their concerns with the wastewater systems impacts on groundwater quality. Specifically, that seasonal high groundwater in the areas of the drainfields may be higher than the discharge elevations and may not provide for the proper treatment of discharge water prior to entering the aquifer. (Exhibit A-1)
24. The applicant's representative responded to the City of Hamilton's comment in a letter dated December 13, 2010. In collaboration with AMEC they indicate that the primary drainfield location was tested and found to have sufficient separation to groundwater. The other area was not thoroughly monitored but the groundwater depth was found to be between 3 to 6 feet in that area based on information from WGM. Additional groundwater monitoring and testing for infiltration will be performed prior to final design and final plat submittal for Phase 1. (Exhibit A-14)
25. The wastewater treatment facilities and conveyance system will be required to go through review by the Montana Department of Environmental Quality and meet the design requirements for a public wastewater system. This review will occur after

preliminary plat, but will be required prior to final plat of Phase 1 and prior to final plat of each subsequent phase. (Staff Determination)

26. The community water supply system will be supplied via three groundwater wells that will be centrally located on the project site. The proposed system will need to be permitted by the Montana Department of Environmental Quality prior to installation. Further, water rights for the system will need to be obtained from the Montana Department of Natural Resources and Conservation. These processes and permits will ensure that groundwater quality and quantity are maintained for existing and future users. (FlatIron Ranch Subdivision Application Package and Staff Determination)
27. The Ravalli County Board of Health submitted comment on December 21, 2010 (Exhibit A-10) recommending the following in relation to water and wastewater:
 - a. The applicant shall create a water and sewer district or other legal entity to administer the community water and wastewater treatment systems.
 - b. A detailed irrigation and stormwater plan that shows how surface and high groundwater will be managed shall be submitted.
 - c. Updated groundwater monitoring should be conducted at numerous locations on-site because of changes in irrigation practices.

Natural and Man-Made Hazards

28. 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)
29. The addition of 389 residential lots, 3 condominium lots, and 4 commercial lots in an area that currently is used for agricultural purposes has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)
30. The majority of the soils present on the project area are the Corvallis and Slocum series. The Corvallis soil type shows groundwater at 20 to 40 inches depth and the Slocum soil type shows groundwater at 20 inches or less. (FlatIron Ranch Subdivision Application)
31. Within this subdivision the majority of the property has been identified as potentially having soils rated as severe for building sites and roads. (FlatIron Ranch Subdivision Application)
32. Gird Creek (Ward Ditch Lateral W-19) enters onto the property in two locations and an unnamed drainage ditch runs along Golf Course road. (FlatIron Ranch Preliminary Plat)
33. The Gird Creek floodplain zone is located on northeastern boundary of the proposed subdivision. (FlatIron Ranch Subdivision Application)
34. The western portions of the subject property are located within one mile of the Hamilton Airport and are under the southern approach pattern. (FlatIron Ranch Subdivision Application)
35. There is an inherent risk living in close proximity to airports. (Staff Determination)
36. The proposed subdivision is located in the Airport Influence Zone and is subject to noise and vibrations created by aircraft. (Staff Determination, AIA Regulations)
37. Structures and trees can limit visibility. The majority of the property proposed for development lies under the "horizontal zone", an imaginary surface 150 feet above the elevation of the airport elevation, which according to the AIA regulations is 3,649 feet above mean sea level. Therefore, the horizontal zone is 3,799 feet above mean sea level. No structure shall be erected, altered, nor shall any tree be allowed to grow in the subdivision to a height in excess of 3,799 feet above mean sea level. (AIA regulations section 2.04.A.4.)
38. There are overhead power lines present on the subject property, all of which are proposed to be abandoned except for the ones that follow Golf Course Road. (FlatIron Ranch Preliminary Plat)

39. The Board of Health (BOH) submitted a standard comment letter to be considered for all subdivision proposals on August 17, 2009 (Exhibit A-9). Within the letter, the BOH requested that a covenant or notification to future landowners be included outlining the provisions associated with junk vehicle regulations and open burning season.

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 (Vehicular and Pedestrian)

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

Emergency Vehicle Response Time

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

Water and Wastewater

4. In accompaniment to the preliminary plat submittal, the applicant is required to submit water and sanitation information in accordance with the requirements outlined within MCA 76-3-622(2).
5. The applicant is required to submit a DEQ Certificate of Subdivision Approval prior to final plat approval of Phase 1 and each subsequent phase. (Final Plat Requirement 9 and Conditional Approval 13)
6. The applicant is required to provide evidence that water rights capable of serving the proposed number of units have been issued for the community water supply system from the DNRC prior to final plat approval of each phase. (Condition 16)

Overall Conclusion

7. 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)

Commissioner Iman requested comments from the representative.

Jason Rice from Territorial Landworks gave a presentation of the proposed subdivision. He stated that impacts to agriculture were heavily discussed by the Planning Board and utilized as the reason to recommend denial. To mitigate potential impacts to adjacent agricultural users, he discussed providing safety fencing to extend along the outer perimeter of the subdivision. He further stated that the phased nature of the project will allow for continued use of the property for agricultural use until the project is completely filed. He stated that the drainfield replacement area (approximately 5 acres) would be utilized as a community garden for future residents. Based on the type of wastewater treatment system it is not expected that the utilization of the replacement area will be necessary. He discussed School District mitigation and how school's are funded. A Groundwater Pollution Control System Permit will need to be obtained. The applicant proposed a Condition of Approval that prior to the filing of any phase, proof will be provided for compliance with the discharge permit. Additionally a Beneficial Water Use Permit

will need to be obtained from the Department of Natural Resource Conservation for the public water supply. They proposed another Condition of Approval that basements or crawlspaces shall be prohibited for all structures within this subdivision. Pedestrian facilities will be provided within the subdivision. There are four commercial lots proposed that may capture some of the projected average daily vehicular trips. Offered mitigation included \$250 per residential unit to the Hamilton School District and \$100 per residential unit to Public Safety Services to be paid for the number of residential units within each phase upon first conveyance of the initial unit within each phase .

Michael Sanderson from Sanderson Stewart, traffic engineering consultant continued with the presentation regarding TIA (traffic impact analysis) background. The development will add approximately 5,200 trips per day to the traffic volume. Jason Rice gave the conclusion of the presentation discussing nexus and proportionality. Commissioner Kanenwisher asked about the difference between the trigger point and full build-out. Michael replied within the phased mitigation plan, traffic is calculated between phases. A trigger point is used to calculate the proportionate share of mitigation. Michael stated that the updated report considered the full-build out of the FlatIron Ranch rather than assigning mitigation to trigger years. Commissioner Chilcott asked how the background traffic increases were developed. Michael used 5% for background traffic volume.

Commissioner Iman requested a ten minute break. The Board reconvened at 10:41 a.m.

Commissioner Iman opened public comment for general comment only.

Sarah Roubik is concerned about the groundwater in the area being high. She requested denial of the subdivision.

Dan Leonardi asked how would you like a town moved next door to you when you farm. He expressed his concern with a three foot fence when a calf can jump a four foot fence. The neighbors are at the mercy of a few people trying to maximize their dollars and the groundwater will have to be re-monitored anyway. He requested denial.

Mark Vadheim is in opposition of this development. The developer knew from the get go this was not a good project. He read his comments to the Board regarding the loss of agricultural land.

Mac Donofrio would like to see the agriculture continued in this valley. The area is extremely viable and used by birds who feed along Tammany and Gold Course Road. He presented a picture of a hawk who feeds in this area. He expressed his concern with losing the wildlife due to development. He is not in favor of this project.

Cindy Taylor is against the subdivision. Her father writes articles and the purpose of the land was not to be developed. There will be lawsuits if this subdivision is approved. The wildlife is very active especially the coyote. She is concerned about the groundwater and the wildlife and the noise from 30 years of construction. It is a safety and health issue. This was denied in Kalispell. She cannot afford another mill levy on her taxes.

Susanna McDougal lives on Golf Course Road since 1980. She has watched the road change over the past 20 years. She is against this development. The treatment plant will be a private

treatment plant and does not speak about pharmaceuticals used within the plant. Within the corners of Kurtz and Marcus, the traffic will increase because they are used to go to the school. 3% will not cover 30 years for the roads.

Paul Barteni is concerned about the safety fences and accesses. The Bitterroot Valley is a closed water basin. The groundwater issues will affect the neighbors for flooding.

Kelly McCrystal asked if this project is abandoned, who will take care of the water system. 83% of this development is farming land and how will this affect the town businesses by moving 500 families out of town. He expressed his concern with modes of transportation and the health and safety aspects with increase exhausts. Tammany Lane will also have a significant impact from this subdivision.

Chuck Roubik stated there are over 100 conditions attached to the pre-approved application. He expressed his concern of getting around the seven criteria with these conditions. He discussed the resale value with the high water table. He requested the subdivision be denied.

Niki Sardot stated this subdivision meets the requirements of law. Her concern is the potential lawsuits if this subdivision is denied.

Penney Howe stated the letter of the law is the ruling body. She has researched water systems and the DEQ has approved this one. She is in favor of this subdivision.

Nancy Ballance asked about insurance in the case of bankruptcy. On Golf Course Road, there is not a lot of pedestrian and bicycle traffic. With this development, there will be a huge increase.

Chip Pigman is in favor of this subdivision. Water quality issues will be addressed and monitored by the DEQ. Monitoring is lengthy and heavily scrutinized. He has paid taxes on undeveloped subdivision lots for six years and that is six years the school system has had funds without children.

Ren Cleveland is a native and has lived here for almost 80 years. He appreciates the work with the current Planning Board has done with this subdivision and implored the Board to vote no for this subdivision.

Kathie Roubik stated \$1.2 to 1.9 billion dollars of revenue comes into the counties including Ravalli County. The revenue has to be considered and is in opposition to this subdivision.

Pam Erickson expressed her concern regarding the high groundwater and pharmaceuticals entering into the groundwater. She is also concerned about the egress onto Golf Course Road and the children who will want to go onto Golf Course Road. There needs to be a pedestrian/bike path. She requested denial of this project based on the health and safety issues.

Gayl Knox expressed her concern with stressing the schools with a proposed 270 plus children with the recent cuts to the school system. She discussed the traffic issues with Kurtz Lane. She requested denial of this subdivision.

Nancy Oesar requested denial of this subdivision based of lack of facts being disclosed with years of high groundwater.

Laroiux Moorehouse stated the Planning Board voted to deny this subdivision and that Board is comprised of intelligent individuals. She requested consideration of their recommendation.

John Carbin thanked the Planning Board and the Planning Department for their hard work on this subdivision. He expressed his concern about the loss of agriculture, overflowing the schools, and prior bankruptcy of the owners on other projects. Who will be on the hook for the private water system should this subdivision fail?

Bill LaCroix expressed his concern with not having a safe place for the children to ride their bikes. He discussed the conflict of interest investigation of Commissioner Kanenwisher and although it does not meet the criteria of the County Attorney's Office conflict of interest, it is a moral conflict. He requested denial of this subdivision.

Nathan Lucke owns a home near Golf Course Road. Montana is going to continue to develop with people moving here. He would like to see subdivisions add value to this community. He would prefer to walk around 100 acres of open space in this subdivision than another subdivision with closed areas. He recommended approval of this subdivision and it is legally defensible.

Maggie Wright requested when the Board makes a decision, if the Board could give individual reasons why that decision is made.

Gabe Leonardi stated there aren't any groundwater facts available. He expressed his concern with bike paths that don't go anywhere near town. The figures are incorrect for the 30 year phases and it is the best farm ground in the area. He does not want this subdivision in his backyard.

William Moody lives on Golf Course Road across from the duck pond. This will impact his home with the noise of 30 years of construction and also the traffic that will increase on the road. He requested denial of this subdivision.

Laurie Burnham has not heard the pedestrian impact from the beginning of Golf Course Road. There are many bicyclists. She is not in favor of this project due to the safety issues.

Commissioner Iman closed public comment for general comment and opened board deliberations for the prerequisites.

Compliance with prerequisites to approval:

A. Provides easements within and to the proposed subdivision for the location and installation of any planned utilities.

Commissioner Iman asked where is the natural gas located and questioned the access onto Tammany Lane. Paul Forsting contacted both NorthWestern Energy and Ravalli Co-op and gas lines will be installed. There will be a gate on the northeast corner blocking access on Tammany Lane. Commissioner Chilcott stated Staff has done an outstanding job with the findings of fact and he agrees with them as presented. **Commissioner Kanenwisher made a motion to accept the findings of fact and the conclusions of law for providing easements within and to the**

proposed subdivision for the location and installation of any planned utilities. Commissioner Chilcott seconded the motion and all voted “aye”. (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.

Commissioner Chilcott asked staff to clarify the status of Golf Course Road. Tristan stated Golf Course Road is a county owned and operated roadway. Commissioner Chilcott stated that Finding of fact number 4 would need to be amended, but wanted confirmation from the Road Supervisor prior to acting on this issue. **The Board concurred to continue this deliberation until 2:00 p.m.**

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.

Commissioner Kanenwisher addressed some questions about the improvements to a private infrastructure. Commissioner Chilcott stated the final plat at each phase will address this. Tristan provided a general overview of how Subdivision Improvement Guarantees work. **Commissioner Kanenwisher made a motion to accept the findings of fact and the conclusions of law for assuring 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. Commissioner Stoltz seconded the motion.**

Discussion: Commissioner Iman clarified 76-3-507 part 2 subsection B. **All voted “aye”. (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 of the RCSR have been considered and will be accomplished before the final plat is submitted.

Commissioner Iman discussed the actual water right not belonging to the land but rather to Daly Ditches. Paul Barteni clarified the water right is from both Ward Ditch and Gird Creek and is owned by Daly Ditches who then provides water shares to the property. **Commissioner Foss made a motion to accept the findings of fact and the conclusions of law for assuring that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 of the RCSR have been considered and will be accomplished before the final plats are submitted for each phase. Commissioner Chilcott seconded the motion and all voted “aye” (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 of the RCSR have been considered and will be accomplished before the final plat is submitted.

Commissioner Iman clarified the easement on Ward Ditch is 60 feet and asked if the fencing would be in the easement. Paul Barteni expressed his concern about access and maintaining the canal. Civil Counsel Dan Browder stated this requirement is to show the easements on the plat. **Commissioner Chilcott made a motion to accept the findings of fact and the conclusions of law for assuring that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 of the RCSR have been considered and will**

be accomplished before the final plat is submitted. Commissioner Foss seconded the motion and all voted “aye”. (5-0)

F. Provides for the appropriate park dedication or cash-in-lieu, if applicable. Commissioner Kanenwisher made a motion accept the findings of fact and the conclusions of law for providing the appropriate park dedication. Commissioner Chilcott seconded the motion and all voted “aye”. (5-0)

Compliance with applicable regulations:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5. The Board concurred that the design standards set forth in Chapter 5 of the Ravalli County Subdivision Regulations have been met.

B. Applicable zoning regulations. The Board concurred with the findings of fact and conclusions of law within the staff report.

C. Existing covenants and/or deed restriction. There is an existing agricultural covenant and a request to revoke it. Discussion followed regarding clarification of what is an agricultural covenant. Jason Rice clarified the area is less than 20 acres and would be a common area. The Board concurred with the findings of fact and conclusions of law within the staff report.

D. Other applicable regulations. Tristan stated a portion of the area falls within the Airport Affected Area and will have to comply with their rules. Commissioner Kanenwisher made a motion to accept the findings of fact and conclusions of law for item F. Commissioner Stoltz seconded the motion. Discussion: Commissioner Chilcott clarified the motion should be for the acceptance of items A-D. Commissioner Kanenwisher withdrew his motion. Commissioner Stoltz withdrew his second.

Commissioner Kanenwisher made a motion to accept the compliance with applicable regulations findings of fact and conclusions of law for items A-D. Commissioner Stoltz seconded the motion and all voted “aye”. (5-0)

► Commissioner Iman requested a one hour recess. The Board reconvened at 1:06 p.m.

Criterion 1: Effects on Agriculture: Commissioner Chilcott reviewed the offered mitigation of safety fencing and requested it be added as Condition 106. Jason Rice questioned the height of the fencing. Commissioner Chilcott discussed the Planning Board’s denial based on the loss of agricultural land. Commissioner Kanenwisher clarified adding to the findings of fact by addressing comments made here today. Civil Counsel Dan Browder stated all public testimony should be considered and weighed including comments considered non-creditable.

Commissioner Kanenwisher addressed written comment submitted by Dan Leonardi regarding conflict between kids, cattle and bulls and requested clarification. Jason Rice gave the basis of the mitigation with the understanding children or pets can wonder onto these farms and get hurt, therefore offered the fencing as mitigation to those concerns. By testimony given today, it was stated calves can jump over 48 inch high fencing therefore the height of the fencing became an item of concern. Commissioner Kanenwisher replied it has been addressed under Criterion 1 item 6. Commissioner Chilcott addressed item 8 and requested additional language be added for the fencing. Commissioner Iman stated the County has used four-foot fencing in the past (hog

fencing) and is the standard definition for safety fencing within the Ravalli County Subdivision Regulations. He requested the fence be 48 inches tall and woven wire with one barbed wire on top for protection to the agricultural properties and a wooden top rail at locations abutting irrigation ditches (Gird Creek and Hedge Ditch)..

Commissioner Kanenwisher addressed comments made by Cindy Taylor regarding the former owner wanting the property to be used for agriculture only. There was no evidence found of this request and will not entertain it to be added to the findings of fact. Jason Rice clarified the agricultural covenant and it was not placed on there with the intent for agricultural use but rather easement for the road. Commissioner Iman questioned the future of the covenant with the proposed common area. The common area and the duck pond for adjacent property were pointed out on the map.

The prime farmland soils if irrigated constitute 14% of the property. Tristan stated approximately 83% of the property is identified by the Natural Resource Conservation Services as prime farmland if irrigated and soils of statewide importance. Commissioner Foss addressed written comment from Michelle Leonardi regarding shooting lanes for predators. Jason Rice discussed the distances between homes and presented an aerial photo to the Board. Commissioner Kanenwisher questioned the additional impact of the subdivision to the ability to shoot. Civil Counsel Dan Browder clarified it is illegal to shoot across someone else's property.

Commissioner Iman opened public comment for effects on agriculture.

Paul Barteni representing Daly Ditches expressed concerns with stormwater runoff. He was informed by the Chairman that these comments would be accepted under discussion of Criterion 2: Effects on Agricultural Water User Facilities.

Les Rutledge asked if there is discussion occurring for the relationship of the impacts of agriculture and current law and development activities. Local governments have the duty to require developments to mitigate for the impacts to agriculture.

Nancy Ballance asked if the impacts to agriculture include loss and how is the impact weighed to the total agriculture land lost in the County.

Dan Leonardi stated a four-foot fence is not adequate to keep kids out of the agricultural land. Normal fencing is five foot. This whole development effects agriculture in the surrounding area. If it is going to be approved, the people that are affected need to be taken care of and considered. He discussed irrigation and standard systems. This is multiplying the problems with the water. The question of the water channels on the property still have not been addressed. Commissioner Iman noted some of the comments made fit under another criteria.

William Menager stated the fencing will be adequate.

Ren Cleveland knows the Leonardi family and has for the past 80 years. The water has run across the property as Dan Leonardi stated. God stopped making land a long time ago but didn't stop making people. Agricultural land will continue to disappear with increased population.

Gary Garfield lives east of Tammany Lane. He has fencing on property in Corvallis and the County recommended a four foot chain linked fence. Children have climbed this fence to get to the ditch and have damaged it. A higher fence is needed.

Commissioner Iman requested any further public comment. Hearing none, he then closed public comment regarding effects on agriculture.

Civil Counsel Dan Browder stated the USDA has shown that agriculture is important to consider. Commissioner Kanenwisher addressed Les Rutledge's comment regarding how the County is required to address developments for the impacts to agriculture. The State dictates the County must consider the impacts on agriculture and he has not seen anything defining the impact to agriculture conceptually. He has no finding of fact in either the comments made by Les Rutledge or Nancy Ballance. Jason Rice discussed the height of the fencing and food sustainability (cattle vs wheat). **Commissioner Kanenwisher requested adding a finding of fact #12 that the current layout consists of 18 separate parcels that range in size from 20 to 80 acres. The Board concurred.** Commissioner Chilcott discussed land use and what can be done with your land. **He requested language to capture the fencing as 48 inch woven wire with one top strand of barbed wire.** Tristan read the notification of proximity to agricultural operations to the Board. Terry Nelson discussed the fencing within the regulations as being 48 inches high and a top rail. Civil Counsel Dan Browder suggested leaving the fence specifics open until a later time because Montana Fish, Wildlife and Parks have recommended wildlife fencing that differs from that being discussed by the Board. Commissioner Chilcott requested leaving the option of negotiating with the neighbors for the fencing open. Discussion followed regarding the fencing. **The Board concurred to add two conditions and amend Condition 59 to require the fencing be installed at Phases 2, 5 & 11.** Commissioner Iman discussed access points in case agricultural animals get on the wrong side of the fence there is a way to get them back. Access points for gates were discussed and Dan Leonardi agreed with the access points for livestock. Discussion followed regarding the water rights and irrigation. **The Board concurred with the County standard for the fence being 48 inches of woven wire with top rail along areas abutting irrigation ditches (Gird Creek and Hedge Ditch) and a barbed wire strand where no irrigation ditches are present. Additionally, access gates shall be provided along the fencing at locations of all conditional access easements and locations of irrigation diversion points.**

Commissioner Kanenwisher requested adding a finding of fact that the proposed use of the 5.00 acre replacement wastewater infiltration/percolation area (Common Area #21) as a community garden and the ability for each residential landowner to have an on-site garden that may produce a higher value commodity than the property is currently producing, sufficiently mitigates the loss of agricultural land. The Board concurred.

Commissioner Chilcott made the following motion: Based on the findings of fact and conclusions of law within the Staff Report as amended here today, the potentially significant adverse impacts of the subdivision on Agriculture have been sufficiently mitigated. Commissioner Kanenwisher seconded the motion and all voted "aye". (5-0)

The Board revisited Prerequisite to Approval B.

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.

County Road & Bridge Supervisor David Ohnstad stated that Golf Course Road is a County-operated roadway. **Commissioner Foss made a motion that the subdivision application has demonstrated that legal and physical access to each parcel within the subdivision will be provided. Commissioner Kanenwisher seconded the motion and all voted "aye". (5-0)**

Tristan noted for the record that the above motion also deemed that all prerequisites to approval have been met.

Criterion 3: Effects on Local Services:

Gabe Leonardi asked if there is an easement on Tammany Lane south to access the water tanks. Jason Rice replied there is access provided from the parcel not Tammany Lane with a partial buried water tank.

Commissioner Kanenwisher discussed the impact to Golf Course Road with full build-out at 58%. Matt Smith from PCI reviewed how the road was accessed for the total amount of traffic entered into the intersection. A traffic analysis was completed by Sanderson-Stewart for expected traffic on Golf Course Road. Commissioner Kanenwisher asked what the difference was between the assessments with the change of traffic flow and how the percentage was derived. Michael Sanderson discussed how Matt Smith is using the Average Daily Trips (ADT) at the point at where it dumps onto Golf Course Road and this is the only location where the increase in traffic is 58%. While the access points from the subdivision onto Golf Course Road will increase traffic by 58%, it does not at the identified intersections and traffic will disperse as it heads west along Golf Course Road. The question is what is the relative impact by this development to Golf Course Road. Tristan stated the regulations do not require the developer to pay pro rata but to improve the road. Golf Course Road meets County-standard and however the developer was required to submit a Traffic Impact Analysis which identified impacts to the County road system. These identified impacts require appropriate mitigation. Commissioner Kanenwisher stated the regulations do not have that formula of determining pro rata share. David Ohnstad stated the reason that Golf Course Road is considered a County standard is due to another development being required to bring the road up to county standards. The question now is will the impacts of this development change the standard of the road with the increased traffic. With the increase of ADT of 58%, a pro rata share would be formulated (existing ADT (58%) and the development estimated to generate 5,243 trips per day for a total and divided the projected development into the sum). The average growth rate utilized in the County's methodology for identifying appropriate mitigation is 3.5% per year the Sanderson-Stewart report uses 5% per year. The total cost for identified roadway improvements was calculated to be approximately \$1.9 million. Matt Smith stated the 58% is the total amount of traffic that this development will create in relation to the existing traffic on Golf Course Road. Jason Rice stated only two intersections would receive impacts from the development. The developer doesn't argue the impacts to the intersections need to be mitigated, what they argue is FlatIron will only add 58% of traffic to one point on Golf Course Road and that each intersection will see a smaller portion of impact based on traffic patterns identified within the Sanderson-Stewart Traffic Impact Analysis. The developer should not be assessed for 58% of improvement costs at each intersection. Discussion followed regarding the County's methodology using ADT and the Sanderson-Stewart methodology using peak hour traffic volumes. **Commissioner Kanenwisher suggested adding a finding of fact that the Sanderson-Stewart mechanism is the more accurate model and the best information at hand for identifying the actual proportional**

traffic impacts. Matt Smith determined how much traffic going down Golf Course Road would be generated from the development. Discussion followed regarding the impacts to the intersections, what portions of the ADT from FlatIron impacts them and how the formulas used computes the proportional share for improvements necessary at each intersection. The Board stated that the nexus has been agreed upon the argument remains for proportionality. Further discussion followed regarding ADT including traffic coming from Us Highway 93 onto Golf Course Road. Jason Rice argued the proportionality of using 58% for all intersections to determine a proportional share is not accurate when not all traffic from FlatIron will be utilizing all the intersections at the same time.

Commissioner Iman asked if the 58% estimate was used for all intersections. Matt Smith replied no. He stated he was not tasked with conducting a new traffic impact study. He was asked to look at the way the assessment method was used by the developers and make comments/recommendations as to how the County should consider assessing appropriate mitigation. The methodology used was based on ADT. Does Sanderson-Stewart have better data? Absolutely, they conducted a full traffic impact analysis. The Board continued discussion regarding which methodology should be utilized in assessing mitigation.

Commissioner Iman requested a five minute recess. The Board reconvened at 4:40 p.m.

Commissioner Iman stated this meeting will be continued until Wednesday July 6th at 5:30 p.m. **Commissioner Chilcott made a motion to continue the public hearing for FlatIron Major Subdivision until Wednesday July 6th at 5:30 p.m. Commissioner Stoltz seconded the motion and all voted "aye". (5-0)**

► In other business, Glenda met with the Board at 1:05 p.m. to indicate the insurance issues for J5 Construction have been answered satisfactorily with Civil Counsel, therefore the Commissioners can move forward on the Notice to Proceed on the Intoxilizer Construction Addition. **Commissioner Foss made a motion to approve the Notice to Proceed. Commissioner Kanenwisher seconded the motion and all voted "aye".**

SIGN IN SHEET - COMMISSIONERS MEETING ROOM

****PLEASE PRINT YOUR NAME LEGIBLY****

THANK YOU!

DATE: 6/30/11

MEETING: Flat Iron

Paul Forsting

Georgina Taylor

Dan Leonard

Dave Leonard

Kathie Roubik

Chuck Roubik

Kathy Vaughan

Pat Hanson

MAC Dowotrio

With my

Tom Woods

Ren Cleveland

Lu Benz

CINDY TAYLOR

Paul Barten

Suzanna McDougal

Thuy Anfield

Nancy Ballance

Kelsey Milner

Will Mounsey

WARREN NEYEMUS

NATHAN LUCKE

Ron Vernura

Nancy Oeser

Ann Taylor

MARC VADHEIM

SIGN IN SHEET – COMMISSIONERS MEETING ROOM

****PLEASE PRINT YOUR NAME LEGIBLY****

THANK YOU!

DATE: 4/30/11

MEETING: Flat Iron Continued

LUCILLE MOLINARI

DOUG ROBINSON

NIKI SARDOT

GAYL KNOX

BILL LACROIX

MICHAEL SANDERSON

Les Rutledge

Lewis Durham

SCHOOL MITIGATION SUMMARY

for

FLATIRON RANCH SUBDIVISION

Published: June 7, 2011

Located in
Section 29, 32, 33, T10N, R19W and Section 36, T10N, R20W
Between Tammany Lane and Golf Course Road
Approximately 2.5 Miles SE of the City of Hamilton
Ravalli County, Montana

Prepared For:
Flatiron Ranch, LLC
15955 N Dial Blvd, Ste 1
Scottsdale, AZ 85260-163

Prepared By:
Territorial-Landworks, Inc.
P.O. Box 3851
Missoula, MT 59806

SCHOOL MITIGATION FINDINGS

1. Mitigation fees are not a part of State Law or the Local Subdivision Regulations.
2. There are no identified impacts to school district.
 - a. Nothing on record specific to this subdivision. No evidence to support fees.
 - b. No evidence that extending capital facilities related to schools is necessary for this project.
 - c. The amount of mitigation fees must reasonably reflect the expected impacts directly attributable to the subdivision. Without defined impacts, mitigation fees are unwarranted.
3. The current application of mitigation fees are used to compensate for delay from construction to actual increases in the tax base.
4. The following are concerns with current application and formula for assessing mitigation fees:
 1. The formula for assessing these fees is riddled with assumptions.
 2. Assumes 0.5 child per house is accurate:
 - a. Ignores that child may already be attending the school or a different school in the County.
 - b. Some children may not be of school age.
 - c. Increased attendance could increase funds available for schools.
 3. Ignore overall gains from this project that result in:
 - a. Increased capital introduced into County due to job creation.
 - b. Additional business opportunities in County, which pay taxes.
 4. Jobs not homes attract new families to the County. Financially mobile people (typically retirement age) are attracted to new homes and are less concerned about employment opportunities.
5. The following are additional considerations regarding the necessity of mitigation fees:
 - a. Onsite bus shelters are proposed to mitigate impacts to the schools.
 - b. Mitigation fees are very similar to Impact Fees, which are required to undergo an analysis process to justify them.
 - c. Mitigation fees add unpredictability to process and reducing feasibility of projects by:
 - i. Actual mitigation fee amounts are undetermined until the Board of County Commissioners Meeting.
 - ii. Fees are not established in rules.
 - d. There are other alternatives to paying fees. The fire department mitigation is an alternative example.

- e. There is a false belief that the money will be paid directly from the developer's profits. Developers need to sell a product. These moneys may be better used for the following purposes:
 - i. Reduce lot prices for end users
 - ii. Fund improvements and amenities such as:
 - 1. More park improvements
 - 2. Community garden improvements
 - 3. Community recreational facilities
 - 4. Street lights
 - 5. More pedestrian facilities
- 6. The following is a brief comparison of Ravalli County's approach to mitigation fees as opposed to other Western Montana peer counties:
 - a. Phone calls were placed to several knowledgeable professionals around western Montana. Based on information that our office was able to obtain, Ravalli is the only county that we are aware of that is consistently charging over \$70 per lot for School mitigation fees. See Attached Mitigation Fees Exhibit.
 - b. Charging mitigation fees is putting Ravalli County residents (developers, contractors/employees, and realtors) in a financial disadvantage to peer counties and other lots created without fees.

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MITIGATION FEES

FLATHEAD

SCHOOLS*	<input type="text"/>	\$0
911	<input type="text"/>	\$0

GRANITE

SCHOOLS	<input type="text"/>	\$0
911	<input type="text"/>	\$0

LAKE

SCHOOLS	<input type="text"/>	\$0
911	<input type="text"/>	\$0

SILVER BOW

SCHOOLS	<input type="text"/>	\$0
911	<input type="text"/>	\$0

SANDERS

SCHOOLS	<input type="text"/>	\$25
911	<input type="text"/>	\$25

LEWIS & CLARK

SCHOOLS	<input type="text"/>	\$0
911	<input type="text"/>	\$0

MINERAL

SCHOOLS	<input type="text"/>	\$0
911	<input type="text"/>	\$100

GALLATIN

SCHOOLS	<input type="text"/>	\$70
911	<input type="text"/>	\$0

MISSOULA

SCHOOLS	<input type="text"/>	\$0
911	<input type="text"/>	\$0

CASCADE

SCHOOLS	<input type="text"/>	\$0
911	<input type="text"/>	\$0



RAVALLI

SCHOOLS	<input type="text"/>	\$1300
911	<input type="text"/>	\$250

6/30

PUBLIC SAFETY SERVICES MITIGATION SUMMARY

for

FLATIRON RANCH SUBDIVISION

Published: June 8, 2011

Located in
Section 29, 32, 33, T10N, R19W and Section 36, T10N, R20W
Between Tammany Lane and Golf Course Road
Approximately 2.5 Miles SE of the City of Hamilton
Ravalli County, Montana

Prepared For:
Flatiron Ranch, LLC
15955 N Dial Blvd, Ste 1
Scottsdale, AZ 85260-163

Prepared By:
Territorial-Landworks, Inc.
P.O. Box 3851
Missoula, MT 59806

PUBLIC SAFETY SERVICES MITIGATION FINDINGS

1. Mitigation fees are not a part of State Law or the Local Subdivision Regulations.
2. There are no identified impacts to public, health, and safety.
 - a. Nothing on record specific to this subdivision. No evidence to support fees.
 - b. No evidence that extending capital facilities related to public health and safety is necessary for this project.
 - c. The amount of mitigation fees must reasonably reflect the expected impacts directly attributable to the subdivision. Without defined impacts, mitigation fees are unwarranted.
3. The current application of mitigation fees are used to compensate for delay from construction to actual increases in the tax base.
4. The following are concerns with current application and formula for assessing mitigation fees:
 1. The formula for assessing these fees is riddled with assumptions.
 2. Ignores tax contribution of parent parcel over the past decades.
 3. Ignores tax contribution of vacant lots prior to homes built.
 - a. The Wildflower Subdivision is contributing \$400+ per vacant lot (approx. 20 vacant lots) for nearly 5 years now.
 4. Ignores potential that residences are vacating an existing property in Ravalli County that will continue existing tax base regardless of occupation.
 5. Ignores overall gains from this project that result in:
 - a. Increased capital introduced into County due to job creation.
 - b. Additional business opportunities in County, which pay taxes.
5. The following are additional considerations regarding the necessity of mitigation fees:
 - a. This project is located approximately 1 mile from the County seat and location of Sheriff and Hospital. Its impact will be lower than residences located much farther from services.
 - b. Mitigation fees are very similar to Impact Fees, which are required to undergo an analysis process to justify them.
 - c. Mitigation fees add unpredictability to process and reducing feasibility of projects by:
 - i. Actual mitigation fee amounts are undetermined until the Board of County Commissioners Meeting.
 - ii. Fees are not established in rules.
 - d. There are other alternatives to paying fees. The fire department mitigation is an alternative example.

- e. There is a false belief that the money will be paid directly from the developer's profits. Developers need to sell a product. These moneys may be better used for the following purposes:
 - i. Reduce lot prices for end users
 - ii. Fund improvements and amenities such as:
 - 1. More park improvements
 - 2. Community garden improvements
 - 3. Community recreational facilities
 - 4. Street lights
 - 5. More pedestrian facilities
- 6. The following is a brief comparison of Ravalli County's approach to mitigation fees as opposed to other Western Montana peer counties:
 - a. Phone calls were placed to several knowledgeable professionals around western Montana. Based on information that our office was able to obtain, Ravalli is the only county that we are aware of that is consistently charging over \$100 in Public Safety Services mitigation fees. See Attached Mitigation Fees Exhibit.
 - b. Charging mitigation fees is putting Ravalli County residents (developers, contractors/employees, and realtors) in a financial disadvantage to peer counties and other lots created without fees.

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