

Flathead County Approved Subdivision Regulations
Sections for Further Consideration by the Planning Board
(Planning Board Recommendations Shaded)
Meetings from June 12, 2007 to Present are Continuations of Workshop
Latest Revision: May 29, 2008

June 12, 2007 Planning Board Special Meeting

Commission Referred Provision 4.1.11
Planning Board Recommendation

4.1.11 Application Deadlines and Fees

All application fees for preliminary and final applications and plats will be due at the time of the subdivision application. The fee schedule and application deadlines will be reviewed annually by the **Planning Board** and set by the Commission.

- a. No application fees will be refunded once an application is accepted by the Planning and Zoning Office and sufficiency review has been completed.
- b. If an application is terminated prior to sufficiency review the Planning and Zoning Office will refund one-half of the application fee.
- c. Application submittal deadlines will be scheduled by the Planning and Zoning Office and posted annually. All application submittals will be logged into the Planning and Zoning Office as of the date of next scheduled deadline for review and processing.

Planning Board Rationale

There is no charge for a pre-application meeting, however considerable amount of staff's time may be involved and this service should be charged to the public. Pre-application meeting requirements are identified in Appendix A.

Fees and deadlines should be reviewed by the Planning Board prior to being submitted to the Commission. This would provide additional review and scrutiny and allow the Planning Board to have input into the decision making.

A partial application refund, if little staff time has committed to the application seems reasonable so the Planning Board supports returning one-half of the fee if the application is terminated prior to sufficiency determination.

Commission Removed Provisions 4.2.21 & 4.4.30
Planning Board Recommendation to Reinstate
Considered both 4.2.21 & 4.4.30 provisions together.

4.2.21 First Minor Subdivision Cluster Development

As authorized by 76-3-509, MCA, the following apply to first minor subdivisions proposed for clustering lots in unzoned areas:

- a. An area of open space must be preserved that is at least 25 percent as large as the area that will be developed.
- b. Open space must be preserved through an irrevocable conservation easement or deed restriction granted in perpetuity as provided for in Title 76, Chapter 6, MCA, prohibiting further development of the open space parcel.
- c. The area contained in individual lots will be dictated by public or community water and sewer availability. If no public water and public sewer service is available the minimum lot size shall be one net acre.
- d. Multiple adjacent tracts of record may be aggregated to create a single parcel for the purpose of creating a cluster development.
- e. The maximum lot size for cluster subdivisions shall be five acres unless zoning dictates otherwise.
- f. The provision of park dedication fees is waived for cluster developments.
- g. To qualify for a density bonus or minimum lot size adjustment consideration as a cluster development the land to be preserved as open space must qualify as suitable for development.

4.4.30 Major Subdivision Cluster Development

As authorized by 76-3-509, MCA, the following apply to major subdivisions proposed for clustering in unzoned areas:

- a. An area of open space must be preserved that is at least 25 percent as large as the area proposed to be developed.
- b. Open space must be preserved through an irrevocable conservation easement or deed restriction granted in perpetuity as provided for in Title 76, Chapter 6, MCA, prohibiting further development of the open space area.
- c. The area contained in individual lots will be dictated by public or community water and sewer availability. If no public water and public sewer is available the minimum lot size shall be one net acre.

- d. The maximum lot size for cluster developments shall be five acres unless zoning dictates otherwise.
- e. Multiple adjacent tracts of record may be aggregated to create a single parcel for the purpose of creating a cluster development.
- f. Park dedication requirements for clustered major subdivision developments created under this section are waived.
- g. To qualify for a density bonus or minimum lot size adjustment consideration as a cluster development the land to be preserved as open space must qualify as suitable for development.

Planning Board Rationale

Both major and minor subdivision provisions were reviewed together since they have identical language.

Cluster Development is only done in the zoned areas R and SAG. There are no incentives in unzoned areas to create cluster developments and they are very difficult to encourage without regulatory incentives.

It is redundant and considered double dipping to allow incentives to areas that where no development is permitted in any event (i.e. floodplains, etc.). These areas should not be considered for additional incentives and density bonuses.

**Commission Referred Provision 4.3
Planning Board Recommendation**

4.3 Subsequent Minor Subdivisions

4.3.1 Subsequent Minor Subdivision Review and Approval Procedures

A proposed subsequent minor subdivision application and plat shall be reviewed and processed as a major subdivision. ~~All the procedures and requirements pursuant to Section 4.4 (Major Subdivisions), of these Regulations shall be followed for subsequent minor subdivisions, with the following exceptions:~~

- a. ~~A subsequent minor subdivision shall be subject to a public hearing requirement as identified in Section 4.1.10. Notice of the proposed subdivision shall be given by certified mail to each property owner whose property is within 150 feet of the proposed subsequent minor subdivision, and posted on site at least 15 days prior to when it is to be considered by the Commission in a regularly scheduled meeting.~~

Planning Board Rationale

Subsequent minor subdivisions often have greater impacts to public service delivery and the environment than major subdivisions.

There have been numerous instances where the subdivider has attempted to evade major subdivision review by submitting multiple minor subdivision applications.

It is difficult to consider the full potential impact of a subdivision if it comes in as several minors since minor subdivisions don't require Environmental Assessments.

Public participation requirements for first minor subdivisions are much less stringent than major subdivisions and have no public hearings; the public often doesn't even know what is happening in their neighborhoods. When they discover multiple minors, it is too late and the impact can be significant.

Subsequent minor subdivisions should have public hearings, and the opportunity for public input and participation. There is a need to more fully understand the full range of impacts associated with a subsequent minor subdivision proposal.

Commission Referred Provision 4.4.10 Planning Board Recommendation

4.4.10 Phased Major Subdivision Plat Submittals

The subdivider, as part of the preliminary plat application, may propose to phase a proposed major subdivision over time. Phasing must be identified at preliminary plat application submittal. Phasing must be approved at the time of preliminary plat approval.

- a. Each phase must be filed sequentially, according to the phasing plan, and be fully capable of functioning with all the required improvements in place in the event the future phases are not completed or completed at a much later time.
- b. A phasing plan must be submitted and must include the following:
 - i. A plat delineating each phase and a general time frame for each phase.
 - ii. A public facilities improvement plan showing which improvements will be completed with each phase.
- c. The Commission may require, as part of preliminary plat approval, that parkland requirements, pursuant to Section 4.7.26, for the entire subdivision be met prior to approval of the first phase final subdivision plat. Parkland dedication for each phase shall not be deferred until a later phase.
- d. The preliminary plat of a phased subdivision shall have the following time limits:
 - i. If a major subdivision is part of an approved planned unit development which contains a specific phasing plan complete with time lines, such phasing plan shall be binding.

- ii. For all major subdivisions the first phase final subdivision plat must be approved and filed within three years of preliminary phased plat approval. On final plat approval of the first phase final plats for each successive phase must be filed within two years of the previous final plat approval.
 - iii. Failure to meet this time frame will cause the remainder of the preliminary plat to become void, and no additional final phased plats shall be accepted. A one year extension for a phased final plat may be requested by the subdivider.
- c. Modifications to an approved phasing plan which do not materially change the impacts on adjoining property may be approved or denied by the planning director. Changes which materially change impacts to adjacent property owners shall be approved or denied by the Commission.

Planning Board Rationale

Clarification is needed regarding the first phase time limits for final plat submittals. There has been a traditional three years for final plat submittal for the first phase, coupled with a possible one year extension, which is a reasonable procedure to continue.

It is also important to allow flexibility for the County to require some or all subdivision amenities to be required up front in certain instances. If not, there is increased risk to the county that a later phase won't occur, leaving the lot owners from prior phases without promised amenities.

July 26, 2007 Planning Board Special Meeting (Continued)

Commission Referred Provision 4.6 Planning Board Recommendation

4.6 Condominiums

4.6.1 General Guidance for Condominiums

All condominium developments are subdivisions subject to the terms of the Montana Subdivision and Platting Act and these Regulations. Condominium developments must include two or more residential units within the same building.

- a. Condominium development shall be reviewed under the procedures identified below:
 - i. If the proposed condominium development contains five or fewer dwelling units, it shall be processed pursuant to Section 4.2 (First Minor Subdivisions).
 - ii. If the proposed condominium development contains six or more dwelling units, it shall be processed pursuant to Section 4.4 (Major Subdivisions).

- iii. Condominium “lock off units” and subdivisions originally created for lease or rent pursuant to Section 4.5 converting to condominium ownership shall be reviewed per this Section. Any proposed condominium unit that includes a dividable “lock off unit” shall be considered as containing the sum of these units.
 - iv. If the proposed condominium development is located on more than one lot the subdivider shall aggregate all lots into a single lot under a single ownership as a condition of preliminary plat approval.
- b. In lieu of filing a final plat, the subdivider shall submit four blue line copies and one reproducible mylar copy of the plat to the Planning and Zoning Office.
 - i. The plat shall be labeled “Revised Preliminary Plat” and conform to all requirements for final plats pursuant to Appendix E (Contents of Final Plat).
 - ii. The revised preliminary plat shall show all existing and proposed buildings and structures, roads, parking and recreation areas.
 - iii. The revised preliminary plat shall conform to the approved preliminary plat and meet the conditions of approval of the preliminary plat.
 - c. All parkland dedication provisions pursuant to Section 4.7.25 shall be met.
 - d. Final approval will not be granted until the subdivider has met all conditions of preliminary plat approval and has installed all required improvements or entered into a subdivision improvements agreement (Appendix G).
 - e. The Clerk and Recorder shall not process or record any condominium title transactions or deeds if the planning director or county attorney determines a condominium project has not met the requirements of Section 4.6.3 or has not been reviewed pursuant to this Section.
 - f. The approved plat shall be maintained in the Planning and Zoning Office and in the Office of the Clerk and Recorder. The subdivider shall provide the Planning and Zoning Office with a copy of the recorded Declaration of Unit Ownership. The Declaration of Unit Ownership will reflect where these copies are maintained.

4.6.2 Condominium Development Standards

Condominium development shall comply with all applicable standards contained in Section 4.7 (Subdivision Design Standards) and these Regulations.

- a. Condominium developments shall meet all applicable standards of the Montana Department of Environmental Quality and Flathead County-City Health Department.

- b. In unzoned areas all buildings and structures in a condominium project shall be located at least 20 feet from a road right-of-way or easement and at least 15 feet from all other site boundaries. No detached primary structure shall be located closer than 15 feet to another detached primary structure. (Note: All distances are measured from the roof line or farthest projecting point of the building or structure.)

4.6.3 Condominium Exemption from Subdivision Regulations

Condominiums constructed on land subdivided in compliance with these Regulations are exempt from review pursuant to Section 4.6.1 if any of the following conditions are met:

- a. The approval of the original subdivision of land or subdivision expressly contemplated the construction of the condominiums. The number of units and impact of condominiums identified and contemplated in a subdivision must have been reviewed as part of the subdivision application or conditional use permit.
- b. The condominium proposal is in conformance with local zoning regulations.
- c. Conversion of existing structures into condominiums where the conversion is not intended to circumvent the review and approval process and where no alterations and additions are made to existing structures to accommodate conversion of existing units into condominiums.

4.6.4 Unit Ownership Act

Condominium developments must comply with all provisions of the Unit Ownership Act Sections 70-23-102 through 70-23-7.

Planning Board Rationale

“Lock off units” are a problem at Big Mountain and can become issues across the county. Discussion regarding the potential total impact by selling off parts of an overall unit as “lock off units” can be resolved by requirements to review the total possible units at the time of preliminary plat application.

The issue of permitting multiple condominium ownerships on a site with multiple lots is a potential problem area. If a part of the land under a condo project is sold it will cause title and ownership issues for condo owners. The solution is to aggregate all land under a single lot or parcel under a single ownership as part of the condominium project.

Condominium projects can have greater overall impacts to public service delivery and schools than other types of development.

Unless contemplated all condominium projects should go through review to identify their impacts and proposed mitigation.

Commission Removed Provision 4.4.7(n)
Planning Board Recommendation to Reinstate
Reinstate

4.7.7 Lots

- n. No remainder lots or parcels are permitted on tracts of land less than 60 acres. A remainder is defined as a parcel created by the segregation of a subdivision from a larger original tract. A “remainder” less than 60 acres in size, contiguous to a proposed subdivision shall be considered a lot in that subdivision and will not evade subdivision review as a “remainder”.
- i. No remainders shall be used to determine overall density in a subdivision.
- ii. If an exemption by a certificate of survey is used, the remaining tract of land must be surveyed and recorded as a separate parcel prior to the submission of the proposed subdivision.

Planning Board Rationale

Significant abuse has occurred using remainders to meet overall density requirements. The remainder can be divided through Certificates of Survey and sometimes re-subdivided. Remainders have been used to evade major subdivision review by using the remainder as the sixth lot, only to be sold as the sixth lot. At the present time remainders are not considered in the review process. They should be included as a lot if connected to a subdivision plat. In most situations the remainder is a lot in every aspect, so why not call it what it is!

There are distinctions with the size of the remainder. Most abuse has occurs with relatively smaller existing remainders and subdivided land for development purposes. These remainders are usually too small for continued agricultural production and most likely to be divided for further development at a later date. The board feels that remainders less than 60 acres would provided assurances that evasion of subdivision regulations wouldn't occur in the future or using remainders to be included in density calculations.

There are instances where remainders should be permitted, particularly for larger tracts to allow farmers and others options for the future. Having the remainder threshold at 60 acres would allow large land owners flexibility in the future.

The issue of Family Transfers and C.O.S. is not part of the subdivision request. This provision does not prohibit Family Transfers, as they are outside of the subdivision process. The applicant can plan Family Transfers anytime before they apply for subdivisions. Remainders are broken up at a later date, sometimes by family transfers and sold off as lots. Any people who purchased subdivision lots prior to that happening bought into something different and would not have any input into the remainder being divided.

Commission Referred Provision 4.7.14
Planning Board Recommendation

4.7.14 Dust Control and Air Pollution

The Commission shall require dust mitigation measures. Effective control of particulate matter (dust) on activities that are part of the subdivision process, including off-site roadways and other required on-site construction, is in the county's interest and promotes public health and safety. Any subdivider's activity that disturbs the top layer of soil shall provide dust control applications, including, but not limited to, daily watering of unpaved roadways during actual construction, dust control applications, and soil binding agents on un-paved roadways and other site disturbance areas. Subdivision construction operations which leave mud and soil carryout onto paved roadways creating re-entrained dust and/or hazardous driving conditions shall immediately remove the carryout material from the roadway surface by washing or sweeping.

- a. A "dust control plan" which identifies measures to minimize fugitive dust during site construction and development activities is required with the preliminary application submittal. The dust control plan shall be submitted with the preliminary plat application and approved by the Planning and Zoning Office.
- b. The approved dust control plan shall be implemented prior to soil disturbing construction activities.
- c. The "dust control plan" shall also include proposed post-construction dust mitigation measures to control dust on County roads.
- d. See also Roadway Improvements (4.7.18(e)(f) and (h)).

Planning Board Rationale

The County is currently being fined for dust generated on gravel and dirt roads. As more development occurs the dust caused by un-paved roads will continue to get worse. Development should be mitigating their contribution to the County's dust problems.

The dust control plan is a reasonable means to identify the potential for dust generated by a particular development and ways to mitigate any impact. It forces the subdivider to think about dust up-front in the process and provides information needed to assess the dust related impacts associated with the project.

Also, longer term impacts specifically to the road system should be identified and proposed mitigation included in the dust plan.

August 9, 2007 Planning Board Special Meeting (Continued)
Cancelled

August 23, 2007 Planning Board Special Meeting (Continued)

**Commission Referred Provision 4.7.16
Planning Board Recommendation**

4.7.16 Access

Each lot shall have legal and physical access provided and must abut and have access to a public or private road. Alleys and secondary access roads shall not be used to provide the primary means of access to a lot.

- a. The Commission may require a second road or multiple primary access road(s) to a subdivision when the proposed subdivision generates more than 100 vehicle trips per day.
- b. ~~Secondary access~~ All roads within a subdivision shall meet standards of the Flathead County Road and Bridge Departments' "Minimum Standards for Design and Construction Manual".
- c. Secondary access roads shall not function now or in the future as the primary access for an existing or proposed subdivision unless upgraded to current arterial, collector, or local road standards pursuant to the Flathead County Road and Bridge Departments' "Minimum Standards for Design and Construction Manual".
- d. Proposed subdivisions accessed by a U.S. Forest Service or Montana Department of Natural Resources and Conservation road or easement shall have written authorization from the U.S. Forest Service or Montana Department of Natural Resources and Conservation, respectively, for use to the subdivision. This includes both primary and secondary road access.
- e. When a new subdivision adjoins unsubdivided land (lands or parcels not created by a recorded subdivision plat) and access to the unsubdivided land must pass through a new subdivision, the subdivider may be required to provide rights-of-way or easements and provide an easement to the adjacent unsubdivided property. Subsequent subdivisions using an existing subdivision road system as a primary access shall be required to pay a pro-rata share of road maintenance of the existing subdivision.
 - i. This requirement may be waived by the Commission when the road department finds that topography or other physical conditions would make it impractical to provide access to adjacent unsubdivided property.
 - ii. This requirement may be waived by the Commission if the adjoining property does not require such access and is subject to a conservation easement, deed restriction or other legally restrictive covenant as confirmed by the County Attorney's Office.

- f. ~~All roads shall~~ Internal subdivision roads shall be designated as public access easements and shall be shown and described as such on the face of the final plat. All roads within a subdivision shall be maintained by the property owners within the subdivision. The Commission accepts no responsibility for development or maintenance of roads unless accepted by the Commission for maintenance.
- i. To ensure a proper maintenance mechanism is in place, an approved Road Users' Agreement (See Appendix K - Road User's Agreement) ~~and~~ or a Property Owners' Association shall be formed which shall require each property owner to bear their pro-rata share for road maintenance within the subdivision and for any integral access roads lying outside the subdivision. Individual lots accessing internal local roads within the subdivision are granted encroachment permits upon the filing of the final plat. The Road Users' Agreement shall be reviewed and approved by the Commission and filed with the Clerk and Recorders office as a separate document prior to or at the same time of final plat.
- ii. For a re-subdivision of an existing lot within a subdivision ~~an existing~~ or new Road User's Agreement shall be amended to include the proposed resubdivided lot(s).

Planning Board Rationale

An easement shouldn't just be written on paper, it should be made known and created. Roads need to be connected so emergency services can have an easier time finding places. In unincorporated areas the County can not have right-of-ways, they can only have easements. The Commissioners will ask that many of the easements to be shown on the plat, but not necessarily built.

Internal subdivision roads should be dedicated as public access easements. If you can have a gated driveway then you can have a gated community. The issue is if somebody can drive on a road or not. There should be a document requiring a second subdivision to help pay for the roads of the first subdivision. It is very hard to satisfy a condition that requires a third party.

Private/public and primary roads should be clarified in the subdivision regulations. Right now it is confusing that primary accesses use other local subdivision roads often referring to them as primary accesses.

Commission Referred Provision 4.7.17 Planning Board Recommendation

4.7.17 Road Design and Construction Standards

All roadway improvements including approaches, pavement, curbs, gutters, traffic control devices, and drainage systems shall be ~~designed and~~ constructed in accordance with ~~all~~ applicable provisions of the Flathead County Road and Bridge Departments' "Minimum

Standards for Design and Construction Manual” and these Regulations. Construction and “As Built” plans and drawings for all roads shall be designed and certified by a licensed professional engineer and provided to the Road and Bridge department prior to final plat application, unless a Subdivision Improvement Agreement is executed.

- a. All construction drawings and plans, specifications and associated engineering reports for all roadways, whether public or private, shall be submitted to the road and bridge department for review and approval prior to actual construction of any road.
- b. The subdivider must provide the road and bridge department one set of “As-Built” drawings, approved by the road and bridge department and reduced to 11 inch by 17 inch sheets, which are signed and dated by a professional engineer for road improvements constructed as part of the subdivision upon completion and approval of the road improvements.
- c. Construction plans for local roads within a proposed subdivision shall be designed and certified by a licensed professional engineer.
- da. Residential driveways shall not have direct access to arterial roads, collector roads or highways, unless approved by the road and bridge department or Montana Department of Transportation. The road and bridge department shall not approve an approach permit to an arterial or collector road if the parcel or lot abuts a local road.
- eb. Collector roads shall be designed to afford easy access to arterial or other collector roads or to provide connectivity to adjoining areas.
- fc. When a subdivision abuts a controlled access highway, a frontage road or an alternative internal road design may be required. Such The off-set distance of frontage roads from roadways and distances from the development to the highway shall be determined based upon site design, connectivity to adjacent properties and comments from the road and bridge department and Montana Department of Transportation. regarding requirements of approach grades and future grade separations.
- gd. Dead-end roads are prohibited-required to terminate except with a cul-de-sac or hammerhead turn-around. The road and bridge department of local fire chief may approve an alternative emergency turnaround designs. Where future road extension is proposed an approved temporary turnaround shall be provided.
- he. Half streets or roads are prohibited-not permitted, except where essential to the development of the subdivision and where the Commission is assured that it will be possible to require the dedication of the other half of the roadway when an adjoining property is subdivided.
- if. The alignment of all roads must provide adequate sight distances.

jg. Roadway intersections shall meet the following requirements:

- i. Two ~~primary or secondary~~ roads meeting a third road from opposite sides shall meet the same point, ~~or their~~ Road centerlines shall be offset at least 125 feet for local roadways and at least 300 feet for arterials or collector roads.
- ii. No more than two roads shall intersect at one point.
- iii. Intersections of local roads with arterials shall be kept to a minimum.
- iv. All roads shall be named in accordance with County Resolution #1626. Names of new roads aligned with existing roads shall be the same as those of existing roads. Proposed road names shall not duplicate or cause confusion with existing road names and shall be approved by the Flathead County Address Coordinator.
- v. ~~Roadway signs and traffic control devices of the approved size, shape, and height shall be placed at all intersections by the developer. Traffic control devices shall be consistent with the latest edition of "Manual of Uniform Control Devices".~~
- vi. Locations of collector and arterial roads shall comply with the approved Growth Policy or any other applicable road or highway plan adopted by the Commission.

Planning Board Rationale

There are many County roads that aren't where they are supposed to be; some are actually constructed outside of the easement or Right-Of-Way. The Road Design Standards should be included in the subdivision regulations to support uniformity in design and construction.

All roadway improvements need to be constructed to County standards.

Frontage road language needed clarification to support design, functionality and mobility of highways.

The As-Built plans language could be simplified by including into the introduction and subsection (g)(v) is already covered in the road design manual so language is redundant.

Commission Referred Provision 4.7.18 Planning Board Recommendation

4.7.18 Roadway Improvements

All road improvements including approaches, gravel, pavement, curbs, gutters, sidewalks, ~~traffic control devices~~ and drainage systems shall be constructed in accordance with the

specifications and standards prescribed in the Flathead County Road and Bridge Departments' "Minimum Standards for Design and Construction Manual".

- a. ~~The All~~ internal ~~system for roads~~ in residential subdivisions shall be paved.
- b. ~~An unpaved road (private or county) that provides access from the subdivision to the paved County or State roadway and the combined Average Daily Traffic (ADT) volume is 100 daily trips or more will be paved per the methodology identified in Section 4.7.9 and improvements made pursuant to needed improvements identified in the Traffic Impact Study.~~

~~Note: Trips per day shall be calculated based on 10 vehicle trips per day per lot for single family residential units. Multiple family residential units, commercial and other land use development ADT shall be based on the figures from the most current volume of the Institute of traffic Engineers (ITE) Trip Generation Manual.~~

- b. All internal roads in commercial and industrial subdivisions shall be paved.
- c. All roads, including primary access roads, shall be paved when a proposed subdivision is located within any Air Pollution Control District established by the Flathead City-County Health Department.
- d. Subdivisions which will contribute ~~100~~ 200 or more vehicle trips per day to the County road system shall have a Traffic Impact Study completed by a licensed professional engineer. The study shall indicate the expected increase in traffic movements on the existing roadways and adjacent major intersections serving the development, and shall determine the existing conditions on roadways and major intersections likely to be impacted by the proposed subdivision.
 - i. The Traffic Impact Study should present an objective technical analysis in a straight forward and logical manner that leads the reviewer through the analytical process to the resulting conclusions and recommendations. Sufficient detail must be provided so the reviewer is able to follow the path and methodology of the study. All assumptions shall be documented, published sources referenced as necessary, and stamped by a licensed professional engineer. At a minimum the study should include all of the following:
 - A. The study's purpose and goals.
 - B. A description of the site and the study area.
 - C. A description of the existing conditions in the area of the site (existing roadway geometrics, traffic counts, crash analysis, existing intersection Level of Service (LOS), existing roadway capacity analysis).

- D. The anticipated nearby land developments and transportation improvements.
 - E. Analysis and discussion of trip generation, distribution, and modal splits.
 - F. The traffic assignment resulting from the proposed subdivision.
 - G. The projection and assignment of future traffic volumes.
 - H. An assessment of the traffic impacts attributable to the development. If the level of service on the roadways and intersections is not impacted and maintains a minimum Level of Service “C ” then no improvements are required.
 - I. Recommendations for site access and transportation improvements.
- ii. The subdivider shall be required to make transportation improvements recommended in the Traffic Impact Study that are directly attributable to the proposed subdivision but not less than would be required per the methodology identified in Section 4.7.9.
- e. For a subdivision where the existing unpaved road (either public or private) providing primary access for a to the subdivision has a combined Average Daily Traffic (ADT) volume of less than 200 trips per day the Commission shall require the subdivider to pave a portion of the primary road or provide a dust palliative on at least twice the distance of paving for a period of 15 years.
 - i. The combined Average Daily Traffic is defined as the sum of the existing vehicles on the roadway and the vehicles generated from the subdivision.
 - ii. The distance of the required road paving and extent of required improvements shall be determined per the methodology identified in Section 4.7.9.
 - iii. A subdivider may request an alternative paving application. The request shall be reviewed and approved by the road and bridge department and fire district prior to action by the Commission.
 - iv. The Commission may require the subdivider to pay “in-lieu of road improvement fees” which is directly attributable to the proposed subdivision. If approved, the fees shall be based on the actual cost estimate prepared by a licensed professional engineer no sooner than six months prior to the final plat application.

- f. For a subdivision where the existing unpaved road (either private or public) providing primary access to the subdivision has a combined Average Daily Traffic (ADT) volume of 200 ADT or more, the road is required to be paved. The distance of required paving and the extent of required improvements shall be determined per the methodology identified in Section 4.7.9.
- g. Trips per day shall be calculated based on 10 vehicle trips per day per lot for single family residential units. Multiple family residential units, commercial and other land use development ADT shall be based on the figures from the most current volume of the Institute of Traffic Engineers (ITE) Trip Generation Manual. Combined ADT is calculated by adding the proposed trips generated by the subdivision to the existing daily trips on the road.
- h. All subdividers shall utilize "Reasonable Precautions" techniques to prevent the emission and/or the airborne transport of dust and dirt while constructing roads and other improvements. Reasonable precautions include, but not limited to, the application of water or other liquid, the use of a chemical-based dust suppressant, paving or other such measures.

Planning Board Rationale

The County is currently being fined for dust generated on gravel and dirt roads. As more development occurs the dust caused by un-paved roads will continue to get worse. Development should be mitigating their contribution to the County's dust problems.

The board feels that maintaining a 200 vehicle per day consistency should be carried over to the Traffic Impact Study. Likewise, using 200 vehicles per day as a threshold to differentiate between paving and flexibility for road improvements seems appropriate and was reviewed by the County Public Works Department.

Alternatives to paving, including dust abatement, requirements should be comparable to the cost of paving. Having a 15 year requirement for dust abatement would approximate the cost of paving.

EPA's Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources AP-42, Section 13.2.2, provides factors used to estimate emissions from unpaved industrial and/or public roads. The appropriate emissions factor is in Table 13.2.2-2 and is developed using an equation included in this section. In general, when Montana Department of Environmental Quality (DEQ) staff are developing emission inventories for unpaved roads, the DEQ uses a more general particulate matter fugitive dust emission factor of 6 pounds per vehicle mile traveled (lb/VMT) and a PM10 emission factor of 0.8 lb/VMT. **Assuming a one mile section of unpaved road, 200 vehicle trips per day could generate 438,000 pounds of fugitive dust emissions on a yearly basis. Applying the PM-10 emission factor, 200 vehicle trips per day would generate 58,400 pounds of particulate matter 10 microns in size or smaller.**

A.R.M. 17.8.304 (1), Air Quality Rules of Montana states “No person shall cause or authorize the production, handling, transportation, or storage of any material unless reasonable precautions to control emissions of airborne particulate matter are taken.”

September 6, 2007 Planning Board Special Meeting (Continued)

Commission Referred Provision 4.7.27

Planning Board Recommendation

Add changes

4.7.27 Fire Protection

All subdivisions shall be planned, designed, constructed, and maintained so as to minimize the risk of fire, to allow for safe and adequate vehicular escape from fire by residents, and to permit effective and efficient suppression of fires in order to protect persons, property and public safety.

- a. Subdivisions with a public or community water system that are within the five year service area of a city or within one mile from the corporate limits of a city, if no such service area has been established, shall be designed in accordance with the adopted standards of that city and the water distribution system shall be designed for fire suppression flow capabilities as required by that city.
- b. In subdivisions containing more than five two lots, reasonable fire protection requirements as deemed necessary by the local fire district or local fire authority shall be incorporated into the subdivision. At a minimum, fire protection Such measures may shall include, but are not limited, to the provision of adequate on-site water supply/storage. Typically, when on-site storage is required, at a minimum of a tanker recharge facility or it's equivalent would be required with as capacity based on the ratio of 2,500 gallons per unit/lot. Said facility would be located near a street intersection or a cul-de-sac within easy access. Such facility would be maintained entirely and kept in a constant state of readiness by the local subdivision.
- c. A note on the final plat shall be included which states: "All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number".
- d. The Commission may impose additional fire protection requirements which it may deem necessary based on the consideration of size, location, density and nature of the subdivision.

Planning Board Rationale

Resubdivision of a single lot is the main reason that five lots were changed to two lots. There are no public hearings on minor subdivisions so they do not get the same level or reviews as majors. The Board was concerned with the cost of fire suppression facilities for

each lot. The facilities are not checked routinely so some may be empty when they are needed. It was debated whether or not the developer or homeowners association should be in charge of inspecting the facilities. The DNRC has some of their own fire restrictions. Rural fire departments are available to help protect structures and homes, not trees.

It was felt that it should be up to the local fire district chief to determine reasonable fire storage and suppression requirements, applicable to the individual fire district.

Cross made a motion seconded by Robertson to adopt 4.7.27 of the subdivision regulations. The motion was carried by quorum.

Commission Referred Provision 4.7.28 Planning Board Recommendation

4.7.28 High or Extreme Fire hazard Areas- Wildland Urban Interface

~~High or extreme fire hazard areas include heads of draws, excessive slopes, dense forest growth, or other hazardous wildfire components. For subdivisions proposed in areas subject to high wildfire hazard~~

Subdivisions within the Wildland Urban Interface shall be subject to the requirements of Section 4.7.27 in addition to this subsection. The Wildland Urban Interface (WUI) is defined as the wildland fire priority area where structures and other human developments meet and intermingle with undeveloped wild land and vegetative fuels as ~~determined shown by the U.S. Forest Service, Montana Department of Natural Resources and Conservation or on the most recent Flathead County Community Wildfire Fuels Reduction/Mitigation Plan Wildland Urban Interface Map. the following standards shall apply~~

- a. All subdivisions within the Wildland Urban Interface shall be planned, designed, constructed, and maintained so as to minimize the risk of fire, to allow for safe and adequate vehicular escape from fire by residents, and to permit effective and efficient suppression of fires in order to protect persons, property and public safety.
 - i. All subdivisions shall incorporate Firewise measures into the design and improvements.
 - ii. The Commission shall require a second or multiple vehicle secondary emergency accesses ~~into a subdivision in high hazard fire areas~~ where any of the following is applicable within the Wildland Urban Interface:
 - A. ~~Where the primary access~~ For a subdivision with fewer than ten lots or spaces, the road providing the primary means of access to the subdivision or lot is over 1,500 feet in ~~long, or~~ length and dead ends. Road length shall be measured beginning at the Wildland Urban Interface boundary or the last intersection of a continuous road and ending at the proposed subdivision, whichever is less.

- B. ~~Where the primary access road~~ For a subdivision with greater than ten lots or spaces, the road providing the primary access to the subdivision is over 1,000 feet long and it serves 20 residential lot's/dwelling units/spaces. in length and dead ends. Road length shall be measured beginning at the Wildland Urban Interface boundary or the last intersection of a continuous road and ending at the proposed subdivision, whichever is less.

- C. When the subdivision is located in a "High or Extreme Priority" area of the Wildland Urban Interface.
 - iii. When the secondary emergency road access does not permit access to a different or continuous county road a "Fire Risk Mitigation Plan" must be presented. The plan will be evaluated to determine if the risks to public safety are adequately mitigated.
 - A The Fire Risk Mitigation Plan shall address any recommendations made by the local fire district or local fire authority and be included with the submission of any preliminary plat application in the Wildland Urban Interface.
 - B. The approved Fire Risk Mitigation Plan and/or approved Firewise measures shall be implemented before approval of the final subdivision plat, and these measures are considered part of the subdivider's obligations for subdivision improvements. The local fire district or local fire authority may inspect the subdivision to make certain that the approved Fire Risk Mitigation Plan and/or approved Firewise measures are fully been implemented.
 - eb. Internal subdivision roads, including looped roads, within the Wildland Urban Interface which connect to a ~~dead end~~ primary access road shall not be considered to meet the second or multiple access road requirements of this sub-section.
 - dc. ~~Road Right-of-Way~~ Primary and emergency road easements shall be cleared of slash, brush and overhanging vegetation.
 - ed. Building sites shall be prohibited on any slope that exceeds 30 percent when located in areas where the general slope characteristic exceeds 30 percent and at the apex of "fire chimneys" (topographic features, usually drainage ways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).
 - d. ~~Open space, park land and recreation areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.~~
 - e. ~~A water supply of sufficient volume for effective fire control shall be provided in~~

accordance to the following standards:

1. A minimum of 500 gallons per minute for lots one acre or larger.
 2. A minimum of 750 gallons per minute for higher densities.
 3. Where no central water system exists, the local fire chief may recommend other solutions including but not limited to the provision of tanker recharge facilities and the sprinkling of individual buildings.
- fe. A Fire Prevention Control and Fuels Reduction Plan that addresses any recommendations made by the local fire district or local fire authority shall accompany the submission of any preliminary plat application in the Wildland Urban Interface (See Appendix L for content requirements and form).
- if. The approved Fire Prevention Control and Fuels Reduction Plan and/or approved Firewise measures shall be implemented before approval of the final subdivision plat, and these measures are considered part of the subdivider's obligations for subdivision improvements. The local fire district or local fire authority may inspect the subdivision to make certain that the approved Fire Prevention Control and Fuels Reduction Plan and/or approved Firewise measures are fully been implemented.
- jg. The following statements shall be placed on the Final Plat if located in the Wildland Urban Interface:
- i. This subdivision is located in the Wildland Urban Interface wildfire priority area where wildfires can and do occur.
 - ii. Only Class A and Class B fire-rated roofing materials are allowed.
 - iii. Firewise defensible space standards shall be incorporated around all primary structures and improvements.
- kh. The Commission reserves the right to deny any subdivision or require further mitigation in the Wildland Urban Interface.

Planning Board Rationale

Providing guidance in areas prone to forest fire risks is a matter of public health and safety. The WUI is an area of critical concern. People have to be able to get safely out of their homes during a fire and to a place of safety. A secondary access is necessary in most cases because there needs to be two ways of getting out of a home to safety. This is not dictating where people can live which is different then trying to protect the public interest. You can't stop people from living somewhere but you can warn them of the dangers and help build defensible spaces. Fire districts protect homes; the DNRC protects property from forest fires on private lands.

Fire suppression costs continue to rise in the State of Montana and Flathead County. Last year the state spent more than \$100 million on wild land fires, with most of the focus on saving homes located in heavily timbered and fueled areas. Flathead County spent an additional \$300,000 on wildfire related activities.

Flathead County has the most Wildland Urban Interface of all Montana Counties (Headwaters Economics Wildfire Study, 2007). Flathead County is rated 8th highest of all county's for Wildland Urban Interface in the western U.S. The county also has the highest resident population living in the unincorporated area of any county in the state which compounds the risk and creates a larger Wildland urban Interface.

Firewise principles have been developed to protect homes and other structures in forests subject to devastating fires (Firewise Communities). These principles use common sense and stepped fuels reduction surrounding homes to increase the likelihood of not being burned during a forest fire event.

These provisions will encourage the landowners to understand that fires occur in these areas. The provision will also safeguard fire district volunteers by maintaining adequate safe escape routes when fighting fires.

This recommendation ties the WUI to a map which is easy to understand and determine whether a property is located in or out of an identified fire hazard risk area.

September 20, 2007 Planning Board Special Meeting (Continued)

Commission Referred Provision 4.7.10 Planning Board Recommendation

4.7.10 Floodplain Provisions

Land located in the floodway of a floodplain of 100 year frequency as defined by Title 76, Chapter 5, M.C.A., or land deemed subject to flooding as delineated by the most current floodplain maps available and adopted by Flathead County, shall not be subdivided for building or residential purposes, or other uses that may increase flood hazard to life, health or property.

- a. The Commission shall not grant a subdivision variance to the floodplain provisions of these Regulations.
- b. Land deemed to be subject to overland flooding may be unsuitable for subdivision based on, but not limited to, the following:
 - i. Verifiable documented historically flooded lands.
 - ii. Areas with heavy seasonal runoff activity in years of average precipitation.

- iii. Narrow valleys that are susceptible to high stream velocities often associated with flash flooding.
- iv. Any portion of a subdivision located within the 100-Year floodplain as designated by a Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map, FEMA Floodway Map, or a county approved flood study.
- ac. If any portion of a proposed subdivision is within 2,000 horizontal feet and 20 vertical feet of a five perennial stream draining an area of 25 square miles or more and no official floodwayplain delineation or floodwayplain studies of the stream have been made, the subdivider shall furnish survey data to the Water Resources Division of the Montana Department of Natural Resources and Conservation.
- bd. Survey data shall comply with the Standards for Flood Hazard Evaluation (Appendix I). ~~Survey data shall comply with the Standards of Flood Hazard Evaluation as contained in Appendix FI of these Regulations.~~ After the Water Resources Division has prepared a report delineating the floodway, the subdivider shall submit it to the Flathead County Planning & Zoning Office along with the Environmental Assessment required for the preliminary plat.
- e. If less than five percent of a lot or subdivision is located in an approximate 100-Year floodplain or land deemed to be subject to flooding (as identified in sub-section b above) the subdivider may provide information in lieu of a Flood Hazard Evaluation. The information shall include an analysis prepared by a professional engineer supporting a flood hazard elevation and identify measures to mitigate any potential flooding hazard.
- df. The County Commission shall waive this requirement where the subdivider contacts the Water Resources Division and that agency states in writing that available data indicates that the proposed subdivision is not in a flood hazard area.

Planning Board Rationale

Flood prone areas are extremely sensitive and potentially life threatening. Understanding the extent of the floodplain, while not making it overly difficult or costly is an important consideration. Providing the flexibility to have an alternative to not having to prepare a flood hazard evaluation when only a small portion of the property is possibly in the floodplain is an important consideration. Also, it is important to understand where frequent overland flooding occurs, if only seasonally.

There needs to be a step by step process for the criteria of creating a floodplain analysis. Satellite photos would help determine where flooding will occur. Houses should not be built in the one hundred year floodplain unless only part of the lot sits within the floodplain. Delineations between low and high level assessments

need to be clear. There needs to be categories of reports needed for different levels of floodplain areas. Seasonal ponding areas should have a different process than one hundred year floodplain areas. It would be possible to name some of the streams and flooded areas. The Planning Board requested Staff to make changes and come back to them with the Floodplain Regulations.

October 4, 2007 Planning Board Special Meeting (Continued)

Commission Referred Appendixes **Planning Board Recommendation**

Appendix A **Subdivision Pre-application Process**

General Instructions

Prior to submittal of a subdivision application, the subdivider shall request a pre-application meeting with the Planning and Zoning Office by submitting a Preapplication Request Form and attachments. The Planning and Zoning Office shall notify the subdivider within five working days of the meeting date and time. The pre-application meeting shall occur within 30 days after the request is submitted. **A preliminary meeting to explain the process is available for all interested parties.**

- a. At the time of the pre-application meeting request, the subdivider shall provide the Planning and Zoning Office with a concept plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The concept plan must include the following:
 - i. Information on the current status of the site, including:
 - A. General Location
 - B. Approximate boundaries of existing tract
 - C. Wildlife range
 - D. Natural features
 - E. Existing structures and public improvements
 - F. Steep slopes (~~25%~~ 30% or greater)
 - G. Existing utility lines and facilities.
 - H. Known easements and rights of way.
 - I. Wetlands

- J. Drainages and swales
 - K. Water resources (rivers, streams, lakes)
 - L. 100-year floodplain
 - M. Documentation of original tract of record as of July 1, 1973
- ii. Information on the proposed subdivision, including:
 - A. Tract and lot boundaries.
 - B. Public improvements.
 - C. Location of utility lines and facilities.
 - D. Easements and rights of way.
 - E. Any parks, common areas, or open space.
- b. At the subdivision preapplication meeting the Planning and Zoning Office shall:
 - i. Identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process.
 - ii. Provide the subdivider with a list of public utilities, local, state and federal agencies, and other entities that may have a substantial interest in the proposed subdivision and be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies, and other entities are given to respond.
 - iii. Identify particular additional information the Planning and Zoning Office anticipates will be required for review of the subdivision application. This does not limit the ability of the Planning and Zoning Office to request additional information at a later time.
 - c. The Planning and Zoning Office may require additional relevant and reasonable information to adequately assess whether the proposed subdivision complies with these regulations and the Montana Subdivision and Platting Act. Any request for additional information shall be in writing within 10 working days following the preapplication meeting. The subdivider will be notified if the Planning and Zoning Office notifies a public utility, agency or other entity that was not on the original list of contacts.

- d. Unless the subdivider submits the subdivision application as provided in Section 4.2.2 or 4.4.2 within six months of the preapplication meeting, the preapplication is void. The subdivider may request one six-month extension by submitting a written request prior to expiration of the preapplication.
- e. The information submitted as part of the preapplication meeting shall be retained and used for review purposes by the Planning and Zoning Office.

Planning Board Rationale

It needed to be clarified that citizens always have the opportunity to sit down with planning staff prior to a formal pre-application meeting. Also, changing 25 % to 30 % is consistent with other provisions of the subdivision regulations.

Appendix B Application and Preliminary Plat Supplements

Part 1 – Application Supplements

In addition to a subdivision application and requirements of these Regulations the following information, including one reproducible set of all application information, must be supplied and considered part of the subdivision application:

- a. A fee simple property deed or other instrument showing title and ownership for the property being subdivided. No subdivision application is allowed on a parcel or tract of land which is not recorded or recognized by the county assessor.
- b. A copy of each certificate of survey or subdivision plat(s) pertaining to the subject parcel filed or recorded since July 1, 1973.
- c. If the proposed subdivision is a major or subsequent minor, an environmental assessment which meets the requirement of Appendix C (Environmental Assessment). An environmental assessment may be waived, if all of the conditions of Section 4.4.3 are met.
- d. If the subdivision is a first minor subdivision a summary of probable impacts, Appendix D (First Minor Subdivision Impact Criteria), including any mitigation of impacts.
- e. ~~When~~ If applicable, a Fire Prevention Control and Fuels Reduction Plan for subdivisions in a Wildland Urban Interface, pursuant to Section 4.7.28.
- f. If applicable, a Flood Hazard Evaluation pursuant to Section 4.7.10.
- g. A complete conceptual storm water drainage plan which includes a description of temporary and permanent measures for the disposal of storm run-off from roads within the subdivision and an indication whether storm run-off will enter state waters.

- h. If applicable, a Dust Control Plan, see Appendix J for format, identifying reasonable precautions intended to mitigate dust generated by the subdivision.
- gi. Copies of easements or proposed easements to provide legal primary, and secondary if required, access to the subdivision. If any access easement is provided through federal or state lands the land management agency shall approve the easement in writing.
- Hj. Copies of any existing Road Approach Permits if proposing to use an existing access onto a County road or State highway.
- hk. If applicable, when a portion of a tract of land is to be subdivided, ~~in phases,~~ the subdivider ~~shall~~ may be required to provide ~~an~~ a overall plan of development plan indicating intent for the development of the entire tract. ~~Each phase must be fully capable of functioning with all the required improvements in place in the event that future phases are not completed.~~
- Jl. A copy of any existing covenants and restrictions on any lands to be subdivided.
- Km. If common property is to be deeded to a property owners association, a draft of the covenants and restrictions ~~or Home Owners Agreement~~ which will govern the common property.
- Ln. Drafts of proposed covenants and restrictions are encouraged to be submitted, if applicable.
- Mo. If required, an approved “Will Serve Letter” or agreement from ~~public water and/or sewer purveyors utilities (e.g. public water and sewer districts)~~ providing a guaranteed commitment the subdivision will be provided with service for build out of the development.
- ~~Np. All water and sanitation information required pursuant to Section 4.2.8 or 4.4.8.~~
- op. A description and vicinity map of the proposed subdivision’s water supply systems, ~~storm water systems,~~ solid waste disposal systems, and wastewater treatment systems, including whether the water supply and wastewater treatment systems are individual, shared, multiple user, or public as those systems are defined in rules published by the Montana Department of Environmental Quality. The vicinity map must show the location, within 100 feet outside of the exterior property line of the subdivision and on the proposed lots the following:
 - i. 100-year flood plains.
 - ii. Surface water features, including lakes, streams and rivers, springs and irrigation ditches.

- iii. Existing, previously approved, and, for parcels less than 20 acres, proposed water wells and wastewater systems.
 - iv. the location, within 500 feet outside the of the exterior property line of the subdivision, of public water and sewer facilities.
- Pq.** Evidence of suitability for new onsite wastewater treatment systems which include:
- i. A soil profile description from a representative drain field site identified on the vicinity map that complies with standards published by the Montana Department of Environmental Quality.
 - ii. Demonstration that the soil profile contains a minimum of four feet of vertical separation distance between the bottom of the permeable surface of the proposed wastewater treatment system and a limiting layer.
 - iii. In cases in which the soil profile or other information indicates that ground water is within five feet of the natural ground surface, evidence that the ground water will not exceed the minimum vertical separation distance.
- Qr.** For new water supply systems, unless storage tanks are proposed, evidence of adequate water availability which includes information from:
- i. Well logs or testing of onsite or nearby wells.
 - ii. Published hydrogeological reports.
 - iii. As otherwise specified by rules adopted by the Montana Department of Environmental Quality.
- Rs.** Evidence of sufficient water quality in accordance with rules adopted by the Montana Department of Environmental Quality.
- St.** A preliminary analysis of potential impacts to ground water quality from new wastewater treatment systems, using as guidance rules adopted by the Board of Environmental Review pursuant to 75-5-301 and 75-5-303, MCA related to standard mixing zones for ground water, source specific mixing zones, and non-significant changes in water quality. The preliminary analysis may be based on currently available information and must consider the effects of overlapping mixing zones from proposed and existing wastewater treatment systems within and directly adjacent to the subdivision. The subdivider may perform a complete non-degradation analysis in the same manner as is required for an application that is reviewed by the Department of Environmental Quality.
- u.** A drawing of the conceptual lot layout at a scale no smaller than 1 inch equal to 200 feet that shows all information required for a lot layout document in rules adopted by the Montana Department of Environmental Quality.

~~T~~v. Where applicable, information regarding the disposition of water rights. This includes copies of any water rights owned by the land owner to be reserved and/or transferred. The subdivider shall:

- i. Reserve all or a portion of the appropriated water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water.
- ii. If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water.
- iii. Reserve and sever all surface water rights from the land.

~~u.~~ Certified mailing receipts are required to document that the subdivider has submitted copies of the preliminary plat and environmental assessment, if applicable, and water and sanitation information to the utilities and environmental agencies identified during the preapplication meeting pursuant to the Subdivision Regulations.

~~V~~w. For major subdivisions, ~~A~~n adjoiners list of all tracts, lots, or land parcels adjoining the proposed subdivision together with the name and address of the owner of each tract, lot, or land parcel certified by the clerk and recorder, GIS Office or title company, generated not more than 30 days prior to the application submittal . Where the proposed subdivision abuts a public right-of-way, or rivers less than 150 feet in width, the properties across such right-of-way or water course shall be considered as adjacent.

Note: Adjoiner lists shall be valid for a six month period. If the origination date of the adjoiners list is older than six months of the scheduled public hearing the Planning and Zoning Office shall require a new adjoiners list before the application is scheduled for a public hearing.

~~W~~x. A Latecomers Agreement for future payback of public improvements, such as road, sewer, water or utilities, if applicable.

~~X~~y. A clear written description of directions to the subject site for vehicle travel.

~~Y~~z. One or more vicinity map(s) on 11" x 17" paper. Vicinity maps shall be clear, concise and reproducible, showing the following:

- i. The locations of the proposed subdivision in relation to the nearest town, highway, ~~or~~ and road system.

- ii. Vehicle access to the subdivision from the adjoining or nearest public roads.
- iii. Names of any adjoining platted subdivisions and/or numbers of adjoining Certificates of Survey on record in the Office of the Clerk and Recorder.
- ~~iv. Location of any buildings, railroads, power lines, towers, roads, and other land uses.~~
- ~~v. Any existing or proposed zoning.~~
- ~~vi. All rivers, streams, wetlands, springs or other surface water adjoining or in the vicinity of the proposed subdivision.~~
- ~~vii. Any rock outcroppings, geologic fault hazards, and areas of shallow ground water less than eight feet from the surface.~~
- ~~viii. Areas of high fire hazards.~~
- ~~ix. Areas of 100 year flood plain.~~
- aa. A map showing natural features associated with the subdivision, including:
 - i. All rivers, streams, wetlands, springs, irrigation ditches or other surface water adjoining or in the vicinity of the proposed subdivision
 - ii. Any rock outcroppings and geologic fault hazards
 - iii. Areas of 100 year flood plain
 - iv. Areas of shallow groundwater less than eight feet of the ground surface.
- bb. A map showing any existing or proposed zoning and buildings, railroads, power lines, towers, roads and other land uses.
- cc. A description of any existing or proposed stream bank or shoreline alterations, and any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, type, and purpose of alteration.
- dd. A description of all existing and proposed easements or rights-of-way for utilities, or other purposes on or adjacent to the proposed subdivision, including:
 - i. A description of each easement width.
 - ii. The approximate on-site location, size and depth of existing water and sewer mains, fire hydrants, gas, electric and telephone lines as well as the

nearest off-site location of the above named utilities, if appropriate.

- iii. All on-site utility descriptions shall be referenced to the preliminary plat.
- ee. If applicable, a request for a variance to these Regulations.

Part 2 – Preliminary Plat Form and Contents

The subdivider shall submit a legible plat at a scale sufficient to minimize the number of sheets and maintain clarity. The plat shall consist of one or more sheets either 18 x 24 inches or 24 x 36 inches in size. Additional copies of the plat measuring 11 x 17 inches in size and 8.5 x 11 inches in size shall be included. The following shall be included on the preliminary plat:

- a. Name and location of the subdivision, scale, scale bar, north arrow and date of preparation.
- b. The approximate exterior boundaries and location of all section corners or subdivision corners of sections pertinent to the subdivision boundary including bearings and distances sufficient to locate the exact area proposed for subdivision.
- c. All lots and blocks designated by numbers, approximate dimensions scaled to the nearest foot, and the area of each lot estimated to the nearest 0.1 acre.
- d. Ground contours for the tract shall be shown in accordance to the following requirements:

<u>Where the Average Slope of the Entire Site Is</u>	<u>Contour Intervals for the Entire Plat Shall Be</u>
Under 10%	Two (2) feet
10% - 15%	Five (5) feet
Over 15%	Ten (10) feet

If a uniform contour interval is not practical, the contour interval may be changed for steep areas, if such a change is clearly identifiable through shading or other appropriate graphic technique. For building pads and driveways see Section 4.7.7 for additional topography requirements.

Note: The planning director may waive the topography requirement if the subdivider can demonstrate that the elevation difference over the entire subdivision is less than 20 feet and the average lot size is 20 acres or greater and not in a 100-year floodplain. Note: Averaging lot size includes cluster development and Open Space commitments.

- e. All existing and adjoining roads and alleys, avenues, roads and highway, and width of the easement with existing and proposed road names and access points from the nearest public roads.

- f. Any existing and proposed utilities located on or adjacent to the proposed subdivision, including utility easements and right-of-way easements located or proposed to be located on or adjacent to the tract.
- g. Location, boundaries, dimensions and areas of any parks or areas dedicated for common or public use.
- h. Location and size of existing buildings, structures and improvements, if to be retained.
- i. Designated one hundred year (100-year) floodplain and/or floodway area, if any.
- j. Location and size of all natural and environmental features on the site including all surface water bodies, wetlands, springs and areas of shallow ground water eight feet or less.
- k. For each lot where the obvious building area is in question (general topography of the lot or immediate topography adjacent to the primary access road averages 25%) show:
 - i. A typical building pad (measuring a minimum 40 foot square).
 - ii. The building pad must be able to be accessed by a minimum 10 foot wide private drive with a maximum developed grade of 10%. Note that the initial 20 feet of driveway surface shall not exceed 5% slope. (Section 4.4.7)
 - iii. The driveway and building pad shall be identified on the preliminary plat using minimum 2-foot contour intervals for clarity.
 - iv. Any building pad which exceeds 25% in cross slope shall be required to receive a favorable report and comply with the recommendations of a geo-technical soils analysis conducted by a licensed engineer prior to final plat approval.

Planning Board Rationale

These suggested changes are consistent with suggested changes in other provisions of the subdivision regulations. Water and wastewater changes are to ensure consistency with 76-3-622, M.C.A.

Appendix C Environmental Assessment

General Instructions

It shall be the responsibility of the subdivider to submit the information required by this Section with the preliminary plat. This Environmental Assessment format shall be used by the applicant in compiling a thorough description of the potential impacts for the proposed subdivision. Each question pertinent to the proposal must be addressed in a full comprehensive and systematic fashion (both maps and text). Incomplete Environmental Assessments will not be accepted.

The Environmental Assessment will be objectively measured to assure that all mandatory elements are included and that, based upon objective standards, all prospective impacts are adequately addressed. At a minimum the Environmental Assessment must contain the following for all assessment contents:

1. A statement of impact for each environmental consideration topic
2. A discussion to support the statement of impact
3. Referenced sources and citations to support the statement of impact
4. If applicable, site specific maps and documentation to support the statement of impact and discussion.

If, at any time during the application process, material information comes to light that is not addressed in the Environmental Assessment, the subdivider shall be required to amend the Environmental Assessment to adequately address the issue. In the event the 60 working day review period is suspended and will not resume until the revised-amended Environmental Assessment has been submitted, and reviewed and approved by the Planning and Zoning Office. Following the review the application will resume at the same stage in the application process that the original application was at the point before the additional information became to light.

Environmental Assessment Contents

There are three major sections to the Environmental Assessment (76-3-603 and 76-3-608, MCA). The sources of information for each section of the Assessment shall be identified. All Environmental Assessments shall contain the signature, date of signature and mailing address of the owner of the property and the person, or persons, preparing the report and citation and a copy of all supporting information.

Section 1 – Resource Assessment

- a. Surface Water:
 - i. Locate on the preliminary plat all surface water and the delineated 100 year floodplains which may affect or be affected by the proposed subdivision including:

- A. All natural water systems such as perennial and intermittent streams, lakes and ponds, rivers, or marshes; ~~and~~
 - B. All artificial water systems such as canals, ditches, aqueducts, reservoirs, irrigation or drainage systems.
- ii. Describe all surface waters which may affect or be affected by the proposed subdivision including name, approximate size, present use, and time of year when water is present and proximity of proposed construction (e.g. buildings, sewer systems, roads) to surface waters.
 - iii. Describe any existing or proposed stream bank or shoreline alterations or any proposed construction or modification of lake beds or stream channels. Provide information on location, extent, and purpose of alteration. If any construction or changes ~~is~~ are proposed which require a 310 Permit from the Flathead County Conservation District the subdivider shall acknowledge that the permit is required and will be obtained prior to final plat.
 - iv. If wetlands are present, the subdivider shall identify and provide a map showing wetland areas. ~~Or A~~ wetlands investigation completed by a qualified consultant, using the most current U.S. Army Corps of Engineers' Wetlands Delineation Manual may be required. ~~If the investigation indicates the presence of jurisdictional wetlands, wetlands delineation shall be shown on the preliminary and final plats.~~ If any construction or changes are proposed which require a 404 Permit, the subdivider shall acknowledge that the permit is required and will be obtained.
- b. Ground Water:
- i. Establish the seasonal minimum and maximum depth to water table, dates on which these depths were determined, and the location and depth of all known aquifers which may be affected by the proposed subdivision. Monitoring may be waived if evidence of minimum and maximum ground water elevations can be documented.
 - ii. If determined from subsection (a)(i) above that any area within the proposed subdivision is within eight feet of the surface, the high water table shall be ~~determined-measured~~ from tests taken during the period of the highest groundwater elevations, ~~typically spring and early summer~~ generally from March 15 through June 30, during average precipitation years and reported in the environmental assessment. ~~Any area of high groundwater within eight feet of the surface shall be located on the preliminary plat.~~

- iii. Describe any steps necessary to avoid the degradation of ground water and ground water recharge areas.
- c. Geology/Soils:
- i. Locate on the preliminary plat any known geologic hazards affecting the subdivision which could result in property damage or personal injury due to rock falls or slides, mud, snow; surface subsidence (e.g., settling or sinking); and seismic activity.
 - ii. Explain what measures will be taken to prevent or materially lessen the danger of future property damage or personal injury due to any of the hazards referred to above.
 - iii. Explain any unusual soil, topographic or geologic conditions on the property which limit the capability for building or excavation using ordinary and reasonable construction techniques. The explanation should address conditions such as shallow bedrock, high water table, unstable or expansive soil conditions, and slope. On the preliminary plat identify any slopes in excess of 25-30 percent.
 - iv. Identify any soils constraints, including expansive soils, hydric soils, or any soils which limit sanitary facilities. Explain special design considerations and methods needed to overcome the soil limitations.
 - v. Describe the location and amount of any cut or fill three or more feet in depth. These cuts and fills should be indicated on a plat overlay or sketch map. Where cuts or fills are necessary, describe any plans to prevent erosion and to promote re-vegetation such as replacement of topsoil and grading.
- d. Vegetation:
- i. On a sketch map indicate the distribution of the major vegetation types such as marsh, grassland, shrub, coniferous forest, deciduous forest, mixed forest, including critical plant communities such as stream bank or shore line vegetation; vegetation on steep, unstable slopes; vegetation on soils highly susceptible to wind or water erosion.
 - ii. Identify ~~and sketch map~~ any locations of noxious weeds and identify the species of weeds and explain measures to control weed invasion.
 - iii. Describe any protective measures to preserve trees and critical plant communities (e.g., design and location of roads, lots and open spaces).

- e. Wildlife:
 - i. Describe species of fish and wildlife which use the area affected by the proposed subdivision.
 - ii. Identify on the preliminary plat any known critical or “key” wildlife areas, such as big game winter range, waterfowl nesting areas, habitat for rare or endangered species, or wetlands.
 - iii. Describe any proposed measures to protect or enhance wildlife habitat or to minimize degradation (e.g., keeping building and roads back from shorelines; setting aside marshland as undeveloped open space).
 - iv. It is recommended that the subdivider discuss the impact of the proposed development on fish and wildlife with the Department of Fish, Wildlife and Parks (FWP) and incorporate any recommendations from the agency to mitigate wildlife impacts.

- f. Agriculture and Timber Production:
 - i. On a sketch map locate the acreage, type and agricultural classifications of soils.
 - ii. Identify and explain the history of any agricultural production of the by crop type and yield.
 - iii. Describe the historical and current agricultural uses which occur adjacent to the proposed subdivision and explain any measures which will be taken to avoid or limit development conflicts with adjacent agricultural uses.
 - v. If timbered, identify and describe any timber management recommendations which may have been suggested or implemented by the U.S. Forest Service in the area of this proposal.

- g. Historical Features:
 - i. Describe and locate on a plat overlay or sketch map any known or possible historic, paleontological, archeological or cultural sites, structures, or objects which may be affected by the proposed subdivision.
 - ii. Describe any plans to protect such sites or properties.
 - iii. Describe the impact of the proposed subdivision on any historic features, and the need for inventory, study and/or preservation and consultation with the State Historic Preservation Office (SHPO).

- h. Visual Impact:
 - i. Describe any efforts to visually blend development activities with the existing environment (e.g., provisions for appropriate building materials, colors, road design, and underground utilities and re-vegetation or earthworks).
 - ii. Describe ~~and locate on a sketch map~~ areas of important view sheds (e.g. slopes greater than ~~25-30~~ percent) and methods to preserve the aesthetic values of these areas.
- i. Air Quality:
 - i. Describe any anticipated impact to air quality caused from dust or other air pollutants, ~~including dust created from roads,~~ and any means to mitigate the impact to air quality.
- j. Area Hazards
 - i. Describe and locate on a plat overlay or sketch map any hazardous concerns or circumstances associated with the proposed subdivision site, including, but not limited to:
 - A. Any part of the proposed subdivision that is located within the ~~Wildland Urban Interface priority area.~~
 - B. Any potential hazardous materials contained on site. In some cases an Environmental Site Assessment may be required.
 - C. Describe measures to mitigate any adverse impacts associated with ~~Area Hazards.~~

Section 2 - Impact Criteria Report (76-3-608, MCA)

- a. Impacts on Agriculture:
 - i. Proposed subdivisions that are contiguous to urbanized areas are presumed to have a minimal impact on agriculture.
 - ii. Proposed subdivisions located on ~~or in proximity to~~ prime farmland are presumed to have an impact on agriculture. Describe the impact(s) and measures to mitigate the impact(s), or ~~submit a statement of explaining~~ why no impact is anticipated, ~~and~~ providing documentation to support ~~the~~ ~~that~~ statement.

b. Impact on Agricultural Water User Facilities:

- i. Proposed subdivisions located on land with agricultural water user facilities or adjoining an agricultural water user facility are presumed to have an impact on agricultural water user facilities. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.
- ii. Proposed subdivisions that involve the abandonment or transfer of water rights from the property being subdivided, or that involve the abandonment or removal of agricultural water user facilities are presumed to have an impact on agricultural water user facilities. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.
- iii. Proposed subdivisions that will alter access for maintenance of agricultural water user facilities are presumed to have an impact on agricultural water user facilities. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.
- iv. Proposed subdivisions that will alter the movement or availability of water are presumed to have an impact on agricultural water user facilities. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.

c. Impact on Local Services:

- i. Proposed subdivisions that will use existing public utilities without extension are presumed to have a minimal impact on local services.
- ii. Proposed subdivisions that require the extension of public facilities are presumed to have an impact on local services. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.

d. Impact on Natural Environment:

- i. Proposed subdivisions that will use existing utilities are presumed to have a minimal impact on the natural environment except as otherwise provided in subsection (v) below. If an impact exists pursuant to subsection (v) describe the impact(s) and measures to mitigate the impact(s), or submit a

statement explaining why no impact is anticipated, and providing documentation to support the that statement.

- ii. Proposed subdivisions in locations with riparian areas, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on the natural environment. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.
 - iii. Proposed subdivision on land with a high water table eight feet or less from the surface), wetlands, or groundwater recharge areas are presumed to have an impact on the natural environment. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement why no impact is anticipated, and providing documentation to support the that statement.
 - iv. Proposed subdivisions in locations with evidence of soils with building or site development limitations as defined by the soil survey, or are proposed on slopes greater than 25 percent are presumed to have an impact on the natural environment. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.
 - v. Proposed subdivisions on land with historical, cultural, archeological, or paleontological features are presumed to have an impact on the natural environment. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement why no impact is anticipated, and providing documentation to support the that statement.
- e. Impacts on Wildlife and Habitat:
- i. Proposed subdivisions that are contiguous to urbanized areas are presumed to have a minimal impact on wildlife and wildlife habitat.
 - ii. Proposed subdivisions in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on wildlife and wildlife habitat. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.
 - iii. Proposed subdivisions in an area with rare or endangered species, as identified by state or federal agencies, are presumed to have an impact on wildlife. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.

- iv. Proposed subdivisions on and or adjacent to land identified by state or federal agencies as critical habitat are presumed to have an impact on wildlife and wildlife habitat. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.
- f. Impacts on Public Health and Safety
- i. Proposed subdivisions that are contiguous to urbanized areas and utilize available public facilities are presumed to have a minimal impact on public health and safety.
 - ii. Proposed subdivisions located in the Wildland Urban Interface or fire hazard area identified by a local fire district or local fire authority are presumed to have an impact on public health and safety. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to supporting the that statement.
 - iii. Proposed subdivisions on land with high pressure gas lines or high voltage lines are presumed to have an impact on public health and safety. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.
 - iv. Proposed subdivisions on land or adjacent to Superfund or hazardous waste sites are presumed to have an impact on public health and safety. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.
 - v. Proposed subdivisions on or adjacent to abandoned landfills, gravel pits, mines, wells, waste sites, or sewage treatment plants are presumed to have an impact on public health and safety. Describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement.

Part 3 - Community Impact Report

- a. Water Supply:
 - i. Describe the proposed water system and how water will be provided for household use and fire protection and the number of gallons needed to meet the needs of the anticipated final population.

- ii. Indicate whether the plans for water supply meet state standards for quality, quantity and construction criteria.
 - iii. If the subdivider proposes to connect to an existing water system:
 - A. Identify and describe that system.
 - B. Provide written evidence that permission to connect to that system has been obtained.
 - C. State the approximate distance to the nearest main or connection point.
 - D. State the cost of extending or improving the existing water system to service the proposed development.
 - E. Show that the existing water system is adequate to serve the proposed subdivision.
 - iv. If a public water system is to be installed, discuss:
 - A. Who is to install that system and when it will be completed.
 - B. Who will administer and maintain the system at the beginning of subdivision development and when subdivision is completed.
 - C. Provision of evidence that the water supply is adequate in quantity, quality, and dependability (75-6-102 MCA).
 - v. If individual water systems are to be provided, describe the adequacy of supply of the ground water for individual wells or cisterns and how this was determined.
- b. Sewage Disposal:
- i. Describe the proposed method of sewage disposal and system.
 - ii. Indicate the number of gallons of effluent per day which will be generated by the proposed subdivision at its full occupancy, whether the proposed method of sewage disposal is sufficient to meet the anticipated final needs of the subdivision and whether it meets state standards.
 - iii. If the development will be connected to an existing public sewer system, include:
 - A. A description of that system and approximate distance from the

nearest main or connection point to the proposed subdivision.

B. Written evidence that permission to connect to that system has been obtained.

iv. If a new public sewage disposal system, as defined under 75-6-102 MCA, is to be installed, discuss:

A. When the system will be completed, and how it will be financed.

B. Who is to administer and maintain the proposed system at the beginning of subdivision development and when development is completed.

c. Solid Waste Disposal:

i. Describe the proposed system of solid waste collection and disposal for the subdivision including:

A. Evidence that existing systems for collection and facilities for disposal are available and can handle the anticipated additional volume.

B. A description of the proposed alternative where no existing system is available.

C. Whether the proposed method of solid waste disposal meets solid waste standards.

d. Roads:

i. Describe any proposed new public or private access roads or substantial improvements of existing public or private access roads.

ii. Discuss whether any of the individual lots or tracts have access directly to arterial or collector roads; and if so, the reason access was not provided by means of a road within the subdivision.

iii. Explain any proposed closure or modification of existing roads.

iv. Identify existing primary road Average Vehicle Traffic and subdivision daily vehicle traffic assigned to that primary road.

v. Describe provisions considered for dust control on roads.

vi. Indicate who will pay the cost of installing and maintaining dedicated and/or private roadways.

vii. Discuss how much daily traffic will be generated on existing local and neighborhood roads and main arterial, when the subdivision is fully developed.

viii. Indicate the capacity of existing and proposed roads to safely handle any increased traffic. Describe any anticipated increased maintenance that will be necessary due to increased traffic and who will pay the cost of maintenance.

ix. Explain whether year round access by conventional automobile will be available over legal rights of way to the subdivision and to all lots and common facilities within the subdivision.

e. Utilities:

i. Include a description of:

A. The method of furnishing electric, natural gas or telephone service, where provided.

B. The extent to which these utilities will be placed underground.

C. Estimated completion of each utility installation.

~~D. The subdivider shall provide a written statement from the companies that the proposed subdivision can be provided with service.~~

f. Emergency Services:

i. Describe the emergency services available to the subdivision such as:

A. Is the proposed subdivision in an urban or rural fire district? If not, will one be formed or extended? In absence of a fire district, what fire protection procedures are planned?

B. Police protection.

C. Ambulance service/Medical services.

D. Give the estimated response time of the above services.

E. Can the needs of the proposed subdivision for each of the above services be met by present personnel and facilities?

g. Schools:

- i. Identify the School Districts and describe the available educational facilities which would service this subdivision.
- ii. Estimate the number of school children that will be generated from the proposed subdivision.
- iii. The subdivider shall discuss the impact of the proposed development on the provision of educational services with the administrator(s) of the appropriate school system(s). The subdivider shall provide a written statement outlining whether the increased enrollment can be accommodated by the present personnel and facilities and by the existing school bus system, any recommendations of the administrator(s), and any mitigation planned to overcome any adverse impacts of the proposed development on the provision of educational services.

h. Land Use:

- i. Describe comprehensive planning and/or land use regulations covering the proposed subdivision or adjacent land and if located near the jurisdictional area of an incorporated city or town, whether annexation is proposed.
- ii. Describe how the subdivision will affect access to any public lands. Where public lands are adjacent to or near the proposed development, describe present and anticipated uses for those lands; (e.g., grazing, logging, recreation, etc.).
- iii. Describe the effect of the subdivision on adjacent land use.
- iv. Describe any health or safety hazards on or near the subdivision, such as mining activity or potential subsidence, high pressure gas lines, dilapidated structures or high voltage power lines. Any such conditions should be accurately described and their origin and location identified. List any provisions that will be made to mitigate these hazards.

i. Housing:

- i. Indicate the proposed use(s) and number of lots or spaces in each:
 - A. For residential indicate the type of dwelling unit.
 - B. For all other uses the type and intensity of use (e.g. industrial, commercial, etc.).

- j. Parks and Recreation Facilities:
 - i. Describe park and recreation facilities to be provided within the proposed subdivision and other recreational facilities which will serve the subdivision.

Planning Board Rationale

The significant suggested change is to ensure that environmental assessments provide a statement of anticipated impact. Although somewhat redundant to the Impact Criteria Report section it is important that environmental assessments baseline existing conditions, identify and address anticipated impacts as well as possible.

Other changes are to provide consistency with other provisions of the regulations.

Appendix D First Minor Subdivision Impact Criteria Report

General Instructions

The Montana Subdivision and Platting Act (76-3-608 MCA) sets criteria, including but not limited to, factors that are representative of impacts on the criteria listed below. Each impact must be addressed in a comprehensive and systematic fashion. The impact criteria are based on a presumption that there will be impacts, unless noted to have a minimal impact. For each of the criterion describe the impact(s) and measures to mitigate the impact(s), or submit a statement explaining why no impact is anticipated, and providing documentation to support the that statement. If any of the criteria impacts are not applicable it shall be noted; with an explanation as to why it is not applicable. Incomplete impact reports will not be accepted.

The source(s) of information for each criteria impact shall be identified as part of the analysis. All impact analyses shall contain the name of the property, owner of the property and the person(s) preparing the criteria impact report.

Impact Criteria

- a. Impacts on Agriculture:
 - i. Proposed first minor subdivisions that are contiguous to urbanized areas are presumed to have a minimal impact on agriculture.
 - ii. Proposed first minor subdivisions and its improvements located on or in proximity to prime farmland are presumed to have an impact on agriculture.
- b. Impact on Agricultural Water User Facilities:

- i. Proposed first minor subdivisions and its improvements located on land with agricultural water user facilities or adjoining an agricultural water use facility are presumed to have an impact on agricultural water user facilities.
 - ii. Proposed first minor subdivisions and its improvements that involve the abandonment or transfer of water rights from the property being subdivided, or that involve the abandonment or removal of agricultural water user facilities are presumed to have an impact on agricultural water user facilities.
 - iii. Proposed first minor subdivisions and its improvements that will alter access for maintenance of agricultural water user facilities are presumed to have an impact on agricultural water user facilities.
 - iv. Proposed first minor subdivisions and its improvements that will alter the movement or availability of water are presumed to have an impact on agricultural water user facilities.
- c. Impact on Local Services
- i. Proposed first minor subdivisions that will use existing utilities **without extension** are presumed to have a minimal impact on local services.
 - ii. Proposed first minor subdivisions that require the extension of public facilities are presumed to have an impact on local services.
- d. Impact on Natural Environment
- i. Proposed first minor subdivisions and its improvements that will use existing utilities are presumed to have a minimal impact on the natural environment except as otherwise provided in subsection (v) below.
 - ii. Proposed first minor subdivisions and its improvements in locations with riparian areas, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on the natural environment.
 - iii. Proposed first minor subdivisions and its improvements on land with a high water table eight feet or less from the surface), wetlands, or groundwater recharge areas are presumed to have an impact on the natural environment.
 - iv. Proposed first minor subdivisions and its improvements in locations with evidence of soils with building or site development limitations as defined by the soil survey, or are proposed on slopes greater than **25-30** percent are presumed to have an impact on the natural environment.

- v. Proposed first minor subdivisions and its improvements on land with historical, cultural, archeological, or paleontological features are presumed to have an impact on the natural environment.
- e. Impacts on Wildlife and Habitat
- i. Proposed first minor subdivisions and its improvements that are contiguous to urbanized areas are presumed to have a minimal impact on wildlife and wildlife habitat.
 - ii. Proposed first minor subdivisions and its improvements in locations with riparian areas, wetlands, rivers, streams, lakes, or other natural surface waters are presumed to have an impact on wildlife and wildlife habitat.
 - iii. Proposed first minor subdivisions and its improvements in an area with rare or endangered species, as identified by state or federal agencies, are presumed to have an impact on wildlife.
 - iv. Proposed first minor subdivisions and its improvements on and or adjacent to land identified by state or federal agencies as critical habitat are presumed to have an impact on wildlife and wildlife habitat.
- f. Impacts on Public Health and Safety
- i. Proposed first minor subdivisions and its improvements that are contiguous to urbanized areas and utilize available public facilities are presumed to have a minimal impact on public health and safety.
 - ii. Proposed first minor subdivisions and its improvements located in an area identified as a Wildland Urban Interface high fire hazard wildfire priority area by a fire district are presumed to have an impact on public health and safety.
 - iii. Proposed first minor subdivisions and its improvements on land with high pressure gas lines or high voltage lines are presumed to have an impact on public health and safety.
 - iv. Proposed first minor subdivisions and its improvements on land or adjacent to Superfund or hazardous waste sites are presumed to have an impact on public health and safety.
 - v. Proposed first minor subdivisions and its improvements on or adjacent to abandoned landfills, gravel pits, mines, wells, waste sites, or sewage treatment plants are presumed to have an impact on public health and safety.

~~vi. Proposed first minor subdivisions and its improvements adjacent to or in an area of influence are presumed to have an impact on public health and safety.~~

Planning Board Rationale

Mostly editorial changes so the appendix reads better and to be consistent with changes in Appendix C.

Appendix E Contents of Final Plat

General Instructions

The final plat submitted for approval shall conform to the preliminary plat previously approved by the Commission and shall incorporate all conditions imposed at the time of conditional approval. The final plat shall conform to the Montana Subdivision and Platting Act and the Montana Uniform Standards for Monumentation, Certificates of Survey, and Final Subdivision Plats.

- a. A final plat may not be approved by the Commission nor filed by the Clerk and Recorder unless it complies with the following requirements:
 - i. Final plats shall be legibly drawn with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be 24 inches by 36 inches and shall include a 1-1/2 inch margin on the binding side.
 - ii. Whenever more than one sheet must be used to accurately portray the land subdivided, each sheet must show the number of that sheet and the total number of sheets included. All certifications shall be shown or referenced on one sheet.
- b. The final plat submitted for approval shall show or contain, on its face or on separate sheets, referenced on the plat:
 - i. A title block indicating the quarter sections, section, township, range, principal meridian and county of the subdivision. The title plat shall contain the words "plat" and subdivision".
 - ii. Name(s) of the owner's of the land surveyed and the names of any adjoining platted subdivisions and numbers of any adjoining certificates of survey previously recorded and tied thereto.
 - iii. North point.
 - iv. Scale bar (scale shall be sufficient to legibly represent the required data on the plat submitted for filing).
 - v. All monuments found, set, reset, replaced or removed describing their kind,

size, location and giving other data relating thereto.

- vi. Witness monuments, basis for bearing, bearings and length of lines.
 - vii. The bearings, distance and curve data of all perimeter boundary lines shall be indicated. When the subdivision is bounded by an irregular shoreline or body of water, the bearings and distances of a meander traverse shall be given.
- c. Data on all curves sufficient to enable the re-establishment of the curves on the ground. This data shall include:
- a. Radius of curve;
 - b. Arc length;
 - c. Notation of non-tangent curves.
- d. Lengths of all lines shall be shown to at least tenths of a foot, and all angles and bearings shown to at least the nearest minute.
- e. The location of all section corners or legal subdivision corners of sections pertinent to the subdivision boundary.
- f. All lots and blocks in the subdivision, designated by number, the dimensions of each lot and block, the area of each lot (gross and net) and the total acreage of all lots. (excepted parcels marked “Not included in this Subdivision” or “Not included in this plat” as appropriate, and the boundary completely indicated by bearings and distances.
- g. All easements, roads, alleys, avenues, and highways; their widths, bearings, the width and purpose of all rights-of-way and the names of all roads and highways.
- h. The location, dimensions and areas of all parks, common areas and all other grounds dedicated for public or common use. Where cash has been accepted in lieu of land dedications, it shall be so stated on the final plat and the amount of cash donated stated thereon.
- i. Gross and net acreage of the subdivision.
- k. A legal description of the perimeter boundary of the tract surveyed.
- l. All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the filing of the plat, the location of such additional monuments shall be shown by a distinct symbol noted on the plat. All monuments or other evidence found during retracements that would influence the positions of any corner or boundary indicated on the plat must

- be clearly shown.
- m. The signature and seal of the registered land surveyor responsible for the survey. The affixing of his/her seal constitutes a certification by the surveyor that the final plat has been prepared in conformance with the Montana Subdivision and Platting Act (Sections 76-3-101 through 76-3-614, M.C.A.), and these Regulations.
 - n. Memorandum of oaths administered pursuant to Section 76-3-405 M.C.A., has been filed with the Flathead County Clerk and Recorder.
 - o. House numbers (addresses) shall be assigned by the Flathead County Address Coordinator.
 - p. The following certifications shall appear on the face of the final plat:
 - i. Certification by the subdivider dedicating roads, parks or playground, or other public improvements, or stating cash donations in lieu of dedication, when applicable.
 - ii. Certification by the subdivider allowing usage of the easements for the purpose designated on the plat.
 - iii. Certification by the licensed land surveyor who prepared the final plat and related documents.
 - iv. Certification of examining land surveyor where applicable.
 - v. Certification by the County Commissioners expressly accepting any dedicated land and improvements. Acceptance of dedication shall be ineffective without such certification.
 - vi. Certification by the County Attorney.
 - vii. Certification by the County Commissioners that the final subdivision plat is approved, except where the plat shows changes to a filed subdivision plat which are exempt from local government review under Section 76-3-207, M.C.A. Where an amended plat qualifies for such a waiver the plat must contain a statement that pursuant to Section 76-3-207, M.C.A., approved by the local governing body is not required for relocation of common boundary lines or aggregation of lots.
 - viii. Waiver of right to protest participation in Special Improvement District (See Appendix F, Sample Forms and Certifications).
 - q. The following original documents shall be submitted (signed and notarized where appropriate) when applicable, to the County as part of the final plat application

process. Said original documents must accompany the approved final plat when filed with the County Clerk and Recorder:

- i. A title report from a ~~certification by~~ licensed title abstractor or Title Company showing the names of the owners of record of land to be subdivided and the names of any lien holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien holders or claimants of record against the land (must not be over 90 days old at time of Flathead County Planning & Zoning Office final plat application acceptance).
- ii. Copies of any deed restrictions relating to public improvements.
- iii. Certification by the Montana Department of Environmental Quality that it has approved the plans and specifications for sanitary facilities.
- iv. Copies of articles of incorporation and by-laws for any property owners' association.
- v. Certification by the subdivider indicating which required public improvements have been installed and a copy of any subdivision improvements agreement securing the future construction of any additional public improvements to be installed.
- vi. Copies of final plans, profiles, grades and specifications for improvements, including a complete grading and drainage plan, with the certification of a registered professional engineer that all required improvements which have been installed are in conformance with the attached plans.
- vii. Copy of the state highway permit when a new road access will intersect with a state highway.
- viii. A certification from the County Treasurer's Office stating that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.
- ix. Certification by the local fire district or local fire control authority that the Fire Prevention and Fuels Reduction Plan has been implemented.

Planning Board Rationale

To provide consistency with other suggested changes in the subdivision regulations.

Appendix F Sample Forms and Certificates (No Changes Recommended)

**Appendix G
Subdivision Improvement Agreement**

General Instructions

The model subdivision improvement agreement is intended to be used in situations where improvements required for final approval or conditional approval to be extended beyond the three year preliminary subdivision plat approval. A subdivider may request a subdivision improvement agreement to guarantee the construction of improvements in a timely manner.

Procedures

A subdivider requesting a subdivision improvement agreement shall follow the following procedures:

- a. The subdivision improvement agreement must be complete and submitted with the application for final plat.
- b. The term of the agreement in Section 2 is no more than one (1) year following final plat approval.
- c. All Department of Environmental Quality approvals required for final plat shall be obtained prior to entering into a subdivision improvement agreement.

SUBDIVISION IMPROVEMEN” AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between the FLATHEAD COUNTY BOARD OF COMMISSIONERS of Flathead County, Montana, Party of the First Part and hereinafter referred to as the COUNTY, and

(Name of Developer)
a

(Individual, Company or Corporation)
located at _____,
(Street Address/P. O. Box) (City, County, State, Zip)
Party of the Second Part and hereinafter referred to as DEVELOPER.

WITNESSETH:

THAT WHEREAS, the Developer is the owner and developer of a new subdivision known as

(Name of Subdivision)

located at

(Location of Subdivision)

and,

WHEREAS, the County has conditioned its approval of the final plan of _____ (Name of Subdivision) _____, upon the conditions as set forth in the Preliminary Plat of the Subdivision being completed and all improvements, as cited in "Exhibit A" have not been completed at this time, and the Developer wishes to bond for the completion of those improvements set forth in "Exhibit A"; and

WHEREAS, the County' Subdivision Regulations require that a subdivider shall provide a financial security of 125% of the estimated total cost of construction of said improvements as evidenced by an estimate prepared by a licensed public engineer included herewith as "Exhibit B"; and

WHEREAS, the estimated total cost of construction of said improvements is the sum of \$ _____.

NOW THEREFORE, in consideration of the approval of the final plat of said Subdivision by the County, the Developer hereby agrees as follows:

1. The Developer shall deposit as collateral with the County a Letter of Credit, or other acceptable collateral as determined by the Flathead County Board of Commissioners, in the amount of \$ _____. Said Letter of Credit or other collateral shall have an expiration date of at least sixty (60) days following the date set for completion of the improvements, certifying the following:
 - a. That the creditor guarantees funds in the sum of \$ _____ the estimated cost of completing the required improvements in _____ (Name of Subdivision).
 - b. That if the Developer fails to complete the specified improvements within the required period, the creditor will pay to the County immediately, and without further action, such funds as are necessary to finance the completion of those improvements up to the limit of credit stated in the letter;
2. That said required improvements shall be fully completed by _____, 20____.

3. That upon completion of the required improvements, the Developer shall cause to be filed with the County a statement certifying that:
 - a. All required improvements are complete.
 - b. That the improvements are in compliance with the minimum standards specified by the County for their construction and that the Developer warrants said improvements against any and all defects for a period of one (1) year from the date of acceptance of the completion of those improvements by the County.
 - c. That the Developer knows of no defects in those improvements.
 - d. That these improvements are free and clear of any encumbrances or liens.
 - e. That a schedule of actual construction costs has been filed with the County.
 - f. All applicable fees and surcharges have been paid.
4. The Developer shall cause to be filed with the County copies of final plans, profiles, grades and specifications of said improvements, with the certification of the registered professional engineer responsible for their preparation that all required improvements have been installed in conformance with said specifications.

IT IS ALSO AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS, TO-WIT:

That the Developer shall provide for inspection of all required improvements by a registered professional engineer before the Developer shall be released from the Subdivision Improvement Agreement.

That if the County determines that any improvements are not constructed in compliance with the specifications, it shall furnish the Developer with a list of specific deficiencies and may withhold collateral sufficient to insure such compliance. If the County determines that the Developer will not construct any or all of the improvements in accordance with the specifications, or within the required time limits, it may withdraw the collateral and employ such funds as may be necessary to construct the improvement or improvements in accordance with the specifications. The unused portions of the collateral shall be returned to the Developer or the crediting institution, as is appropriate.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals the day and year herein before written.

(Name of Subdivision/Developer/Firm)

by _____

(Title)

STATE OF MONTANA
COUNTY OF _____

On this _____ day of _____, 20____, before me, a Notary Public for the State of Montana, personally appeared _____, known to me to be the _____ of _____, whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this day and year first above written.

Notary Public for the State of Montana
Residing at _____
My Commission Expires _____

FLATHEAD COUNTY BOARD OF COMMISSIONERS ATTEST:

Paula Robinson
Clerk and Recorder

By: _____
Chairperson

By: _____
Deputy

++++++

EXHIBIT A

Conditions of approval as fixed to the preliminary plat by the Flathead County Board of Commissioners.

ACCEPTABLE FORMS OF IMPROVEMENTS GUARANTEES

Comment: _____

The following are acceptable means of guaranteeing subdivision improvements agreements, although others may also be acceptable. The irrevocable letter of credit is often the preferable guaranty because it is usually feasible for a subdivider to secure, and the local government can readily obtain funds to complete the required improvements should the subdivider fail to install the required the improvements. A suggested irrevocable letter of credit and commentary are included as part of this Appendix. The other common guaranties are also explained below.

The subdivider shall provide one or more of the following financial security guarantees in the amount of ~~100~~ 125 percent of the estimated total cost of installing all required improvements.

- a. **Letter of Credit** - Subject to governing body approval, the subdivider shall provide the governing body a letter of credit from a bank or other reputable institution or individual certifying the following:
 - i. That the creditor guarantees funds in an amount equal to the cost, as approved by the governing body, of completing all required improvements.
 - ii. That if the subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the governing body upon presentation of a sight draft without further action, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.
 - iii. That this letter of credit may not be withdrawn, or reduced in amount, until released by the governing body.
- b. **Escrow Account** - The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the governing body or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where funds are to be deposited must be approved by the governing body. Where an escrow account is to be used, the subdivider shall give the governing body an agreement with the bank guaranteeing the following:
 - i.. That the funds in the escrow account are to be held in trust until released by the governing body and may not be used or pledged by the subdivider as security for any obligation during that period.
 - ii. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the governing body for completing these improvements.
- c. **Property Escrow** - The subdivider may offer a ~~a~~ guarantee land or other property, including corporate stocks or bonds. The value of any real property to

be used, accounting for the possibility of a decline in its value during the guarantee period, must be established by a licensed real estate appraiser or securities broker, as applicable, at the subdivider's expense. The governing body may reject the use of property as collateral when the property value is unstable, when the property may be difficult to sell, or when other factors exist which will inhibit the exchange of the property for an amount of money sufficient to complete required improvements. When property is offered as an improvement guarantee, the subdivider shall:

- i. Enter an agreement with the escrow agent instructing the agent to release the property to the governing body in the case of default. The agreement must be placed on file with the county clerk and recorder.
- ii. File with the governing body an affidavit affirming that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is to be put in escrow.
- iii. Execute and file with the governing body an agreement stating that the property to be placed in escrow as an improvement guarantee will not be used for any other purpose, or pledged as a security for any other matter until it is released by the governing body.

dc. Sequential Development - Where a subdivision is to be developed in phased portions, the governing body may, at its discretion, waive the use of a guarantee on the initial portion, provided that the portion contains no more than 25 lots, or 50 percent of the total number of lots in the proposed subdivision, whichever is less. The governing body may grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion and acceptance of those improvements by the governing body. Completion of improvements in the final portion of the subdivision must be guaranteed through the use of one of the other methods detailed in this section.

ed. Surety Performance Bond - The bond must be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the governing body and countersigned by a Montana agent. The bond must be payable to the County (City) of _____. The bond must be in effect until the completed improvements are accepted by the governing body.

fe. Special Improvements District - The governing body may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision will be sold, rented, or leased, and no contract for the sale of lots executed, before the improvement district has been created.

If the proposed subdivision lies in an unincorporated area, the subdivider, or other owners of the property involved must also petition the board of county commissioners to create a rural improvement district pursuant to Section 7-12-2102, MCA.

- i. An agreement to finance improvements through the creation of a special improvement district, or a petition to create a rural improvement district, constitutes a waiver by the subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the county clerk and recorder and will be deemed to run with the land.

Comment:

Local officials should be cautious in accepting special improvement districts or rural improvement districts as forms of improvements guaranties. In a number of cases in Montana, the subdivider has been unable to pay the assessments, and the city or county has had to bear the cost of completing the required improvements. These problems occur most frequently where improvement districts are formed as a means to provide improvements on raw land, and local officials may want to avoid creating improvement districts for undeveloped property.

Local officials should consult a bond underwriter before accepting an improvement district as a form of improvements guaranty.

Letters of credit may be revocable, so it is important to express that the letter of credit is irrevocable. Because the letter of credit does not incorporate the subdivision improvement agreement, the issuer of the credit cannot raise objections to the demand for payment. If the letter of credit specifies that the local government need only present a signed statement or affidavit that the subdivider is in default, the local government need not present proof of default or signed statements from any other party.

Under the letter of credit the local government is committed to use the funds for completion of the improvement.

It is important that the expiration date of the letter of credit allows the local government a reasonable amount of time after the improvements completion deadline to inspect the improvements and, if defects are found, prepare proper drafts and present a notice of default to the lending institution.

Lending institutions may be reluctant to issue letters of credit to be in force for long periods of time. Typically, improvements can be completed in 18-24 months, and an additional 1 year warranty period is appropriate to allow the local government to monitor for defects or failures. Following the warranty period an additional 90 days is

reasonable to give local officials time to submit any drafts and documentation to draw funds, if necessary.

A "sight draft" commits the payor to make payment at the time the draft is presented, or on sight. Other types of drafts allow a waiting period or approval before the payor must make the payment.

**MODEL
IRREVOCABLE LETTER OF CREDIT**

Letter of Credit No. ____

Name of Local Government Date
Address _____

Gentlemen:

We hereby establish in your favor our Irrevocable Letter of Credit # ____ for the account of (Subdivider), available by your drafts at sight up to an aggregate amount of \$ _____. Should (Subdivider) default or fail to complete the improvements under the terms specified in the attached subdivision improvements agreement for (name of subdivision) we shall pay on demand your sight draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements.

All drafts must be presented prior to expiration date and this Letter of Credit must accompany the final draft for payment. Drafts drawn hereunder must be by sight draft marked:

"Drawn under (lending institution), Letter of Credit # ____
dated (date of Letter of Credit)," and the amount drawn endorsed on the
reverse
hereof by the lending institution.

Unless otherwise stated, this Letter of Credit is subject to the Uniform Customs and Practices for Commercial Documentary Credits (1983 Revision) International Chamber of Commerce. We hereby agree with the drawers, endorsers and bona fide holders of the drafts drawn under and in compliance with the terms of this Credit that these drafts will be duly honored upon presentation to the drawee.

This letter of credit may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

(Lending Institution) _____

(Signature and Title of Official)

Appendix H
Subdivision Roadway Late-Comers Agreement
(No changes recommended)

Appendix I
Standards for Flood Hazard Evaluation

General Instructions

Where the subdivider is required by the governing body to provide data for use in defining the 100-year floodplain, overland flooding, or seasonal flooding, the following information shall be submitted to the Planning and Zoning Office for forwarding to the Floodplain Management Section of the Water Resources Division, Montana Department of Natural Resources and Conservation:

- a. A flood hazard evaluation assessing all possible flooding hazards of the 100-Year event to a proposed subdivision and identifies potential flooding risks.

The flood hazard evaluation shall present an objective technical analysis in a straight forward and logical manner that leads the reviewer through the analytical process to the resulting conclusions and recommendations.

Acceptable methodologies for developing a flood hazard evaluation include industry standard methods and those capable of satisfying professional peer review. These include engineering, hydraulic, hydrologic, fluvial geomorphic, geotechnical, and risk analyses (industry standard, one-dimensional, standard step backwater, HEC-RAS modeling) in addition to professionally qualified opinions and observations.

- b. The flood hazard evaluation shall include:

- i. A hydrologic analysis detailing the deviation of the magnitude and frequency of the design flows utilized in the risk analysis (a discussion of the statistical and applicant's confidence in these estimates); the implications of simultaneous flood events on the design discharge, and written verification that these estimates reflect the most recent gauge data and /or industry standard estimation methodologies. In order to model the 100-Year flow, cross-sections shall be surveyed and a topographic map required.
- ii. A hydrographic analysis and written commentary regarding the accuracy of the existing regulatory maps to predict 100-Year floodplain boundaries with existing conditions upstream, on site and downstream of the project area or a new flood study proposed as the new regulatory map for the

project area. The hydraulic analysis should be completed using a standard step backwater methodology.

- iii. If the flood boundaries change significantly from what is shown on the previous Flood Insurance Rate Map (FIRM) Zone A, a Letter of Map Revision (LOMR) is required.
- iv. A written discussion of over-bank flow path uncertainty related to rivers and stream channels that are topographically higher than surrounding floodplains, shallow flooding channels, alluvial fan flooding, debris jams, ice jams and/or diversions and ditches.
- v. A written discussion of possible or predicted channel stability, including the possibility of channel splitting and/or thalweg migration that could affect the flooding dynamics in the project area.
- vi. A written discussion of the risk of landslides and/or debris flows occurring and affecting flood behavior in project area drainages.
- vii. An analysis of the stability and structural integrity of permitted and unpermitted floodplain fill in the vicinity of the project that contacts the 100-Year floodplain, including rip rap, berms, levees, and other fill.
- viii. Identification and quantification of predicted overland flow and potential overland flow paths above and below the property under consideration.
- ix. Identification and quantification of predicted flooding from runoff over saturated and/or frozen ground.
- x. A complete written discussion of the storm water runoff management practices and design criteria utilized to safely pass storm water through the project without negatively affecting up and downstream flood dynamics. This may include an analysis of runoff after projected build out scenarios.
- xi. A written discussion of risks associated with failures in upstream, downstream or on-site road, culvert, bridge and other storm water management infrastructure.
- xii. A statement attesting that all proposed sanitary sewer infrastructure meets 100-Year flood design standards and/or will not otherwise contribute to water pollution during periods of flooding.
- xiii. A written discussion of irrigation ditches in the area and how they would function during a 100-Year flood and affect the project should they fail or overtop.

- xiv. An identification of depression areas (areas below the Base Flood Elevation or design flood elevation but unconnected to a separate and discrete flow path).
 - xv. A written discussion of risks associated with dam failures, if appropriate.
 - xvi. A written discussion of potential changes associated with the project such as logging, potential burns and or major development that would affect the runoff or watershed hydrology of the surrounding area.
 - xvii. A written discussion of any flood hazard that the County feels is germane to the project.
 - xviii. A copy of the plat showing contour intervals of no greater than five feet.
 - xix. The location and elevation of a temporary benchmark established with the subdivision and referenced to mean sea level with appropriate elevation adjustment.
- c. The analysis shall be based on cross-sections according to the following minimum requirements:
- i. Cross sections should be placed at representative locations throughout the floodplain reach of the subdivision and located in such a manner as to represent the flow reach between cross sections. Each flow reach should be as uniform in geometry and roughness as practical.
 - ii. At least two (2) cross-sections shall be taken downstream of the proposed subdivision boundary no more than 1,000 feet apart and one (1) cross section will be taken at the downstream boundary of the proposed subdivision.
 - iii. Cross sections are required at locations where changes occur in discharge, channel/floodplain slope, channel/floodplain shape, or channel/floodplain roughness; at locations where FEMA certified levees begin or end; and at bridges or control structures such as weirs.
 - iv. At least three (3) cross sections shall be taken and used to describe bridges, culverts, constrictions, or where abrupt channel/floodplain changes occur.
 - v. One (1) cross section at each lot within the proposed subdivision, at the approximate location of the proposed building site and septic system, where the stream intersects.

- vi. One (1) cross section midway between the proposed subdivision property boundary lines or at intervals of no more than five hundred (500) feet.
 - vii. At least two (2) cross sections shall be taken upstream from the proposed subdivision boundary no more than 1,000 feet apart and one (1) cross section shall be taken at the upstream subdivision boundary. Additional cross sections may be required if any development associated with the proposed subdivision creates a backwater situation or a rise in existing base flood elevations.
- d. Form and Content. Three (3) copies of the floodplain application along with a brief description of the project, study objectives, and data must be submitted for the floodplain analysis. The application and floodplain analysis shall be certified by a licensed professional engineer and/or a licensed surveyor. The following minimal information must be submitted along with the floodplain application:
- i. Copy of the current FEMA FIRM map, with panel number noted, at the project location showing the location of the surveyed cross sections and the proposed subdivision.
 - ii. A vicinity map (use the latest version of the appropriate USGS 7.5 minute quadrangle or a similar scale aerial photograph) that clearly shows the following:
 - (a) The location of the subdivision and all of the cross-sections;
 - (b) Section, Township, and Range.
 - (c) The location and elevation of all culverts, bridges, levees, diversion dams, or any other type of hydraulic structure within the reach being analyzed;
 - (d) The location of the benchmark (with the NAVD 1988 datum) that was used in the survey; and
 - (e) The hydrologic drainage area of the stream being analyzed;
 - iii. A written narrative describing the vegetation along the banks, the material composition of the bed and banks, and any hydraulic structures. Color photographs shall be required when proposed hydraulic data is atypical.
 - iv. A written narrative describing all culverts and bridges (size, type, etc.), or any hydraulic structure within the reach.
 - v. An discussion of the discharge estimation method along with a detailed description of the methodology, data, and computations so that the analysis may be replicated. This should include;
 - (a) A discussion of the model choice and methodology (i.e. normal depth, step backwater model type);

- (b) A summary of available gage sites if applicable and a discussion of discharge estimations;
- (c) Copies of model input/output on paper and on disk;
- (d) A discussion of the model parameters used including Manning's "n" values, starting water surface elevations, and flow regimes;
- (e) A discussion of any special concerns, bridges, levees, hydraulic structures, side channels, or ineffective flow areas that may be applicable to the project; and
- (f) A discussion of model results, warnings, and assumed critical depths.

vi. Drawings of each cross-section that clearly shows the following:

- (a) Elevation of the ground surface;
- (b) Elevation of the water surface at the time of the survey;
- (c) Elevation of the 100-year floodplain; and
- (d) The apparent high-water mark.

vii. A copy of the plat with ground contours (at a sufficient interval to clearly delineate the floodplain boundaries) that clearly shows the following:

- (a) The location of all cross-sections and elevation reference marks (benchmarks or temporary benchmarks);
- (b) The watercourse and property boundaries;
- (c) The location of all culverts, bridges, or any hydraulic structures;
- (d) The location of the FEMA mapped 100-year floodplain, where applicable;
- (e) The location of the actual 100 yr. floodplain boundary, based upon the intersection of the 100 yr. base flood elevation and the natural grade.

viii. Additional information may be required if there is potential for adverse effect to adjacent property owners and/or the 100 yr. base flood elevations are changed.

Additional guidance can be found at the Montana Department of Natural Resources website at www.dnrc.mt.gov/wrd/water_op/floodplain.

- e. If a U.S. Geological Survey gauging station is within the reach of the stream under study, the elevation of any convenient foot mark shall be surveyed and clearly indicated on the location map.
- f. Descriptions and sketches of all bridges within the reach, showing unobstructed waterway opening and elevations.
- g. Color photographs clearly depicting the vegetation of both overbanks and the material composition of the banks and channel bottom shall be submitted for each cross section.

- h. Cross sections plotted on cross section paper of ten divisions to the inch using any convenient, identified scale for vertical and horizontal distance. The water surface at the time of survey shall be plotted on each cross section.
- i. A profile sheet prepared on cross section paper at ten divisions to the inch showing the observed water surface profile, location of cross sections, subdivision boundaries, riverbank profile and thalweg (lowest point of the channel bottom).
- j. A location map, such as U.S. Geological Survey seven and one-half (7-1/2) minute quad or similar map, showing the proposed subdivision, the locations of the valley cross sections and any gauging stations.
- k. These requirements may vary, so the Supervisor of the Floodplain Management Section of the Water Resources Division of the Montana Department of Natural Resources and Conservation should be contacted.

Appendix J
Dust Control Plan

Introduction

Air quality in Flathead County is an important consideration when contemplating subdivision and/or development. Human caused dust, particulate matter and other sources of air pollution will degrade the visibility and possibly create public health concerns for residents and visitors. The Dust Control Plan is intended to identify possible sources of dust and means to mitigate potential dust related to subdivision activities. The focus of the plan is unpaved roads, but may also apply to other soil disturbing construction related activities. Please provide the information requested below and identify the measures taken to mitigate potential sources of dust.

Subdivision:

Location

Primary Road Access and Length (from nearest County paved road)

Identify Long Term Dust Control on Unpaved Roadways*

[Redacted]

*Note: Pavement of roadways, soil binding or dust control palliatives on roadways, watering, grass plantings, etc. represents reasonable precautions and should be considered for effective dust control measures and mitigation.

List Measures Intended During Construction Activities

For roadways (both internal and external to the subdivision): [Redacted]

For utilities: [Redacted]

For other construction: [Redacted]

Signature of subdivider: [Redacted]

Appendix K
Road User's Agreement

DECLARATION CREATING

ROAD MAINTENANCE AGREEMENT

FOR THE ROADWAY(S) WITHIN THE [Redacted] **SUBDIVISION**

This declaration is made by [Redacted] ("Declarant").

WHEREAS, Declarant is the present owner of the real property described below and wishes to impose requirements for the future maintenance of internal subdivision roadway(s);

WHEREAS, the real property which is subject to provisions of this Declaration is more particularly described as follows: [Redacted] Subdivision, located in Section ____, Township ____ North, Range ____ West, Flathead County, Montana;

NOW, THEREFORE, Declarant declares the following requirements to assure maintenance of the roadway or roadways within the above-described subdivision. These requirements shall run with the land and shall be binding upon and enforceable by the owner (or owners) of each lot located within the above-described subdivision, their heirs, successors, and assigns.

1. The roadway or roadways within the above-described subdivision shall be maintained in good and passable condition under all traffic and weather conditions.
2. The costs for maintenance and repair of the roadway or roadways, including associated storm-water infrastructure and signage, shall be divided equally between each lot. Each lot owner (or owners) shall pay its pro-rata share, including but not limited to:
 - a. Routine maintenance, including snow plowing and clearing of culverts and drainage features.
 - b. Major improvements, including new pavement, re-striping, new sidewalks, and new curbs.

Dated this ___ day of _____, 20__.

By:

Declarant

Appendix L
Wildland Urban Interface
Fire Prevention Control and Fuels Reduction Plan

Introduction

Fire hazard risk in the Wildland Urban Interface and areas that include heads of draws, excessive slopes, areas of dense forest growth, or areas that have characteristics of other hazardous wildfire components are addressed in the Fire Prevention Control and Fuels Reduction Plan. All subdivisions within the Wildland Urban Interface shall be planned, designed, constructed, and maintained so as to minimize the risk of fire, to allow for safe and adequate vehicular escape from fire, and to permit effective and efficient suppression of fires in order to protect persons, property and public safety (please see Section 4.7.28 Flathead County Subdivision Regulations).

Subdivision Name:

Location (address and township, range, and sections)

Number of Lots and Average Size (in acres):

Length of Primary Access Road

Name of Road Primary Access Connects with.

The Following Items Must be Included as a part of the Fire Prevention and Control Plan

- i.** An analysis of the wildfire hazards on the site, as influenced by existing vegetation and topography and other factors.
- ii.** A map showing the areas that are to be cleared of dead, dying, severely diseased vegetation, or live vegetation.
- iii.** A map of the areas that are to be thinned to reduce the interlocking canopy of trees.
- iv.** The identification of primary and emergency roads that is sufficient for emergency response and fire suppression activities. Slopes of all roads and other access shall be provided.
- v.** Information relating to nearest fire equipment and station, average response time and nearest water source location and fire suppression volume.
- vi.** An analysis and recommended actions of the site utilizing Firewise principles, including Safety Zone improvements if applicable.

Signature of subdivider: _____

Local fire authority or designee review and comments:

Planning Board Rationale

This template is reasonable and will protect public safety in areas of great wild fire risk.
October 18 and November 1, 2007 Planning Board Special Meeting (Continued)

Commission Removed Provision 4.7.13

Planning Board Recommendation

Reinstate

4.7.13 Stream Riparian Protection Requirements

The maintenance and integrity of natural river systems is crucial to the quality and quantity of water resources in Flathead County. The Commission shall require a system of stream riparian setbacks or management plans for the protection and maintenance of the stream corridor and to protect public safety and welfare. This system is needed to maintain and create conditions for enhanced water quality, wildlife corridors, watershed management, and enhance recreational opportunities along stream systems while protecting persons and property. The area of riparian resource may be available to the subdivision proposal for purposes of determining density allocations or number of lots and to satisfy parks and open space requirements. Riparian setbacks are not intended to provide public access or easements of any kind and shall not do so unless expressly authorized by the subdivider.

- a. The stream setback shall be clearly delineated on the preliminary plat and on the final plat and designated as a riparian setback. Each setback shall include a natural vegetative buffer. There shall be no removal of natural vegetation in the vegetative buffer area, except as permitted under these Regulations and using best management practices. The natural vegetative buffer shall also be clearly delineated on all plats. For the purposes of this section a stream is defined as a natural watercourse of perceptible extent that has a generally sandy or rocky bottom or definite banks that confines and conducts continuously or intermittently flowing water.
- b. Setback widths. The setback area shall extend from the high water mark to whichever of the points described below, is farthest from the stream:
 - i. The edge of the 100-year floodplain shown on a FEMA map;
 - ii. A minimum width defined as a horizontal map distance from the ordinary high water mark, as follows:
 - A. Flathead River and its three forks: the Stillwater River, the Swan River and the Whitefish River, 250 feet with a vegetative buffer of 100 feet.
 - B. Ashley Creek from Smith Lake to Flathead River and Pleasant Valley Fisher River, 200 feet with a vegetative buffer of 75 feet.
 - C. All other streams, as identified not listed above shall have a setback of 60 feet with a vegetative buffer of 50 feet.

- c. For any stream or river covered under these Regulations, when a slope adjacent to the stream rises at a grade of 50 percent or greater for at least 20 feet above the ordinary high-water mark and no historic evidence of bank erosion exists the setback from a stream shall be at least 100 feet from the top of the slope, with a vegetative buffer of 75 feet. This requirement supersedes other setback requirements.
- d. A Riparian Resource Management Plan may be submitted with the subdivision proposal in lieu of meeting the setback requirements. Approval of the management plan by the governing body is required as a condition of subdivision approval. The plan shall include, but not be limited to the following:
 - i. A site map showing the following:
 - A. Location of vegetation types and any and all riparian resource areas and associated 100-Year floodplain.
 - B. Vegetative Buffer areas.
 - C. Drainage, slope and topography.
 - ii. A description of the following:
 - A. Abundance of vegetation types.
 - B. Contribution of the vegetative type to stream bank stabilization.
 - C. Susceptibility of soil in the vegetative type to compaction.
 - D. Contribution of the vegetative type in preventing erosion.
 - E. Contribution of the type to fish and wildlife habitat, including big game species, upland game bird species, non-game bird species, fisheries, and threatened or endangered species.
 - F. Hydrological analysis of the site and potential impacts of the proposed uses.
 - iii. A mitigation plan outlining how the area of riparian resource will be restored maintained or enhanced. The plan shall include, at a minimum, the following:
 - A. Proposed disturbance of the area of riparian resource.
 - B. Alteration, enhancement and restoration plan.
 - C. Planting plan.
 - D. Streambank stabilization plan.

- E. Discussion of proposed land uses their intensities and potential effects on riparian resources.
 - iv. A maintenance and monitoring plan outlining how the area of riparian resource will be cared for after occupancy.
- e. Agricultural and forest management uses not in conflict with and that will ensure the function of the vegetative buffer and in compliance with all pertinent state rules, regulations, and best management practices that govern such activities are encouraged. The following uses are allowed in a riparian setback area and exempt from these Regulations, provided, if regulated, these uses are permitted under applicable local, state and/or federal regulations.
 - i. Recreational structures such as docks, boat ramps, pathways or unimproved picnic areas. Pedestrian and bike trails may be allowed within the setback areas but not within the vegetated buffer areas.
 - ii. Revegetation and/or reforestation to stabilize flood prone areas.
 - iii. Stream bank stabilization/erosion control measures and stream restoration projects that have obtained any required permits.
 - iv. Limited crossings of designated streams through the riparian setback by highways, roads, driveways, sewer and water lines, and public utility lines.
 - v. Reconstruction, replacement or repair of an on-site septic system provided the new improvements are no closer to the ordinary high water mark of the stream.
 - vi. Agricultural and forest management uses not in conflict with the vegetative buffer area, including facilities not requiring electricity.
 - v. Hydro-electric facilities licensed by the Federal Energy Regulatory Commission.
 - vi. Grassy swales, roadside ditches, drainage ditches created to convey storm water, tile drainage systems and stream culverts are exempt from the setback requirements.
- f. The following uses are specifically prohibited within the setback and must be clearly shown on the face of the plat:
 - i. Construction and new structures. There shall be no structures of any kind, including residential buildings, outbuildings, sewage disposal systems, sewer pipes, rock or earthen fill, recreational camping vehicles, mobile homes, other buildings, or accessory structures, except as permitted under these regulations. Riprap, rock vanes, weirs, and other bank stabilization structures, except as limited under (d) below, are allowed only if permitted under the County floodplain ordinance, the Montana Natural Land and Streambed Preservation Act, and other applicable laws.
 - ii. Roads, driveways, and impervious services. There shall be no roads, driveways, or

impervious services, such as parking lots, except as permitted under this Section.

- iii. Protection of poorly-sited structures. No structure of any kind shall be placed within the setback to prevent bank erosion from threatening a structure or use outside the setback that was commenced after the effective date of this section.
- g. No proposed road shall be approved for construction if located in an area of riparian resource unless there is no other possible route to access the subdivision.
 - i. The side casting of road material into a stream, lake, wetland, or other body of water during road construction or maintenance is prohibited. The following additional standards shall apply to roads in these areas:
 - A. Effective erosion and sedimentation control practices shall be conducted during all clearing, construction or reconstruction operations.
 - B. Road fill material shall not be deposited in the areas of riparian resource or in such a location or manner to that adverse impacts will result to the area.
 - C. All crossings of streams, lakes, wetlands or other water bodies must occur at a perpendicular angle and in such a manner as to mitigate disturbance of the riparian area.
 - ii. The following guidelines for placement and construction of roads shall be considered in areas of riparian resource but may be waived with the consent of the governing body.
 - A. In the event it is necessary to route a road through an area of riparian resource, then open areas should be utilized in order to minimize impact on vegetated areas.
 - B. Roads should not be constructed in areas where soils have a high susceptibility to erosion which would create sedimentation and pollution problems during and after construction.
 - C. Roads should not intrude into areas adjacent to open exposures of water and should avoid scenic intrusion by building below ridge crests and high points.
- h. The Commission may grant a variance as part of the subdivision process if the subdivider can demonstrate that an unnecessary hardship would result of circumstances unique to the parcel, including but not limited to size, shape, topography or location.
 - i. A variance request must include information necessary to evaluate the variance request, including plans, maps, specifications, topography and floodplain boundaries.
 - ii. The variance must be supported by a finding that:

- A. The hardship is not created through the actions of the subdivider.
 - B. The variance is not likely to:
 - 1. Adversely impact water quality.
 - 2. Increase stream bank erosion.
 - 3. Increase flood heights or the velocity of flood water.
 - 4. Impair the function of the riparian area.
 - C. The variance is as small as reasonably possible to accommodate the proposed use while preserving the intent of the setback provisions.
- iii. The conditions of each variance request will be considered unique and not applicable to adjoining or other properties.

Planning Board Rationale

Riparian areas provide protection from river channel changes, important habitat for associated fish and wildlife, water quality and quantity, flood control, bio-diversity forage, recreational uses and a visually attractive environment.

It is the intent of these regulations to ensure that areas of riparian resource remain available to support diverse and productive aquatic and terrestrial riparian systems and habitats and to protect water quality; that stream channels, banks and lakeshores are protected; that areas of riparian resource are preserved to act as effective sediment filters which help to maintain water quality; that areas of riparian resource shall be protected to preserve large, woody debris that is eventually recruited into a stream to maintain riffles, pools and other elements of channel structure and further to provide shade to regulate stream temperature; that the area of riparian resource shall be preserved to promote floodplain stability; that the public interest in the quality and quantity of surface and ground waters shall be protected; and that standards for development of land in areas of riparian resource are site-specific, allowing for flexibility for development while maintaining the integrity of these areas.

The planning board spent over twelve hours working on this section, broken into four workshops. More than seven hours of that time was devoted to listening to public comment. Ample testimony was presented demonstrating the existence of strong scientific evidence that riparian resources need effective buffers to protect water quality and providing other benefits to the county. Public comment also indicated a strong objection to the “one size fits all” approach to setbacks. Many expressed a desire present a scientific case for setbacks on a site specific basis. There were also objections to the use of deed restrictions, variances procedures and the possibility that setbacks could create public easements on private property. Many comment, from both sides of the issue, objected to areas within municipal sewer districts being exempt from the regulations. It was also clear that many of those commenting did not realize that the proposed regulation only applied to land that was included in a subdivision application. The board considered all of these concerns in the proposal.