COMMISSIONERS APPROVAL

GRANDSTAFF

ROKOSCH

THOMPSON

CHILCOTT

DRISCOLL

PLETTENBERG (Clerk & Recorder)

Date.....May 13, 2008

Members Present..... Commissioner Alan Thompson, Commissioner Greg Chilcott and Commissioner Kathleen Driscoll

Minutes: Beth Perkins

► The Board met for the Official Election Canvas for School & Annual Election.

Regina presented the Board with the tally sheets and the provisionals to be opened. Commissioner Chilcott opened the tally sheets and Commissioner Thompson opened the provisionals. Both Commissioners added the votes and reported back to Regina. **Commissioner Thompson made a motion to adopt Resolution No. 2270 cancellation of elections. Commissioner Driscoll seconded the motion. All voted 'aye'.**

► The Board met for a decision on the award of Financial Audit. Present was Internal Auditor Klarryse Murphy. Klarryse recommended Ron Foltz for the financial audit bid. She explained with Foltz, he is familiar with the County and has had the experience with the financials for outside audit. **Commissioner Thompson made a motion to award to Ron Foltz for a year contract and two year option. Commissioner Chilcott seconded the motion. All voted 'aye'.**

► The Board met for public hearing for Orchard Hills Estates Major Subdivision. Present were Planner John Lavey, Owner Willie Schrock, Representatives Ron Uemura, Howard Anderson, Dan Wilcox, and Renee Harding.

Commissioner Chilcott called the meeting to order and asked if there were any conflicts of interest, hearing none. He then requested the Planning Staff Report be read.

John presented the Staff Report as follows:

ORCHARD HILLS ESTATES
NINETEEN-LOT MAJOR SUBDIVISION

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: John Lavey

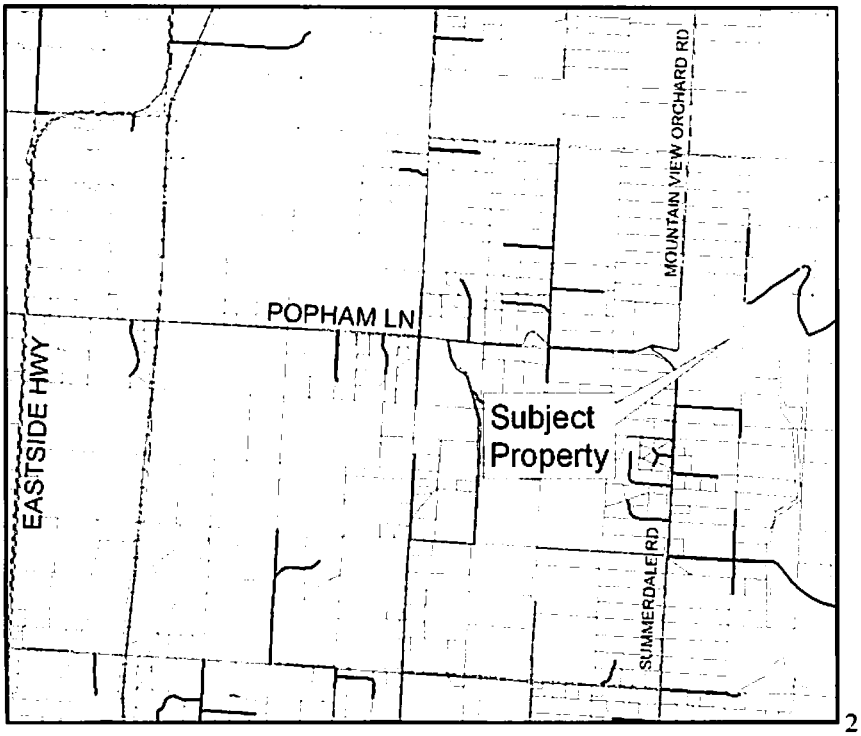
REVIEWED/ APPROVED BY: Renee Lemon

PUBLIC MEETINGS: BCC Public Meeting: 9:00 a.m. May 13, 2008
Deadline for BCC action (60 working days): May 27, 2008

SUBDIVIDER: Wil-Rock, LLC
1369 Eastside Highway
Victor, MT 59875

REPRESENTATIVE: Terry Nelson
Applebury Survey
914 Highway 93
Victor, MT 59875

LOCATION OF REQUEST: The property is located northeast of Corvallis off Mountain View Orchards Road. *(See Map 1)*



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

LEGAL DESCRIPTION OF PROPERTY: E 1/2 of Section 23, T7N, R20W, P.M.M., Ravalli County, Montana.

APPLICATION INFORMATION: The subdivision application was determined sufficient on March 3, 2008. Agencies were notified of the subdivision on February 13, 2007 and March 3, 2008. The Planning Board conducted a public meeting on the proposal on April 23, 2008. Comments received from agencies are Exhibits A-1 through A-17 of the staff report. **This subdivision is being reviewed under the Ravalli County Subdivision Regulations (RCSR) amended May 24, 2007.**

LEGAL NOTIFICATION: Notice of the project was posted on the property and adjacent property owners were notified by certified mail dated March 3, 2008. Public comments received are Exhibits B-1 and B-2 of the staff report.

DEVELOPMENT PATTERN:

Subject property:	Vacant Rural
North:	Vacant Rural
South:	Vacant Rural
East:	Farmstead Rural
West:	Farmstead Rural

INTRODUCTION

The subject property is currently used for pasture land. The BRID irrigation canal borders the eastern property boundary. The applicant is required to install safety fencing along the length of the canal. The applicant is statutorily required to provide 1.66 acres or parkland, and is proposing to do so through a payment of cash in lieu of land dedication. Roughly five of the 81 acres of the soils on the property are described as "Prime farmland if irrigated" by the Natural Resources Conservation Service. The intermittent stream Dry Creek traverses the extreme southwest portion of the property, and is proposed to be within a no-build/alteration zone.

Staff recommends conditional approval of the subdivision proposal.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS
APRIL 23, 2008

ORCHARD HILLS ESTATES
NINETEEN-LOT MAJOR SUBDIVISION

PLANNING STAFF RECOMMENDED MOTION
That the Orchard Hills Estates Major Subdivision be approved, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

PLANNING STAFF RECOMMENDED CONDITIONS

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

   Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Section 3-2-8(b)(v), RCSR, Effects on Agriculture)*

   Notification of Irrigation/Drainage Facilities and Easements. Within this subdivision there are irrigation and drainage easements, as shown on the final plat. All downstream water right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and the use of herbicides. The Bitterroot Irrigation District must approve any relocation or alteration (e.g. installation of a culvert) of the irrigation canals, ditches, and pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. *(Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)*

   Notification of Water Rights. Lots 1 through 11 within this subdivision do <u>not</u> currently have the right to take water from any of the irrigation ditches, pipelines, drainage ditch, and/or canals on the property. No lots within this subdivision have the right to take water from Dry Creek. Lots 12 through 19 have the right to take irrigation water from the pipeline along the common property boundary of said lots, not to exceed the amount as allocated through BRID. Taking water without a water right for any purpose is illegal. Residents should consult with the Montana Department of Natural Resources for questions on water rights. *(Section 3-2-8(b)(v)(B), RCSR, Effects of Agricultural Water User Facilities)*

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Mountain View Orchards Road frontage of the subdivision, excepting the approved approach to the internal subdivision road and the two common accesses. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

Notification of Setback from BRID Canal. Within this subdivision there is a 50-foot setback along the entire eastern property boundary, along the BRID Canal. No new structure may be constructed in this area. Roads, trails, and utility crossings through these areas are not permitted. However, the proper use of chemicals or other methods of control for noxious weeds is allowed. Activities associated with the maintenance and upkeep of the BRID canal are permitted. *(Section 3-2-8(b)(v), RCSR, Effects on Agricultural Water User Facilities & Public Health and Safety)*

Notification of Road/Common Access Maintenance Agreement. Neither the internal subdivision roads (Corvallis Hills Road, Spartan Lane, and Empire Terrace) nor the two common accesses are maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A road/common access maintenance agreement for the roads and the common accesses was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*

Notification of No-Build/Alteration Zones. Within this subdivision there are no-build/alteration zones, as shown on the plat, to restrict building in areas with potential wetlands and steep slopes. No new structure, with the exception of fences, may be constructed in these areas. No new utilities may be constructed in these areas. No fill may be placed in these areas and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through these areas are not permitted. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Natural Environment and Wildlife & Wildlife Habitat)*

Notification of "very limited" or "severe" Soils. Within this subdivision there are areas of the property identified as potentially having soils rated as "very limited" or "severe" for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat and descriptions of the very limited and severe soils in question are included as exhibits to this document [*the applicant shall include the reduced plat and exhibits as attachments*]. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Public Health and Safety)*

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

Waiver of Protest to Creation of RSID/SID. Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, wolf, coyote, fox, skunk, raccoon and magpie. Each lot owner shall obtain or be provided and read a copy of the brochure "Living with wildlife," available from the Montana Fish, Wildlife & Parks office in Missoula for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov. *(Section 3-2-8(b)(v), RCSR, Effects on Agriculture and Wildlife & Wildlife Habitat)*

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

a. There is high potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners must be aware of this potential damage. They should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Homeowners should consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
b. **Gardens, fruit trees or orchards** are a major wildlife attractant, and fruit-bearing trees and shrubs can regularly attract bears in the fall. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or vegetable material can attract bears, skunks and other wildlife. Gardens should be fenced with one-foot of fencing material below ground level and be at least eight feet in height, in order to discourage wildlife such as deer from feeding in gardens. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries.
c. If stored outdoors, **garbage** should be in secure bear-resistant containers; otherwise it should be stored indoors prior to curbside pick-up or transport to a centralized garbage collection site, in order to avoid attracting wildlife such as bears and raccoon. If curbside garbage pick-up is available,

garbage cans may not be set out until the morning of garbage pickup and must be brought in no later than that same evening.

d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
e. **Birdseed** is an attractant to bears. If used, bird feeders must: a) be suspended a minimum of 15 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
g. **Pet food and livestock feed** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets and/or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
h. **Barbecue grills** should be stored indoors, and permanent outdoor barbecue grills are discouraged. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.
j. **Compost piles** can attract skunks and bears and should be avoided. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be

composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)

k. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)

a. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

No-Build/Alteration Zones. Within this subdivision there are no-build/alteration zones, as shown on the plat, to restrict building on areas with potential wetlands and steep slopes. No new structure may be constructed in these areas. No new utilities may be constructed in these areas. No fill may be placed in these areas and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through these areas are not permitted. However, the proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Natural Environment and Wildlife & Wildlife Habitat)*

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. *(Section 3-2-8(b)(v), RCSR, Effects on Natural Environment)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. *(Section 3-2-8(b)(v), RCSR, Effects on Public Health & Safety)*

Irrigation Facilities and Easement. Within this subdivision there are irrigation and drainage easements, as shown on the final plat. All downstream water right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Activities associated with the maintenance of irrigation facilities may include the operation of heavy equipment, the occasional burning of ditch vegetation, and

the use of herbicides. The Bitterroot Irrigation District must approve any relocation or alteration (e.g. installation of a culvert) of the irrigation canals, ditches, and pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance, which includes but is not limited to the placement of structures or the planting of vegetation other than grass, is expressly prohibited. *(Section 3-2-8(a) and Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities)*

Water Rights. Lots 1 through 11 within this subdivision do not currently have the right to take water from any of the irrigation ditches, pipelines, drainage ditch, and/or canals on the property. No lots within this subdivision have the right to take water from Dry Creek. Lots 12 through 19 have the right to take irrigation water from the pipeline along the common property boundary of said lots, not to exceed the amount as allocated through BRID. Taking water without a water right for any purpose is illegal. Residents should consult with the Montana Department of Natural Resources for questions on water rights. *(Section 3-2-8(b)(v)(B), RCSR, Effects of Agricultural Water User Facilities)*

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

Setback from BRID Canal. Within this subdivision there is a 50-foot wide setback from the BRID Canal, along the entire eastern property boundary . No new structure may be constructed in this area. Roads, trails, and utility crossings through these areas are not permitted. However, the proper use of chemicals or other methods of control for noxious weeds is allowed. Activities associated with the maintenance and upkeep of the BRID canal are permitted. *(Section 3-2-8(b)(v), RCSR, Effects on Agricultural Water User Facilities & Public Health and Safety)*

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Corvallis Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

Access Requirements for Lots within this Subdivision. The All Valley Fire Council, which includes the Corvallis Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can

accommodate the weight of a fire truck. Please contact the Corvallis Rural Fire District for further information. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

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

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The County further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the County strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at http://www.epa.gov/woodstoves/index.html. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (http://deq.mt.gov/Energy/warmhomes/index.asp) on the Montana Department of Environmental Quality's website. *(Section 3-2-8(b)(v)(B), RCSR, Effects on the Natural Environment)*

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. *(Section 3-2-8(b)(v), RCSR, Effects on Natural Environment)*

Maintenance of fencing along BRID Canal. The homeowners shall be responsible for maintaining the safety fencing located along the eastern subdivision boundary. Each lot owner shall be responsible for maintaining the portion of the fence on their lot to meet the specifications in Section 5-6-2(b) of the Ravalli County Subdivision Regulations. *(Effects on Public Health & Safety)*

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Section 3-2-8(b)(v), RCSR, Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued address for all lots. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

5. Prior to final plat approval, the subdividers shall provide a letter from the Corvallis Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot. Alternatively, the subdividers may provide evidence that a $500 per lot contribution has been submitted to the Corvallis Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

6. The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Corvallis Rural Fire District, has adopted Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Corvallis Rural Fire District for further information". *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health & Safety)*

7. The subdivider shall submit a letter or receipt from the Corvallis School District stating that they have received a (to be determined at the Commissioner meeting) per lot contribution prior to final plat approval. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services)*

8. The subdivider shall submit (to be determined at the Commissioner meeting) per lot to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. *(Section 3-2-8(b)(v), RCSR, Effects on Local Services and Public Health and Safety)*

9. The applicants shall provide evidence that a Collection Box Unit (CBU) has been installed atop a concrete slab, in accordance with the Corvallis post office's standards, and that its installation has been approved by the Corvallis

post office prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*

10. The road maintenance agreement for the internal subdivision roads shall state that other parcels that may have beneficial use of the internal subdivision roads shall be allowed to join as members of the agreement without the consent of the current members. The two common accesses shall be exempt from this requirement. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*

11. The internal subdivision roads shall be labeled as a "public road and utility easement" on the final plat. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*

12. Stop signs and road name signs shall be installed at the intersections of the internal subdivision roads with Corvallis Hills Drive and at the intersection of Corvallis Hills Drive with Mountain View Orchards Road prior to final plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety)*

13. The final plat shall show a no-ingress/egress zone along the Mountain View Orchards frontage of the subdivision, excepting the approved approaches to Corvallis Hills Drive and the two common accesses, as approved by the Ravalli County Road and Bridge Department.*(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health and Safety)*

14. Prior to final plat approval, the applicant shall construct an off-road bus shelter near the intersection of Corvallis Hills Drive and Mountain View Orchards Road. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety)*

15. Prior to final plat approval, the applicant shall construct a school bus turnout lane on the Mountain View Orchards Road frontage of the property, near the intersection of Corvallis Hills Drive with Mountain View Orchards Road. Alternatively, the applicant shall submit documentation from the Corvallis School District that states they do not require a turnout on the property. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services and Public Health & Safety)*

16. The applicant shall provide for an additional 5 feet of public road and utility easement along the Mountain View Orchards Road frontage of the subdivision on the final plat. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services)*

17. The applicant shall provide evidence that the entire cost of the mitigation efforts identified in the Traffic Impact Analysis submitted for the subdivision, estimated at a total of $5,341.00, has been paid to the Road and Bridge Department prior to final

plat approval. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Local Services & Public Health and Safety)*

18. The final plat shall show a 50-foot wide setback from the BRID Canal along the eastern boundary of the property. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Agricultural Water User Facilities & Public Health and Safety)*

19. The no-build alteration zones, as proposed by the developer on the preliminary plat, shall be shown on the final plat. *(Section 3-2-8(b)(v)(B), RCSR, Effects on Natural Environment & Wildlife and Wildlife Habitat)*

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

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

t. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
u. Lots and blocks designated by number (dimensions/acreage)
v. Easements/rights of ways (location, width, purpose, ownership)
w. Dedication for public use
x. No-build/alteration zones
y. No-ingress/egress zones
z. Water resources (rivers, ponds, etc.)
aa. Floodplains
bb. Irrigation canals including diversion point(s), etc.
cc. High-pressure gas lines
dd. Existing and new roads (names, ownership, etc.)
ee. Existing and proposed utility, irrigation, and drainage easements, as shown on the preliminary plat, shall be shown on the final plat.
ff. No-build/alteration zones shall be shown on the plat as shown on the preliminary plat.
gg. The internal subdivision roads shall be labeled as "public road and utility easements" on the final plat.
hh. The applicant shall provide for an additional 5 feet of public road and utility easement along the Mountain View Orchards Road frontage of the subdivision on the final plat.
ii. A 50-foot wide setback from the BRID Canal shall be shown along the length of the eastern property boundary.

3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
4. Any variance decisions shall be submitted with the final plat submittal.
5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
6. The final plat review fee shall be submitted with the final plat submittal.
7. Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
9. The DEQ Certificate of Subdivision Approval or RCEH approval shall be submitted with the final plat submittal.
10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
12. A copy of the appraisal report, per Section 6-1-7, dated no less than six (6) months from the date of submittal, for calculating the cash-in-lieu of parkland dedication and a receipt from the County Treasurers Office for the payment of cash-in-lieu of parkland dedication.

13. Road and Driveway approach and encroachment permits from RCRBD and/or MDOT as appropriate.
14. Evidence of Ravalli County approved road name petitions for each new road.
15. Engineering plans and specifications for all central water and sewer systems and any other infrastructure improvements requiring engineering plans.
16. Final Road Plans and Grading and Storm Water Drainage Plans for the internal roads shall be submitted with the final plat submittal.
17. Road certification(s).
18. Utility availability certification(s) shall be submitted with the final plat submittal.
19. A Road Maintenance Agreement, signed and notarized, shall be submitted with the final plat submittal.
20. Signed and notarized Master Irrigation Plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property.
21. A notarized statement from each downstream water user specifically authorizing any alteration, such as installation of culverts, bridges, etc., or relocation of an irrigation ditch.
22. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
23. Copies of permits issued by the Bitterroot Conservation District or the US Army Corps of Engineers when construction occurs on environmentally sensitive features shall be submitted with the final plat submittal.
24. A copy of the letter sent to the School District stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
25. Signed and notarized homeowner association documents, including bylaws, covenants, and/or declarations.
26. The applicant shall pay the pro rata share of the cost to improve the portion of Popham Lane and Mountain View Orchards Road leading to the subdivision prior to final plat approval. (Section 5-4-5(d), RCSR)
27. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2).
    a. Specific infrastructure improvements required for this subdivision are the installation of stop signs and road name signs at roadway intersections, installation of the CBU and concrete slab, school bus shelter at western property entrance, construction of the internal subdivision roads, chip-sealing Corvallis Hills Road, safety fencing along the BRID ditch, a water supply that meets the requirements of

the Corvallis Fire District (if cash is not contributed in lieu of), and installation of bus turnout, if required by the Corvallis School District.

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

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

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

Findings of Fact

1. Existing utilities are located along Mountain View Orchards Road and Corvallis Hills Road. (Orchard Hills Estates Subdivision Application)
2. The internal subdivision roads provide for 60-foot wide access and utility easements. (Orchard Hills Estates Subdivision Application)
3. A 10-foot wide existing utility easement is located along the northern property line of Lots 15 and 16. (Orchard Hills Estates Subdivision File)
4. *Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)*

Conclusion of Law

The proposed subdivision application provides for utility easements.

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

Findings of Fact

1. The subdivision is accessed by Popham Lane, Mountain View Orchards Road, Corvallis Hills Drive, and the internal subdivision roads. (Orchard Hills Estates Subdivision Application)
2. Popham Lane and Mountain View Orchards Road are County-maintained roads, which provide legal and physical access. (RCSR – Exhibit A)
3. Corvallis Hills Road is a non-County-maintained, County standard road within a public easement that provides legal and physical access. (Orchard Hills Estates Subdivision File)
4. The applicant provided evidence that Corvallis Hills Road meets county standards. The RCRBD accepted the evidence that the road conforms to the county's adopted design standards, with the exception of a chip-seal coat. The applicant is proposing and will be required to chip-seal Corvallis Hills Road prior to final plat approval. (Effects on Local Services, Final Plat Requirement 27, and Exhibit A-13)
5. Lots 16 through 19 are proposed to be accessed via two common accesses. The common accesses have been built, and have received final

approach permits from the Ravalli County Road and Bridge Department. (Orchard Hills Estates Subdivision File)

6. The applicant is required to pay the pro rata share of the cost to improve the portions of Mountain View Orchards Road and Popham Lane leading to the subdivision to meet County standards. The preliminary pro rata estimate included in the application projects that the applicant will be required to contribute approximately $57,373.81 in pro rata funds. (RCSR and Orchard Hills Estates Subdivision Application)
7. The applicant is proposing to construct the internal roads to meet County standards. (Orchard Hills Estates Subdivision Application)
8. The Road Department has granted preliminary approval of the road plans. (Exhibit A-12)
9. *To ensure legal and physical access to the subdivision, the following conditions and requirements shall be met:*
   - *The applicant is required to pay the pro rata share of the cost to improve the portions of Popham Lane and Mountain View Orchards Road leading to the subdivision prior to final plat approval. (Final Plat Requirement 26)*
   - *The applicant is required to submit final approval from the Road Department that the internal roads have been constructed to meet County standards prior to final plat approval. (Final Plat Requirements 1, 15, and 27)*
   - *To ensure legal access, the applicant shall provide for 60-foot wide public road and utility easements for all the internal roads on the final plat. (Final Plat Requirement 2)*

Conclusion of Law

With the requirements of final plat approval, legal and physical access will be provided via Popham Lane, Mountain View Orchards Road, Corvallis Hills Road, and the internal roads.

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

Finding of Fact

The applicant is required to submit evidence that the following improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval (Final Plat Requirement 27):

a. Specific infrastructure improvements required for this subdivision are the installation of stop signs and road name signs at roadway intersections, installation of the CBU and concrete slab, school bus shelter at western property entrance, construction of the internal subdivision roads, safety fencing along the BRID ditch, a water supply that meets the requirements of the Corvallis Fire District (if

cash is not contributed in lieu of), and installation of a bus turnout, if required by the Corvallis School District.

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that the improvements are installed.

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

Findings of Fact

1. 76-3-504(1)(j), MCA states that when a subdivision creates parcels with lot sizes averaging less than 5 acres, the subdivider is required to:
   (i) reserve all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserve and sever any remaining surface water rights from the land;
   (ii) if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement administered through a single entity that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
   (iii) reserve and sever all surface water rights from the land.
2. An intermittent stream, Dry Creek, runs through the southern portion of Lots 15 and 16. The applicant does not have the right to take water from Dry Creek. (Orchard Hills Estates Subdivision File)
3. There are water rights associated with the subject property delivered via the BRID Canal. (Orchard Hills Estates Subdivision File)
4. The average lot size for this proposal is approximately 4.3 acres. (Orchard Hills Estates Subdivision File)
5. The land to be subdivided is subject to a contract with the Bitterroot Irrigation District (BRID), which is a public entity formed to provide the use of water rights for subdivided and unsubdivided property. (Orchard Hills Estates Subdivision File)
6. The subdivider is proposing to distribute irrigation water to Lots 12 through 19, and has received approval from BRID for the split of the water rights. According to BRID, each lot will be allocated 1.6 to 2.0 irrigated acres of water. (Orchard Hills Estates Subdivision File)
7. *Condition 1 notifies individual lot owners of the right to take water from the irrigation easement within the property, and that they do not have the right to water from Dry Creek.*

Conclusion of Law

With the requirements of final plat approval and the mitigating conditions of approval, this prerequisite has been met.

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

Findings of Fact

1. 76-3-504(1)(k) MCA states that, except as provided in subsection (1)(k)(ii) (the proposal does not meet the criteria in this subsection), the subdivider is required to establish ditch easements in the subdivision that:
   (a) are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;
   (b) are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
   (c) prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
2. The BRID Canal is located adjacent to the east. It is located within a 100' right-of-way. (Orchard Hills Estates Subdivision File)
3. The applicant is proposing an irrigation pipe within a 10-foot wide irrigation easement extending from the BRID canal, which will provide irrigation water to Lots 12 through 19. (Orchard Hills Estates Subdivision File)
4. An existing 10-foot irrigation pipeline easement and an existing 20-foot buried pipeline easement traverses Lots 8, 9, 12, and 19. The applicant is not proposing to alter the existing pipelines, and does not have the right to take water from the pipelines. (Orchard Hills Estates Subdivision File)
5. A drainage ditch exists near the eastern property boundary, and will be located within a proposed 10-foot wide drainage ditch easement. The applicant does not have the right to take water from this drainage ditch. (Orchard Hills Estates Subdivision File)
6. An existing irrigation ditch traverses Lots 10 and 11. The applicant does not have the right to take water from this ditch. (Orchard Hills Estates Subdivision File)
7. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
8. *To ensure that the provisions of 76-3-504(1)(k) MCA are met, the following requirement and conditions shall be met prior to final plat approval:*
   - *The existing and proposed irrigation easements are required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*

- *A notification that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications document. (Condition 1)*
- *A notification that Lots 1 through 11 do not have the right to take water from any irrigation infrastructure shall be included in the notifications document. (Condition 1)*
- *The final plat shall show a 50-foot wide setback from the BRID Canal along the eastern boundary of the property. (Condition 18)*

Conclusion of Law

With the requirement and condition of final plat approval, this prerequisite will be met.

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

Findings of Fact

1. The application states that 1.66 acres are required to meet the parkland dedication requirement. (Orchard Hills Estates Subdivision File)
2. The applicant is proposing to donate cash-in-lieu of dedicating parkland. (Orchard Hills Estates Subdivision File)
3. In a letter dated April 15, 2007, the Ravalli County Park Board stated they preferred cash-in-lieu of parkland dedication. (Exhibit A-10)
4. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation." (See also Section 6-1-5(e), RCSR)
5. *The cash-in-lieu payment shall be made prior to final plat approval. (Final Plat Requirement 12)*

Conclusion of Law

The applicant has proposed parkland dedication that meets State Law and is suitable to the Park Board

G. Overall Findings and Conclusions on Prerequisite Requirements

There is adequate evidence to demonstrate compliance with each prerequisite to approval.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the

subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

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

Findings of Fact

1. The subdivision design as indicated on the preliminary plat meets the design standards in Chapter 5 of the RCSR. (Orchard Hills Estates Subdivision File)
2. This development proposal has followed the necessary application procedures and has been reviewed in compliance with Chapter 3 of the RCSR. (Orchard Hills Estates Subdivision File)

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The requirements for the application and review of this proposed subdivision have been met.

B. Applicable zoning regulations.

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). The application complies with Resolution 2038.
2. The property is not within one of the voluntary zoning districts in Ravalli County. (Orchard Hills Estates Subdivision File)

Conclusion of Law

This proposal complies with existing zoning regulations.

C. Existing covenants and/or deed restrictions.

Findings of Fact

1. There are existing covenants on the property. (Orchard Hills Estates Subdivision File)
2. The covenants prescribe basic land-use regulations, such as how small lots within proposed subdivisions may be. (Orchard Hills Estates Subdivision File)
3. The applicant has filed a covenant that will preclude the further subdivision of any of the lots created through this subdivision, once the final plat is filed. (Orchard Hills Estates Subdivision File)

Conclusion of Law

The proposal appears to comply with existing covenants.

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:
   - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
   - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
   - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
   - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
   - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. Prior to final plat approval, the applicants are required to submit permits and evidence that they have met applicable regulations. (Section 3-4-4(a), RCSR)

Conclusion of Law

With the requirements of final plat approval, the application will meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed major subdivision on approximately 81.57 acres will result in 19 lots that range in size from 2.00 acres to 9.52 acres. The property is located northeast of Corvallis off Mountain View Orchards Road. (Orchard Hills Estates Subdivision File)
2. The property is currently used for pasture land. (Orchard Hills Estates Subdivision File)
3. Parcels to the east and west are classified for tax purposes as farmstead rural, parcels to the south are classified for tax purposes as residential rural, and parcels to the north are classified for tax purposes as vacant land rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services and 2005 Aerial Photography created by the National Agricultural Imagery Program)
4. Roughly 36% of the property has updated soils information from the Web Soil Survey. The remainder is shown as being "NOTCOM" (or 'not completed'). However, the remainder of the soils are mapped on the 1959 *Special Soil Interpretations Report*. Refer to preliminary plat application for reference maps. (Web Soil Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS), and *Special Soil Interpretations Report*, published May 1959, Soil Conservation Service (NRCS))
5. According to the Web Soil Survey for Ravalli County, approximately 6.2% of the soils located on the property are categorized as "Prime farmland if

irrigated". (Orchard Hills Estates Subdivision Application and Web Soil Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))

6. Approximately 64% of the subject property has not been mapped by the Web Soil Survey (WSS). In lieu of the WSS data, the US Department of Agriculture, Soil Conservation Service's "Special Soil Interpretations Report", states that there are two agricultural types of soil on the property: soil type B3h, which is a farmland of statewide importance, and soil type B3g, which is prime farmland if irrigated. According to the 1959 map, the soils compose approximately 25% of the total property. Refer to the application for reference maps. (*Special Soil Interpretations Report,* published May 1959, Soil Conservation Service (NRCS))
7. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Common Tansey and Spotted Knapweed were scattered on the property. (Orchard Hills Estates Subdivision Application)
8. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
9. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
   - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
   - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
   - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on agriculture.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. The property has water rights from the Bitterroot Irrigation District (BRID). (Orchard Hills Estates Subdivision Application)
2. The subdivider is proposing to distribute irrigation water to Lots 12 through 19, and has received approval from BRID for the split of the water rights.

According to BRID, each lot will be allocated 1.6 to 2.0 irrigated acres of water per lot. (Orchard Hills Estates Subdivision Application)

3. The BRID Canal is located along the eastern boundary of the subject property. (Orchard Hills Estates Subdivision File)
4. The diversion point from the BRID canal is located at the eastern point of the common boundary of Lots 9 and 10. From this point, a proposed pipeline located within a 10-foot wide easement will traverse the property to serve Lots 12 through 19. (Orchard Hills Estates Subdivision File)
5. In a letter dated March 18, 2008 and subsequent phone conversation on March 24, 2008, John Crowley, BRID manager, stated that the BRID canal is prone to seepage and requires regular maintenance, including the use of heavy equipment. Mr. Crowley requested that construction activities not be located within 50 feet of the canal, which will provide necessary room for equipment to perform maintenance. (Exhibits A-6 and A-7, Effects on Public Health and Safety)
6. Mr. Crowley requested that the developer install a safety fence along the toe of the canal for the entire length of the property, and that homes be set back 50 feet from the toe of the ditch. (Final Plat Requirement 27, and Exhibits A-6 and A-7)
7. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agricultural water user facilities:*
   - *All existing and proposed irrigation and drainage easements are required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
   - *A notification and covenant stating that the placement of structures or the planting of vegetation other than grass is prohibited without the written permission of the ditch owner shall be included in the notifications and covenants document. (Conditions 1 and 2)*
   - *A notification and covenant stating that Lots 1 through 11 do not have the right to take water from any irrigation infrastructure shall be included in the notifications and covenants document. (Conditions 1 and 2)*
   - *The final plat shall show a 50-foot wide setback from the BRID Canal along the eastern boundary of the property. Additionally, a statement in the notifications document and a covenant about the construction setback shall be included in the notifications and covenants document. (Conditions 1, 2, and 18)*
   - *Installation of safety fencing along the BRID ditch. (Final Plat Requirement 27)*
   - *The covenants shall include a provision detailing the maintenance of the safety fence along the BRID canal. (Condition 2)*

Conclusion of Law

With the mitigating conditions of approval and requirements of final plat approval, there will be minimal impacts on agricultural water user facilities.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire Department

1. The subdivision is located within the Corvallis Rural Fire District. (Orchard Hills Estates Subdivision File)
2. The Fire District was notified of the proposal, but no comments specific to this subdivision have been received to date. (Orchard Hills Estates Subdivision File)
3. The All Valley Fire Council, which includes the Corvallis Rural Fire District, has adopted Fire Protection Standards (outlined in document from the Hamilton Rural Fire District) that address access, posting of addresses, and water supply requirements. (Exhibit A-5)
4. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
   - *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
   - *The covenants shall include a recommendation that houses within this subdivision be built to International Residential Building Code (IRBC) building standards. (Condition 2)*
   - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*
   - *Prior to final plat approval, the subdividers shall provide a letter from the Corvallis Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a $500-per-lot contribution has been made to the Corvallis Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
   - *The following statement shall be shown on the final plat: "The All Valley Fire Council, which includes the Corvallis Rural Fire District, has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Corvallis Rural Fire District for further information". (Condition 6)*

School District

5. The proposed subdivision is located within the Corvallis School District. (Orchard Hills Estates Subdivision File)
6. It is estimated that nine to 10 school-aged children will be added to the Corvallis School District, assuming an average of 0.5 children per household. (Census 2000)
7. The applicant is proposing to contribute $250 per lot to the School District, upon the first conveyance of each lot. (Orchard Hills Estates Subdivision File)
8. Notification letters were sent to the Corvallis School District requesting comments on February 13, 2007 and March 3, 2008. (Orchard Hills Estates Subdivision File)

9. In a letter received March 13, 2008 (Exhibit A-1), Daniel Sybrant, Corvallis Schools Superintendent, stated that new subdivisions "certainly create additional costs to this school district". Additionally, he stated the following:
   (a) The recently completed impact fee study for the Corvallis School District indicates that $6800.00 per lot is requested to offset the costs to capital facilities.
   (b) That the BCC should negotiate a fair fee with developers that will help offset the actual costs of educating additional children.
   (c) That bus turnouts as well as shelters for students to stand under in inclement weather be installed where appropriate.
10. Even though the Corvallis School District has completed an impact fee study, Ravalli County has not adopted impact fees to date. The County cannot request a contribution for capital expenses until an impact fee has been adopted. (MCA 7-6-1603)
11. In his March 13, 2008 letter, Mr. Sybrant includes the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. According to the document, the tax levy per pupil, excluding capital, would be $5,808 for the Corvallis School District. (Exhibits A-1 and A-3)
12. *Staff recommends that the applicant negotiate a contribution with the BCC, in consultation with the Corvallis School District, if possible, to mitigate potential impacts of the additional students on the School District. (Condition 7 and Final Plat Requirement 24)*

Public Safety

13. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Orchard Hills Estates Subdivision File)
14. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on February 13, 2007 and March 3, 2008, but no comments have been received from the Sheriff's Office. (Orchard Hills Estates Subdivision File)
15. This proposed subdivision is located approximately 11 miles from the Sheriff dispatch in Hamilton. (Orchard Hills Estates Subdivision File)
16. The average number of people per household in Ravalli County is 2.5. (Census 2000)
17. This proposal will add approximately 48 people to Ravalli County. (Census 2000)
18. The applicant is not proposing a contribution to the Sheriff's Office, E-911, or the Department of Emergency Services for the potential 48 additional people. (Orchard Hills Estates Subdivision File)
19. To mitigate impacts on Ravalli County Public Safety Services, the subdivider shall submit a (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into an account for Public Safety Services (Sheriff, E-911, DES) prior to final plat approval. (Condition 8)

Roads

20. There are 19 proposed residential lots within this subdivision. It is estimated at build-out that this subdivision could generate a total of 152 vehicular trips per day, assuming eight trips per day per lot. (Orchard Hills Estates Subdivision File)

21. Popham Lane and Mountain View Orchards Road, County maintained roads, provides access to the site. (Orchard Hills Estates Subdivision File and Ravalli County GIS Data)
22. According to a November 2005 pro-rata estimate, there are 332 average daily vehicular trips (ADT) on Mountain View Orchards Road past the subdivision site. The ADT that may result from this subdivision has the potential to increase traffic volume on Mountain View Orchards Road by 46%. (Staff Determination)
23. Because the subdivision has the potential to generate traffic greater than 25% of the current traffic volume on Mountain View Orchards Road, the applicant was required to and did complete a Traffic Impact Analysis for the subdivision. (Orchard Hills Estates Subdivision File)
24. Mitigation identified by the applicant and agreed to by David Ohnstad, Ravalli County Road and Bridge Department Supervisor, includes the installation of advance warning signs, and the striping of portions of Mountain View Orchards Road. The total cost of the expected mitigation is $5,341.00 and will be assessed in addition to the pro-rata payment. (Orchard Hills Estates Subdivision File)
25. The applicant is required to pay pro rata towards improving Popham Lane and Mountain View Orchards Road. (Section 5-4-5, RCSR)
26. The preliminary pro rata estimate included in the application projects that the applicant will be required to contribute approximately $57,373.81 in pro rata funds. (RCSR and Orchard Hills Estates Subdivision Application)
27. Corvallis Hills Road is a non-County maintained road that meets current County road standards. (Orchard Hills Estates Subdivision File and Exhibit A-13)
28. The applicant is proposing to apply a chip-seal coat to the surface of Corvallis Hills Road from Mountain View Orchards Road to the BRID ditch. The chip-sealing is required to bring Corvallis Hills Road to full county standards. The chip-seal shall be completed prior to final plat approval. (Orchard Hills Estates Subdivision File, Final Plat Requirement 27, and Exhibit A-13)
29. There is a proposed Road Maintenance Agreement for the internal roads, Spartan Lane, Corvallis Hills Road, and Empire Court, and a proposed common access maintenance agreement for the two common accesses off Mountain View Orchards Road. (Orchard Hills Estates Subdivision File)
30. There are properties to the east that use Corvallis Hills Road for access to their property. Property owners of the properties to the east will continue to be able to utilize Corvallis Hills Road, and should be allowed to join the Road Maintenance Agreement for Corvallis Hills Road if they desire, without the consent of this subdivider. (Ravalli County GIS Data and RCSR Section 5-4-4(d))
31. The applicant is proposing stop signs and road name signs at the intersection of Spartan Lane with Corvallis Hills Drive, and at the intersection of Empire Terrace with Corvallis Hills Drive, but does not appear to be proposing stop and road name signs at the intersection of Corvallis Hills Drive with Mountain View Orchards Road. (Orchard Hills Estates Subdivision File)
32. The road plans for the internal subdivision roads have received preliminary approval from the Ravalli County Road and Bridge Department. (Exhibit A-12)

33. The existing easement for Mountain View Orchards Road is 50 feet. (Orchard Hills Estates Subdivision File)
34. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
    - *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)*
    - *Prior to final plat approval, evidence of a Ravalli County approved road name petition for the new roads shall be provided. (Final Plat Requirement 14)*
    - *Final Road Plans and Grading and Storm Water Drainage Plans for the internal roads shall be submitted with the final plat submittal. (Final Plat Requirement 16)*
    - *A Road Maintenance Agreement shall be signed, notarized, and submitted for the internal roads and common accesses. (Final Plat Requirement 19)*
    - *A notification of the Road Maintenance Agreement for the internal roads and common accesses shall be included in the notifications document filed with the final plat. (Condition 1)*
    - *The Road Maintenance Agreement shall state that other parcels that may have beneficial use of the roads shall be allowed to join as members of the agreement without the consent of the current members. (Condition 10)*
    - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
    - *Stop signs and road name signs shall be installed at the intersection of Spartan Lane with Corvallis Hills Drive, at the intersection of Empire Terrace with Corvallis Hills Drive, and at the intersection of Corvallis Hills Drive with Mountain View Orchards Road. (Condition 12)*
    - *The easements for the internal subdivision roads shall be labeled as public road and utility easements on the final plat. (Condition 11 and Final Plat Requirement 2)*
    - *The final plat shall show a no-ingress/egress zone along the Mountain View Orchards frontage of the subdivision, excepting the approved approaches to Corvallis Hills Drive and the two common accesses, as approved by the Ravalli County Road and Bridge Department.(Condition13 and Final Plat Requirement 2)*
    - *A notification of this limitation of access will be included in the notifications document. (Condition 1)*
    - *The applicant shall submit the final approved approach permits from the Ravalli County Road and Bridge Department prior to final plat approval. (Final Plat Requirement 13)*
    - *Prior to final plat approval, the applicant shall construct an off-road bus shelter near the western intersection of Corvallis Hills Drive with Mountain View Orchards Road and the internal subdivision road. (Condition 14)*

- *Prior to final plat approval, the applicant shall construct a school bus turnout lane on the Mountain View Orchards Road frontage of the property. Alternatively, the applicant shall submit documentation from the Corvallis School District that states they do not require a turnout on the property. (Condition 15)*
- *The applicant shall provide for an additional 5 feet of public road and utility easement along the Mountain View Orchards Road frontage of the subdivision on the final plat, as measured from the south property boundary. (Condition 16)*
- *The applicant shall provide evidence that the entire cost of the mitigation efforts identified in the Traffic Impact Analysis submitted for the subdivision, estimated at a total of $5341, has been paid to the Road and Bridge Department prior to final plat approval. (Condition 17)*

Ambulance Services

35. Ambulance services will be provided by either Marcus Daly Memorial Hospital EMS Department or Missoula Emergency Services. Marcus Daly and Missoula Emergency Services were contacted, but no comments have been received to date. (Orchard Hills Estates Subdivision File)
36. *To mitigate impacts on emergency services, the subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

Water and Wastewater Districts

37. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Orchard Hills Estates Subdivision File)

Solid Waste Services

38. Bitterroot Disposal provides service to this site. (Orchard Hills Estates Subdivision File)
39. Notification letters were sent to Bitterroot Disposal requesting comments on February 13, 2007 and March 3, 2008, but no comments have been received. (Orchard Hills Estates Subdivision File)

Mail Delivery Services

40. In a letter dated June 8, 2007 and subsequent email dated June 29, 2007, the United States Postal Service requested that the applicant install a Collective Box Unit (CBU) to receive mail, and a concrete slab to place the CBU upon. (Exhibit A-4)
41. *To mitigate impacts on local services, the applicants shall install the concrete slab and CBU, and provide evidence of its approval by the Corvallis post office prior to final plat approval. (Condition 9)*

Utilities

42. The proposed subdivision will be served by Northwestern Energy and Qwest Communications. Utility companies have been notified of the proposed subdivision. (Orchard Hills Estates Subdivision File)
43. Notification letters were sent to the utility companies requesting comments on February 13, 2007 and March 3, 2008. (Orchard Hills Estates Subdivision File)

44. *The following requirements will mitigate impacts of the subdivision on local utilities:*
    - *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
    - *The applicant shall submit utility availability certifications from Northwestern Energy and Qwest Communications prior to final plat approval. (Final Plat Requirement 18)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. In an email dated January 10, 2007, the Montana Department of Environmental Quality (DEQ) identified the Hamilton and Missoula areas as communities with a high probability of failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. There are no gravel roads accessing the subdivision. (Exhibit A-9)
2. The Montana DEQ has identified that burning sources – such as fireplaces and wood stoves – are the most common sources of particulate matter (PM-10 and PM-2.5). The smaller PM-2.5 particles, often referred to as "fine particulates," are easily inhaled and can cause tissue damage, emphysema, bronchitis, and cardiovascular complications. Children, seniors, and individuals with pre-existing respiratory diseases are most susceptible to these health risks. (Montana DEQ Citizens Guide to Air Quality in Montana http://www.deq.mt.gov/AirMonitoring/citguide/understanding.asp)
3. *To mitigate impacts on air quality, the covenants shall include a provision recommending that homeowners refrain from installing wood stoves. (Condition 2)*

Ground/Surface Water

4. The intermittent stream, Dry Creek, and its associated vegetation, traverses the southern portion of Lots 15 and 16. The applicant does not have the right to take water from Dry Creek. The developer is proposing a no-build/alteration zone from the top of the slope on Lots 15 and 16 to the southern property boundary. Because Dry Creek is an intermittent stream that drains less than 15 square miles, a floodplain analysis was not required to be completed. (Orchard Hills Estates Subdivision File)
5. The BRID canal borders the property on the east. An existing diversion is located at the easternmost point of the common boundary of Lots 9 and 10, which will provide Lots 12 through 19 with irrigation water. (Orchard Hills Estates Subdivision File)
6. The applicants are proposing individual wells and wastewater treatment facilities for all Lots. The applicants submitted water and sanitation information per MCA 76-3-622 for the proposed systems. (Orchard Hills Estates Subdivision File)

7. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Exhibit A-11, MCA 76-3-622)
8. *The following conditions and requirements shall be met prior to final plat approval:*
   - *The applicant is required to submit a final DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*
   - *The no-build alteration zones as proposed by the developer on the preliminary plat shall be shown on the final plat. (Condition 19)*
   - *A notification of the no-build/alteration zones shall be included in the notifications document, and a covenant pertaining to the no-build/alteration zones shall be included in the covenants document. (Conditions 1 and 2)*

Light Pollution

9. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association, www.darksky.org)
10. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

Vegetation

11. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated Common Tansey and Spotted Knapweed were scattered on the property. (Orchard Hills Estates Subdivision Application)
12. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (Willoughby Estates Subdivision Application).
13. The applicant has identified that wetland vegetation may be supported in the southern portion of Lots 15 and 16. (Orchard Hills Estates Subdivision File)
14. The applicant is proposing no-build/alteration zones along areas delineated as having slopes in excess of 25%. (Orchard Hills Estates Subdivision File)
15. There are scattered cottonwood trees and shrubby vegetation located along the stretch of Dry Creek as it traverses the property. The preliminary plat indicated that wetlands may also be located within this area. The developer is proposing a no-build/alteration zone from the top of the slope on Lots 15 and 16 to the southern property boundary. (Orchard Hills Estates Subdivision File)
16. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
17. *To mitigate impacts on the natural environment, the following conditions and requirements shall be met:*

- *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
- *A notification of the no-build/alteration zones shall be included in the notifications document, and a covenant pertaining to the no-build/alteration zones shall be included in the covenants document. (Conditions 1 and 2)*
- *The no-build alteration zones as proposed by the developer on the preliminary plat shall be shown on the final plat. (Condition 19)*

Archaeological Resources

18. There are no known sites of historical significance on the property. (Willoughby Estates Subdivision Application)
19. *To mitigate possible impacts on any potential sensitive historical, cultural, archaeological, paleontological, and/or scenic sites, the following statement shall be included in the covenants: "If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the developer will contact the State Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (Condition 2)*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

10. FWP has not yet commented on the proposal, but has recommended living with wildlife covenants for other subdivisions in the past. (FWP)
11. Planning staff contacted MFWP on March 14, 2008 to ascertain whether they would be commenting on the proposal. In an email response dated March 18, 2008, Sharon Rose, FWP employee, stated they may make comments in the future. Planning staff again contacted FWP on April 7 to determine whether comments would be submitted. As of the date of the issuance of this staff report, no comments have been received. (Exhibit A-16)
12. In a letter dated February 15, 2007, the Montana Natural Heritage Program found that there were no species of concern within the same sections as the subject property (Exhibit A-8).
13. Map 2 shows the elk winter range boundaries in relation to Orchard Hills Estates at a scale of 1:250,000. The data was created by FWP and the Rocky Mountain Elk Foundation at a scale of 1:250,000 and should not be used at a larger scale (zoomed in closer to Orchard Hills Estates). At this scale, the property appears to be located on the periphery of the winter range.

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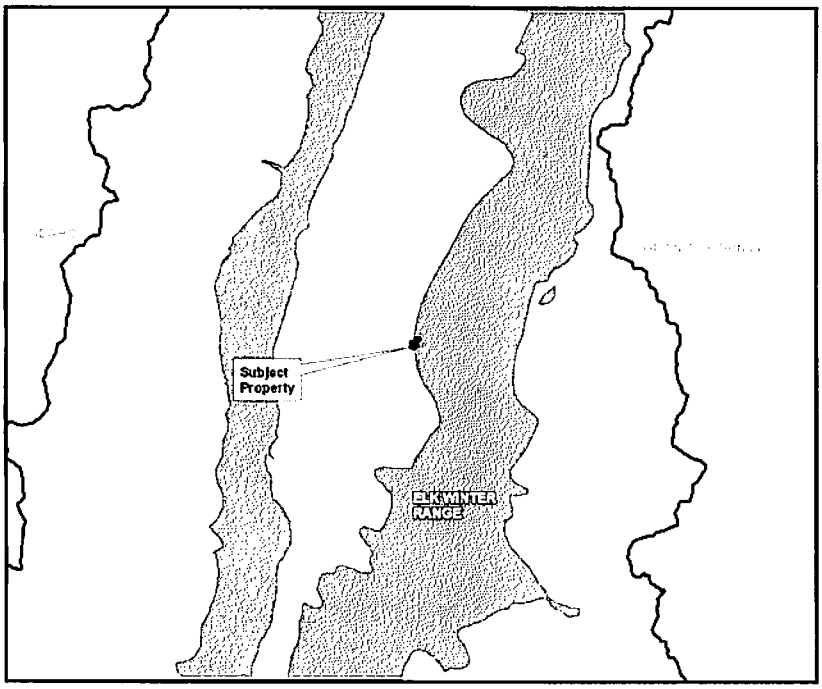

Map 2: Elk Winter Range
(Source Data: FWP)

14. *To mitigate impacts on wildlife, the following conditions shall be met:*
    - *The covenants shall include a living with wildlife section. (Condition 2)*
    - *A notification of the no-build/alteration zones shall be included in the notifications document. (Condition 1)*
    - *A covenant regarding the no-build/alteration zones shall be included in the covenants document. (Condition 2)*
    - *The no-build alteration zones as proposed by the developer on the preliminary plat shall be shown on the final plat. (Condition 19)*

Conclusion of Law:

With the mitigating conditions of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off Mountain View Orchards Road, Corvallis Hills Road, and the internal subdivision roads. (Orchard Hills Estates Subdivision Application)

2. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

3. The proposed subdivision will be served by the Stevensville Rural Fire Department, the Ravalli County Sheriff's Office, Ravalli County E-911, the Ravalli County Department of Emergency Services, Missoula Emergency Services, and Marcus Daly Memorial Hospital EMS Department. (Orchard Hills Estates Subdivision Application)
4. *The requirements and conditions listed under Fire District, Law Enforcement and County Emergency Services, Ambulance Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

5. The applicants are proposing individual wells and wastewater treatment facilities for all Lots. The applicants submitted water and sanitation information per MCA 76-3-622 for the proposed systems. (Orchard Hills Estates Subdivision File)
6. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Exhibit A-11, MCA 76-3-622)
7. *The applicant is required to submit a final DEQ Certificate of Subdivision Approval prior to final approval. (Final Plat Requirement 9)*

Natural and Man-Made Hazards

8. According to a document titled "Radon and You, Promoting Public Awareness of Radon
   in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
9. The BRID canal is located along the entire eastern property boundary. In a letter dated March 18, 2008 and subsequent phone conversation on March 24, 2008, John Crowley, BRID manager, stated that BRID has concerns over children using the canal for recreation. A siphon is located approximately ¼ mile downstream and could endanger individuals using the ditch for recreation. In addition, Mr. Crowley stated that the BRID canal is prone to seepage and requires regular maintenance. Homes built too close to the toe of the canal could be endangered if the canal was to wash out. (Exhibits A-6 and A-7)
10. Mr. Crowley requested that the developer install a safety fence along the toe of the canal for the entire length of the property, and that homes be set back 50 feet from the toe of the ditch. (Exhibits A-6 and A-7)
11. According to the Web Soil Survey for Ravalli County, there are soils rated as "very limited" for building and road construction. (Orchard Hills Estates Subdivision Application and Web Soil Survey, U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS))
12. Approximately 66 acres of the subject property have not been mapped by the Web Soil Survey (WSS). In lieu of the WSS data, the US Department of Agriculture, Soil Conservation Service's "Special Soil Interpretations Report", states that there is one type of soil rated as severe for building and road

construction. (*Special Soil Interpretations Report*, published May 1959, Soil Conservation Service (NRCS))

13. *To mitigate the impacts of this subdivision on public health and safety, the following conditions and requirements shall be met:*
    - *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
    - *The covenants shall include a statement regarding radon exposure. (Condition 2)*
    - *Safety fencing shall be installed along the toe of the canal on the entire eastern property boundary. (Final Plat Requirement 27)*
    - *A 50-foot construction setback shall be shown along the length of the eastern property boundary. (Condition 18)*
    - *A notification of the construction setback shall be included in the notifications document. (Condition 1)*
    - *A covenant regarding the construction setback shall be included in the covenants document. (Condition 2)*
    - *The covenants shall include a provision detailing the maintenance of the safety fence along the BRID canal. (Condition 2)*
    - *Notifications of the "very limited" and "severe" soils in question shall be included in the notifications document. (Condition 1)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

Commissioner Chilcott opened public comment.

Representative Renee Harding stated they agree with the Planning Staff Report. She stated the developer set aside 14 acres in no build-alteration zones to protect wildlife habitat. Commissioner Thompson stated he believes it may work in there however he questioned the natural resources and agricultural interests. Renee replied it is for the park land dedication. Regarding the schools, they have received comment from Corvallis School District and they did recommend a bus turn out and a shelter. **They are proposing $500 per new lot (11 lots) for school district payable upon first conveyance.** Renee stated since 6 of the lots are already paying taxes, the mitigation would be for the 13 new lots. Also they are proposing **$500 per lot payable upon first conveyance for the fire district.** She stated in the past developers proposed **$250 per lot for mitigation for the agricultural land loss for 11 lots and $500 per lot for two lots payable upon first conveyance; $250 per lot to Sheriff's Department and $200 per lot to the general fund both payable upon first conveyance. She stated they are also proposing an additional 5 feet of easement on Mountain View Orchards Road totaling 55 feet.**

Commissioner Chilcott called for any other comments, hearing none, then closed public comment. He opened Board deliberations.

Commissioner Thompson stated where the cul de sac is there are two homes and one of them on Lot 15. The other home is not part of the subdivision but accesses off of Spartan Lane. He questioned in the Staff Report about a four foot gravel path being paved. John replied that the Planning Board decided not to pave it due to people riding horses. Commissioner Thompson stated there is a 60 foot easement on south side of Corvallis Road with a walking path. He asked about the gravel pit and septic. Ron replied the septic system has been designed to be outside of the gravel pit. Commissioner Thompson questioned Empire Terrace being paved. Willie Schrock stated it goes from the Orchards up to the subdivision. Commissioner Thompson questioned the BRID canal and request for fencing to protect children. John replied it is a requirement and it will be a standard fence. Commissioner Thompson discussed the letter from FWP for lot 16. John replied he spoke with FWP and they recommended building be pushed to the North of the lot with a building envelope around Lot 15 existing structure. Commissioner Thompson asked if the south of lot 15 needs protection as well. John replied that the whole south of the ridge was proposed as a no build/alteration zone. He suggested making it clear as to be a no build/alteration zone.

Commissioner Driscoll requested clarification for the park land dedication. John replied Park Board recommended cash in lieu. State law does allow use of a no build/alteration zone instead of cash in lieu. John referenced a previous subdivision, Adams Acres, where the Commissioners had accepted some cash in lieu, and some habitat protection via no-build/alteration zones, and suggested they consider the same here. Commissioner Chilcott stated that State law indicates with parcels of 5 acres or greater, no park land dedication is required. John replied that that was correct, but there are several parcels in the subdivision smaller than five acres, and so the parkland dedication was based off those lots. Dan Wilcox asked Commissioner Driscoll if she would be willing to take into consideration of the land they are willing to set aside. Commissioner Driscoll replied yes she will consider it. Commissioner Chilcott stated he looks at the original mission of the Park Board and the subdivision relationship with areas for children to recreate. With the size of these lots, they would provide those areas without strain to the county park system. The state should offer some kind of compensation for what they consider winter game range. Commissioner Driscoll stated she disagrees. Commissioner Driscoll stated with a collector park, she understands why they put in to it. Willy stated these are high dollar lots and homes and doesn't believe there is going to be many children. Commissioner Driscoll argued there is a need for a bigger park for children to play in. Dan Wilcox asked how that would be done. Further discussion followed regarding using the original appraisal or needing a new one. Commissioner Driscoll stated she would like to see a new appraisal. **Willie stated he is willing to settle with $15,000 for cash in lieu, and still keep the original no-build/alteration zones for wildlife habitat.**

Commissioner Driscoll questioned the road count and the capacity. Howard Anderson replied 4,000 trips per day. He stated with Corvallis Hills Road, there are a lot of people who home school or work from home, reducing the trips per day. One family hauls all the kids down to the school bus and one family hauls them back. The bus picks up at Mountain View and Corvallis Road. Commissioner Driscoll asked about the bus shelter and turn around. **Willie replied if the school wants the shelter, they will do it.**

Commissioner Driscoll questioned the water with wells. Willie replied they have three wells at 18, 20 plus and 35 gallons per minute. They will not having any problems finding good water up there. Howard stated the well logs show 15 gallons per minute minimum. There is a good quantity of water. He remembers there was a problem with wells up there at one time but that was the wells not the quantity of water. Commissioner Driscoll stated people are not going to buy a place if water is not available. She wants to make sure there are good wells. Willie stated problems with wells exist further south, not on this property.

Commissioner Chilcott asked about paying the fire department upon first conveyance. His concern is that once the construction starts, the fire department has exposure. He would like to see the fire contribution paid upon final plat instead. **Willie agreed the fire contribution of $500 per lot be payable upon final plat.**

Commissioner Thompson questioned the diversion point from the BRID ditch and the pipeline with a 10 foot wide easement with lot 9 and lot 10. Willie replied they have talked to BRID for water on Lots 12 & 19. John stated the diversion is actually on Lots 9 & 10 and comes down.

Commissioner Driscoll asked about John Daly asking people to back off on water usage. Reference Exhibit B-2 of the staff report. Renee stated the water rights will be transferred to the lots. BRID does not give extra rights to lots. Dan replied not all lots have irrigation rights. Willie stated the water has always gone to the lower lots, so that is why they are keeping the rights on Lots 12 through 19. He stated they are working to keep the water clean. Commissioner Chilcott stated the water coming down the ditch belongs to the ditch owner. Commissioner Driscoll discussed recharging the wells. She asked about the apple orchards. Dan replied they are above the ditch on the eastern side.

Commissioner Driscoll questioned about the wildlife corridor. John replied FWP is OK with building envelopes in the north of Lots 15 and 16 and no-build zones on the Dry Creek area. Commissioner Driscoll questioned the wells and the stopping point. Howard stated the people talking about 2 gallons per minute do not have a well log. Ron stated the new homes built on the property are yielding 35 gallons per minute. Renee stated deepening a well is not considered a hardship. John commented he has seen cases where one subdivision will pull 5 to 6 gallons per minute and the subdivision next door will pull 35 gallons per minute. It is ultimately up to DEQ to review quality and quantity for final DEQ approval. He would recommend leaving it up to the experts. Ron stated all they can work with is the available data. No one can guarantee when you buy a lot there will be water. He gave an example of using a tank to fill up with water for those instances of where they draw 4 gallons per minute. Commissioner Driscoll stated her concern with changing the area of agricultural users without residential people getting water for irrigation. Commissioner Chilcott asked if they are talking about agricultural water users or residential water users. Commissioner Driscoll stated she is trying to weigh putting in a subdivision and how that will impact agricultural land. Commissioner Chilcott stated his opinion they are talking about agricultural users and share holders. The domestic

wells make it a beneficial use but are they not entitled to it. That water will be absorbed and recharged to a more efficient water system. Further Board discussion followed regarding domestic water users versus agricultural users.

Dan stated everyone received a public notice. The only landowner who responded was the one up on a shelf from the subdivision. Commissioner Chilcott stated DEQ will make that determination of the water quantity. Howard stated the wells are lined with bentonite and went through a hydrologist in Helena. She looked at the whole surrounding area and issued an approval. His guess was if they detected a shallow well, they wouldn't have issued approval. Willie replied it is dry land already and they will irrigate with the 30 gallon per minute wells.

Commissioner Chilcott asked for any other Board deliberation, hearing none, then closed Board deliberation.

Criteria One: Effects on Agriculture: Commissioner Chilcott stated he agrees with the findings of fact from the Staff Report. Commissioner Thompson questioned the offered mitigation for agricultural land loss. Renee replied the offer is $250 per lot for non-prime agricultural land and $500 per lot for prime agricultural land. Dan requested the commissioners take into consideration of the existing 6 lots. He requested paying mitigation only on the new 13 lots. Commissioner Chilcott questioned the lot to the south and its acreage. Willie replied it is 15 acres. **After brief Board discussion, is was agreed to mitigate lots at $500 per lot for two lots and $250 for the remaining 11 lots payable upon first conveyance to the Open Lands Program for a total of $3,750 with CPI.**

All Commissioners voted non-significant.

Criteria Two: Effects on Agricultural Water Users: **All Commissioners voted non-significant.**

Criteria Three: Effects on Local Services: Commissioner Driscoll requested CPI on all first conveyance mitigation. Willie agreed. Commissioner Driscoll questioned the walk paths. Renee replied there is a five foot easement. Commissioner Chilcott stated the five foot easement is to widen the 50 foot easement. Commissioner Driscoll asked about the contribution to Public Safety (Sheriff's Department) being considered for all 13 lots. Dan offered mitigation of $500 per lot on all 13 lots with CPI payable upon first conveyance for Public Safety. Dan offered mitigation of $500 per lot on all 13 lots with CPI payable upon first conveyance to the School District. They offered $200 per lot for effects on general funds with CPI payable upon first conveyance. $15,000 for park land cash in lieu payable upon final plat. No build/alteration zone on the south of lots 15 and 16. Building envelopes on the northern portions of Lots 15 and 16. Commissioner Driscoll requested that the water availability concerns be noted. **All Commissioners voted non-significant.**

Criteria Four: Effects on Natural Environment: All Commissioners voted non-significant.

Criteria Five: Effects on Wildlife and Wildlife Habitat: All Commissioners voted non-significant.

Criteria Six: Effects on Public Health and Safety: All Commissioners voted non-significant.

Commissioner Chilcott requested an overall vote. **All Commissioners voted non-significant.**

John recapped the mitigation:
$500 per lot payable to the fire district upon final plat; $500 for 13 lots for the school district payable upon first conveyance with CPI; $500 per lot on all 13 lots with CPI payable upon first conveyance for Public Safety; $200 per lot for general funds with CPI payable upon first conveyance; $500 per lot for two lots and $250 for the remaining 11 lots payable upon first conveyance to the Open Lands Program for a total of $3,750 with CPI; $15,000 for park land cash in lieu payable upon final plat; No build/alteration zone on the south of lot 15, building envelopes on the north of Lots 15 and 16, and the water availability concern be noted.

Commissioner Driscoll made a motion to approve Orchard Hills Estates Major Subdivision based on the findings of fact and conclusions of law in the Planning Staff Report and subject to the conditions in the Planning Staff Report and as mitigated here today. Commissioner Thompson seconded the motion. All voted 'aye'.

► Commissioner Chilcott attended a RCEDA meeting in the afternoon.

► The Board met for an interview of an applicant for the Open Lands Board.

► Commissioner Driscoll attended a Planning Enhancement Project meeting & update in the afternoon.