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TO: Flathead County Planning Board

FROM: Mark Mussman, CFM, Director 

DATE: March 30, 2016

RE: FRTA-16-01: Revisions to the Flathead County Floodplain and Floodway Management Regulations

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The Flathead County Floodplain and Floodway Regulations consist of local requirements for any development located in a Special Flood Hazard Area (SFHA) as identified on the Flood Insurance Rate Map (FIRM) for the County. As the Planning Board may recall, Flathead County adopted new FIRM panels late last year as a result of additional detailed studies to some of the County's flood hazard areas. One result of officially adopting these new FIRM panels is that the Department of Natural Resources and Conservation gave Flathead County one year to revise the floodplain regulations so they are more in line with the State's model regulations.

Floodplain regulations are different from any other land use regulation administered by this office due to the fact that our local regulations are required to meet minimum State and Federal requirements, and they are reviewed by State and Federal officials to ensure minimum requirements have been achieved. The State of Montana has enacted regulatory standards that are higher than the minimum Federal requirements. Flathead County does have the option to adopt even higher regulatory standards; however, in this case, the draft revisions that are attached for your review meet but do not exceed the standards enacted by the State.

I have attached a draft of the proposed revisions for your review. Because the changes are extensive, I was not able to track the changes that typically occur with regulation revisions. The text that is not highlighted in yellow is the exact language from the State model regulations. The text that is highlighted in yellow are additions staff feels are necessary to clarify and try to develop a document that is both effective and efficient to understand and administer. I have provided brief comments on the right hand margin, explaining the reasoning behind the additional language.

You should find the draft mirrors the State's model regulations in most instances. The section with the most additions deals with definitions. The regulations deal with certain terms that the State model neglected to define. Staff thought it necessary to add definitions to these somewhat technical terms.

In an attempt to inform various key stakeholders of future changes to the County's floodplain regulations, I was invited to speak to the Flathead River Commission on March 21, 2016. After lengthy and productive discussion, the Commission will recommend to the Planning Board that no staff additions to the State model be made and would request the Planning Board to make a favorable recommendation to the County Commissioners to adopt the State model as written without any of the proposed additions proposed by staff.

As previously mentioned, local floodplain regulations are required to be reviewed and approved by DNRC. Staff provided a copy of the proposed revision to DNRC on February 16, 2016. To date, the Department has not received any comments, but we certainly anticipate receiving comments prior to the Planning Board hearing on April 13, 2016. It is important to note that the vast majority of the proposed language in the revised regulations comes directly from the State's model.

Attached you will find the draft revision to the floodplain regulations for your review. Staff recommends the Planning Board forward a positive recommendation to the Board of Commissioners with the following findings:

1. The revised regulations are made in accordance with the Flathead County Growth Policy, specifically Goal G.10: Restrict development on lands that pose an unreasonable risk to the public health, safety and general welfare of all Flathead County residents; Goal G.38: Preserve and protect floodplains to ensure the safety of residents from flood hazards and to prevent the degradation of water quality and critical wildlife habitat.
2. The higher regulatory standards from the State model will enhance the public health safety and general welfare of all Flathead County residents.