

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
SUBDIVISION REPORT # FPP-12-01
EAGLE ROCK 2 SUBDIVISION
APRIL 25, 2012

A report to the Flathead County Board of Commissioners regarding a request for preliminary plat approval of Eagle Rock 2 Subdivision, a major residential subdivision that would amend the access and configuration of eight existing lots and open space within the Eagle Rock subdivision. The subdivision is located in the Eagle Bend vicinity approximately 2 miles northwest of Bigfork, Montana.

The Planning Board will hold a public hearing in the Earl Bennett Building conference room at 1035 First Avenue West, Kalispell on May 9, 2012 to review the proposal and make a recommendation to the Flathead County Commission. Final action on this proposal by the governing body must be taken prior to the review deadline of July 3, 2012. Documents pertaining to this application are available for public inspection at the Flathead County Planning and Zoning Office, located in the Earl Bennett Building at 1035 First Avenue West, Kalispell, Montana.

I. APPLICATION REVIEW UPDATES

A. Land Use Advisory Committee/Council

The proposal is located within the advisory area of the Bigfork Land Use Advisory Committee (BLUAC) who will review the application at a publicly noticed meeting Thursday, April 26, 2011 at 4:00 p.m. at the Bethany Lutheran Church, 8559 Highway 35 in Bigfork, MT. The Committee is anticipated to forward a recommendation to the Flathead County Planning Board. This space is reserved for a summary of the Committee's discussion and recommendation.

B. Planning Board

The Flathead County Planning Board will hold a public hearing on the proposed subdivision on May 9, 2012 and make a recommendation to the Flathead County Board of Commissioners. This space is reserved for a summary of the Planning Board's discussion and recommendation.

C. Commission

The Flathead County Board of Commissioners will review this proposal after the public hearing conducted by the Planning Board and prior to July 3, 2012 which is the end of the 60 working day statutory review period. This space is reserved for a summary of the Commissioner's discussion and decision.

II. GENERAL INFORMATION

A. Project Personnel

i. Applicant/Owner

Michael Brooks
415 North Star Lane
Newport Beach, Ca. 92660

E. Subdivision Layout Detail

i. Total Subdivision Acreage:	10.10 acres
ii. Acreage in Lots:	6.56 acres
iii. Acreage in Roads:	1.68 acres
iv. Total Park/Common Area/Open Space Acreage	1.86 acres
v. Minimum Lot Size:	0.54 acres
vi. Maximum Lot Size:	1.05 acres
vii. Overall Gross Lot Density:	1 unit per 1.12 acres
viii. Easements	

The preliminary plat indicates:

- Proposed 60-foot wide private road and utility easement for the relocated Fox Run Court;
- 50-foot wide utility and cart path easement situated on proposed Lot 3, also serving as driveway for Lot 3;
- Numerous 5-20 foot wide utility and drainage easements containing water, sewer, and other utility infrastructure.
- A 15-foot bicycle/pedestrian easement adjacent to Holt Drive, and;
- Existing 55-foot and 60-foot public road and utility easements containing Holt Drive.

F. Administrative Characteristics

i. Current Land Use

The subject property is comprised of vacant subdivision parcels developed with road, public water and sewer, fire suppression, and stormwater infrastructure improvements in place as a result of prior Eagle Rock Subdivision activities. The looped turn-around feature of Fox Run Court is established with a substantial man-made water feature and landscaping which will be retained onsite with the re-located Fox Run Court being built onto it. Conifer trees, native grasses and shrubs, and rocky outcroppings are the dominant land-cover of the terrain which gently slopes from north to south (refer to Figure 2).

Figure 2 - Current land use and land cover on subject property

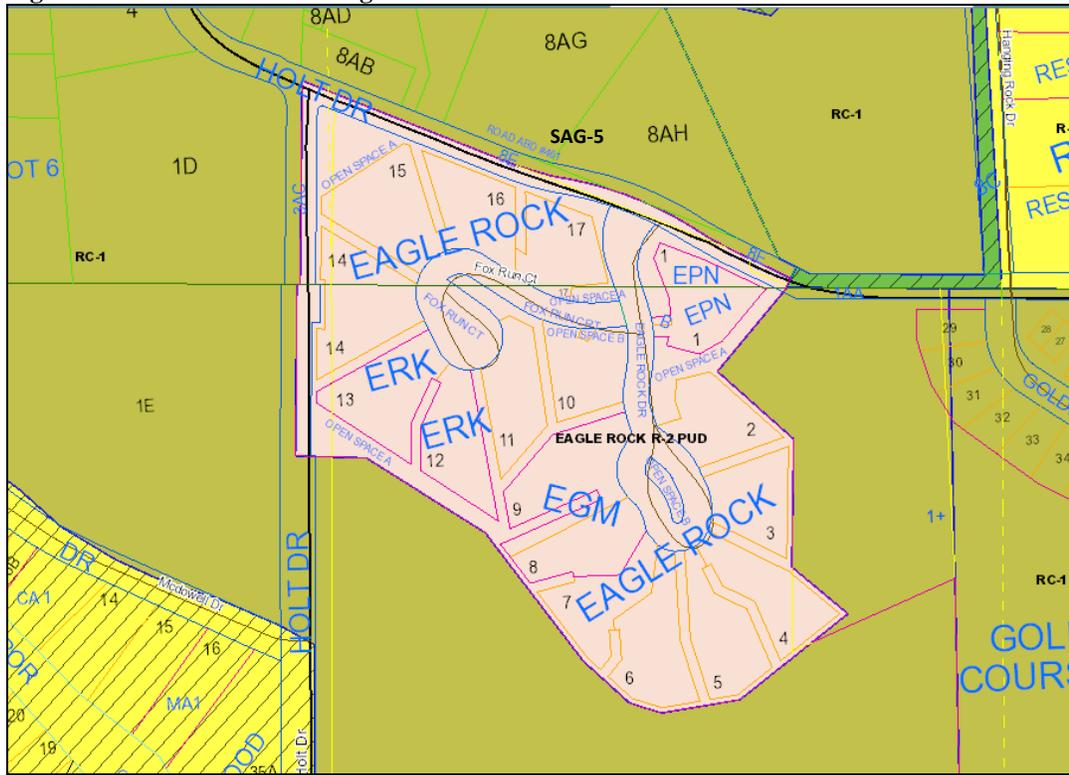


ii. Current Zoning

The subject property is currently zoned as Eagle Rock R-2 Planned Unit Development (PUD) within the Bigfork zoning district (see Figure 3), and the current preliminary plat request has been submitted for review in conjunction with a proposal to abandon the R-2 PUD (concurrently under review as file FPPUD-12-01). If the proposed abandonment of the PUD is approved, the subdivision area would revert back to a mix of *R-2 One Family Limited Residential* and *RC-1 Residential Cluster*, the underlying zoning which was in place prior to the approval of the Planned Unit Development.

Specifically, proposed Lots 1-4 would be zoned R-2, proposed Lot 7 would be zoned RC-1, and zoning on proposed Lots 5, 6, and 8 would be divided into both R-2 and RC-1 (use of these properties would be subject to compliance with Section 3.02.030 Flathead County Zoning Regulations (FCZR)). Regarding the underlying zoning, the file contains: a copy of Resolution No. 956BM by which zoning of portions of the subject property was changed to R-2 from RC-1 on June 28, 2005, prior to adoption of the PUD; a copy of COS 16864 which, on August 24, 2005, added additional acreage to the property through a boundary line adjustment which subsequently underwent review for the Eagle Rock R-2 PUD and Eagle Rock Subdivision, and; a copy of Resolution No. 1893 by which the Eagle Rock R-2 PUD was adopted on October 31, 2005.

Figure 3 - Current Area Zoning



iii. Proposed Land Use

All lots are proposed for single family residential use with water and sanitation services provided by Bigfork Water and Sewer District.

G. Area Characteristics

i. Description of Area Surrounding Proposed Subdivision

The proposal site abuts the Eagle Bend golf course (see Figures 1 and 2) and seven separate tracts of land with established residences. The surrounding area may generally be described as residential with resort/recreational amenities.

ii. Average Parcel Acreage

Adjacent parcels are non-subdivision tracts which generally range between one-half and seven acres in size.

iii. Zoning

Adjacent areas in all directions of Eagle Rock Subdivision are currently zoned as RC-1, and areas within one-eighth of a mile are zoned R-1 and R-2 (refer to Figure 3).

iv. Land Uses

The surrounding area is generally described by the Montana Department of Revenue as ‘rural residential’ and ‘vacant land rural’ Most development in the vicinity of the proposal appears to be single family residential (refer to Figures 1 and 2).

v. Previously Considered Subdivisions in Area

Adjacent properties are a combination of tract land created through Certificate of Survey. Previously approved residential subdivisions within ¼ mile of the subject property occurring in locations with similar physical and topographic characteristics include Mayport Harbor, Hanging Rock, and Eagle Bend West Subdivisions with lots generally ranging between one-half and one acre in size, of similar density and use in comparison with the proposed subdivision.

H. Utilities and Services

i. Water

Existing services of the Bigfork Water and Sewer District

ii. Wastewater

Existing services of the Bigfork Water and Sewer District

iii. Electricity

Flathead Electric Cooperative

iv. Natural Gas

Northwestern Energy

v. Solid Waste

Contract Haul- Allied Waste

vi. Telephone Service

Century Tel

vii. School District(s)

Bigfork School District #38

viii. Fire District(s)

Bigfork Fire District

ix. Police

Flathead County Sheriff

III. COMMENTS RECEIVED

A. Agency Comments

The subdivision file contains a copy of the agency referral document sent on April 10 , 2012.

- Five agency comments have been received as of the date of this report which express no outstanding concerns with the proposal. These comments were submitted by: Flathead County Solid Waste District, Flathead County Road and Bridge Department, Flathead County GIS Department, the Bigfork Fire District, and the Montana Department of Natural Resources and Conservation (DNRC).
- The agency comment from the DNRC indicates there are four water rights ('Groundwater Certificates' that divert water from 160' deep wells) in the name of the owner and appurtenant to the Lots in the Eagle Rock Subdivision. The comment indicates certain administrative adjustments to the permits which may be applicable depending upon future continued use of the well water.

Pertinent agency considerations will be discussed as applicable in specific sections of the following local government review. Comments received subsequent to the date of this report will be verbally summarized at the public hearing on this proposal.

B. Public Comments

In accordance with Section 4.1.10, adjacent property notification was mailed to neighboring property owners within 150 feet of the proposed subdivision and notice of the proposal and public hearing was physically posted onsite on April 12, 2012. As of the date of the completion of this staff report, no public comments have been received regarding the proposal. Any written public comment received after April 25, 2012 will be summarized verbally and entered into the public record during the Planning Board hearing on May 9, 2012. Anyone wishing to provide verbal public comment may do so in person at the May 9 Planning Board hearing.

IV. LOCAL GOVERNMENT REVIEW

A. Review Criteria

Findings in this portion of the report are applicable to the impacts of the proposed subdivision on the review criteria listed. Definitions of primary review criteria can be found in Section VIII of this report and in Chapter 2 of the Flathead County Development Code.

i. Impact on Agriculture

The subject property consists of existing undeveloped Lots within a subdivision previously approved for residential use. The subject property and surrounding properties are used for non-agricultural residential and recreational purposes and not used for agricultural.

Finding #1

There would be minimal impact on agriculture as a result of the proposed subdivision because the property is not currently utilized for agricultural purposes, is not located in an area of the County heavily utilized for agricultural, and is not adjacent to lands currently used for agricultural or silvicultural uses.

ii. Impact on Agricultural Water User Facilities

The subject property is not irrigated for agricultural purposes and is not in an irrigation district or party to any irrigation agreements.

Finding #2

There would be no impact to agricultural water user facilities because the subject property is not irrigated for agricultural purposes, is not in an irrigation district, and is not party to any irrigation agreements.

iii. Impact on Local Services

1. Water and Wastewater

The subject property is currently annexed into the jurisdiction of the public water and sewer services of the Bigfork Water and Sewer District and the public water and sewer utility infrastructure is currently installed as approved for the original Eagle Rock Subdivision (refer to Sheet Gen-1 of the Preliminary Plat). The submitted Environmental Assessment indicates only a few minor adjustments to

the installed utilities will be needed to provide sufficient service to the Lots within proposed Eagle Rock 2 Subdivision. Although solicited, no written comment has been provided from the Bigfork Water and Sewer District regarding the current proposal. No adverse impacts to the District or its services are anticipated as the proposed subdivision will not increase residential density beyond which was previously reviewed and approved.

Water and sewer services for the proposed subdivision would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

2. **Schools**

The proposal is within the boundaries of Bigfork School District for elementary and high school students. Although solicited, the Flathead County Superintendent of Schools has provided no comment. Buses currently provide service to area students, and it is anticipated that additional students may be served without introducing significant impacts to the school district.

3. **Mail Delivery**

The application indicates a proposed centralized mailbox facility located at the new approach of Fox Run Court would serve the lots within the subdivision. The proposal for mail delivery appears reasonable and the applicant should be required to provide a letter of approval from the U.S. Postal Service prior to final plat.

4. **Recreation**

The proposal is located in an area with ample opportunities for recreation. The original plat of Eagle Rock Subdivision included Open Space areas which complied with parkland requirements at the time that subdivision was approved. As indicated in the application, the proposal is to satisfy subdivision 'parkland' requirements by using Open Space area within the subdivision boundaries which would be commonly owned by Lot owners and managed and maintained by a Home Owners Association under provisions outlined in CC&R's for the subdivision. As shown on the preliminary plat for Eagle Rock 2, the current proposal includes configuration amendments to the prior 'Open Space' areas identified as Open Spaces A-E totaling 1.86 acres in size. The area of proposed Open Space exceeds the .439 acres which would be required as parkland pursuant to Section 4.7.24 FCSR. The preliminary plat indicates a 15-foot wide bike/walk easement situated along the western and northern subdivision boundaries adjacent to Holt Drive, which is classified as a public minor arterial road.

5. **Roads**

As shown on the preliminary plat, primary access for the Lots within the subdivision would be from re-located Fox Run Court via Holt Drive, a paved county road. Fox Run Court is currently established with a loop-style cul-de-sac providing access to Lots 4-8 as well as general egress for users of the road (see Figure 4). The cul-de-sac will be retained and the re-located portion of Fox Run Court would be integrated into the feature. The portion of the existing Fox Run Court which extends from Eagle Rock Drive would be abandoned as a road, but

would serve as driveway access to Lot 3 and as a 50-foot wide utility and golf-cart path easement across that portion of Lot 3.

The re-location of Fox Run Court is proposed to entail paved construction compliant with currently applicable Flathead County Road and Bridge Department standards for sub-grade structure, grade, and paving. The application includes a draft Road Maintenance Plan to address maintenance of the private road. Written comment submitted on April 18, 2012 indicates the Road and Bridge Department finds the proposal is acceptable.

Figure 4- Cul-de-sac of Fox Run Court



6. Fire/Emergency Medical Services

The site is located within the Bigfork Fire District and the fire station is located approximately 2.35 driving miles from the subdivision location. The Kalispell Regional Medical Center is approximately 18 miles from the proposed subdivision, and the Bigfork Fire District Ambulance Service is available to serve the location. The site is developed with a fire hydrant for fire suppression which is centrally located adjacent to the Fox Run court cul-de-sac as shown with a yellow highlighted circle in Figure 4. Written comment submitted on April 16, 2012 indicates the Bigfork Fire Department finds the proposal is acceptable. The applicant should be required to satisfy reasonable conditions for fire suppression and/or emergency vehicle access as required by the applicable fire district(s) and the Board of County Commissioners.

7. **Police Services**

The property is located in an unincorporated area of Flathead County and is therefore served by the Flathead County Sheriff. Although solicited, the Sheriff's Department has provided no comment. Given existing staffing levels, the size of the County and the dispersed nature of the population, service to this subdivision is anticipated to be consistent with other unincorporated rural areas of Flathead County and delayed response times may be experienced.

8. **Solid Waste Disposal**

The applicant is proposing contract haul as a mechanism for solid waste disposal. A letter from the Flathead County Solid Waste District supports the proposed method of waste disposal as the District requests that all new subdivisions in Flathead County use a contract hauler to bring solid waste to the landfill.

9. **Other Utilities**

Electric, telephone, natural gas and cable/internet utilities which are not already installed will be placed underground within the existing and proposed utility easements to serve the lots within the subdivision. As stated in the application, Flathead Electric will provide electrical power, CenturyTel will provide telephone service, and Northwestern Energy will provide natural gas.

Finding #3

The proposal for connection of all lots to the public water and sewer services of the Bigfork Water and Sewer District is acceptable because the subject property is annexed into the District and the water and sewer system infrastructure is installed to accommodate the number of lots in the proposal.

Finding #4

The proposal to re-locate Fox Run Court with a new approach onto Holt Drive and connecting to the existing a cul-de-sac appears reasonable because the internal subdivision road is able comply with the standards outlined in Section 4.7.16 of the Flathead County Subdivision Regulations and the Flathead County Road and Bridge Department's *Minimum Standards For Design and Construction*.

Finding #5

The proposal to use common internal Open Spaces managed by a Home Owners Association to satisfy parkland requirements appears acceptable because the Open Space acreage exceeds the requirement for parkland as outlined in Section 4.7.24 of the Flathead County Subdivision Regulations (FCSR) and the Flathead County Parks and Recreation Department has not indicated concern with the proposal.

Finding #6

The proposed bike/walk easement is compliant with Section 4.7.19 FCSR because it is at least 10 feet in width and is situated along all subdivision boundaries adjacent to Holt Drive which is a public minor arterial road.

Finding #7

The proposal would not adversely impact services of the Bigfork Fire District because the location is in close proximity to a fire station, the site is equipped with a fire hydrant to aid in fire suppression, and the District has indicated their approval of the proposal upon review of the application and preliminary plat.

Finding #8

Effects of the proposed subdivision on local services would be minimal with imposed conditions because necessary utilities are currently available to the property within access and utility easements, emergency service providers have adequate access to the subdivision, the area is close to schools which have adequate capacity to accommodate additional students from the subdivision, a compliant mechanism for road maintenance exists, and the proposal would not adversely impact existing public water/wastewater services.

Finding #9

Impact to the other criteria discussed relative to ‘impact on local services’ would be minimal and acceptable with the imposition of conditions because the subject property and the primary accesses have no apparent physical constraints which cannot be adequately addressed through conditions of approval.

iv. Impact on the Natural Environment

1. Water Quality

As the subdivision will be served by public water and sewer systems and the infrastructure is already installed, no groundwater monitoring has been performed. According to the submitted Environmental Assessment, the site is underlain by soil types referred to as Mires gravelly loam, Mountainous Land, and small areas of Alluvial Land and Haskill fine sand. Based on soil type descriptions, depth to ground water is estimated to range from 8-12 feet in depth from the surface with the exception of the areas with the Alluvial Land soil types (lower portions of Lots 6-8 and Open Space B) where shallow groundwater may be present.

The site is annexed into the Bigfork Water and Sewer District, and all Lots would be served by the District. Any extensions and connections to public water and sewer services, as well as the stormwater management plan for the proposed subdivision would be required to be reviewed and approved, as applicable, by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality.

2. Air Quality

As the subdivision is accessed by a paved county road and the internal subdivision road is proposed to be paved, lasting impacts to air quality are not anticipated as a result of the subdivision. The applicant has submitted a draft Dust Abatement Plan compliant with Section 4.7.14 FCSR. A note should be required to be placed on the face of the final plat that requires the owners of all lots abide by the guidelines set forth in the plan during and after site construction and development activities.

3. Impact of Noise

It is anticipated that road construction, utility installation, and the development of residences would generate only limited noise impacts during construction which would be temporary. With the exception of the Fox Run Court re-location, most subdivision infrastructure improvements have been completed, and it is unlikely full build-out of residences (and associated noise) would occur all at once as it is more logical to assume residential construction would be gradual as individual lots are sold and developed. The proposed residential use the Lots is not anticipated to generate permanent continuous impacting noise to area residents or wildlife.

4. Impact to Flora

Containing no wetland or riparian areas, the subject property is generally open grassy land with widely spaced mature conifer trees and shrubs. Weeds may propagate on disturbed areas if not managed appropriately. Pursuant to Section 4.7.25 FCSR the applicant would be required to develop and implement a current weed management plan specific to Eagle Rock 2 Subdivision which is approved by the Flathead County Weed Board prior to final plat approval.

5. Impact to Floodplain

According to FIRM Panels 2305G, the subject property is not located in a special flood hazard area and is outside of the 0.2% annual chance flood area.

6. Impact to Riparian/Wetland Areas

No riparian or wetland areas occur on the subject property and the subdivision is not anticipated to impact riparian or wetland areas.

7. Impact to Historical Features

The Environmental Assessment indicates there are no known historic, archeological, or cultural sites on the subject property, and no man-made structures existed on the property prior to development of Eagle Rock Subdivision. Submitted comment from Montana Historical Society indicates no record of historical structures located on the subject property.

Finding #10

Impacts to water quality as a result of the proposed subdivision are anticipated to be minimal because the site is generally not subject to shallow groundwater, and all lots would be served by public water and sewer systems, the extensions and connections of which will be required to undergo review and receive approval from MDEQ.

Finding #11

Minimal impacts to flora are anticipated because the site is predominately grass covered and sparsely vegetated with trees. No plant species of concern have been identified as being present on the subject property, completion and adherence to a weed control plan will be a condition of preliminary plat approval, and the proposed Open Space areas would serve to preserve lower elevation and perimeter vegetated areas in their present state.

Finding #12

No impact to floodplain, wetland or riparian areas is anticipated as a result of the proposed subdivision because none of these features have been identified as existing on the subject property.

Finding #13

Adverse effects of the proposed subdivision on the natural environment would be minimal and acceptable with the imposition of conditions requiring the developer to mitigate dust and to take necessary steps to manage noxious weeds on site. Impact to the other criteria discussed relative to ‘impact on the natural environment’ would be minimal and acceptable with the imposition of conditions.

v. Impact on Wildlife

The subject property is surrounded by a developed residential neighborhood and adjacent to a golf course. While submitted data from the Montana Natural Heritage Program indicates 12 ‘species of concern’ occur within the vicinity of the proposed subdivision, the specific site does contain critical wildlife habitat for those species as no natural surface water, wetlands, riparian or conifer forests are present on the property.

Finding #14

Adverse impacts of the proposed subdivision on wildlife are not anticipated because the surrounding area is primarily residentially developed and the property is not inhabited by ‘species of concern’ which have been identified as being present at certain locations in the vicinity of the subdivision.

vi. Impact on Wildlife Habitat

According to submitted data from the Montana Natural Heritage Program, ‘species of concern’ inhabiting certain areas in the vicinity of the subdivision require specific types of habitat, which is not present on the subject property as the property is predominately grass covered and sparsely vegetated with trees and shrubs, and there are no natural surface waters, wetlands, or riparian areas on the site.

Finding #15

Effects of the proposed subdivision on wildlife habitat is not anticipated because the site does not contain critical habitat for ‘species of concern’ which have been identified in the vicinity of the subdivision according to submitted data from the Montana Natural Heritage Program.

vii. Impact on Public Health and Safety

1. Flood Risk

The subject property has no streams, wetlands or lakes, and according to FEMA FIRM Panel 2305G, the subdivision is located in an area designated as Zone X - outside of the 0.2% annual chance floodplain. Therefore the proposal would not introduce adverse impacts to public health and safety in regard to flooding.

2. **Water and Wastewater Treatment**

All proposed lots would be served by the public water and sewer services of the Bigfork Water and Sewer District, and the public systems are subject to high levels of monitoring which ensure safety for users. All extensions and connections to the water and wastewater systems would be required to be reviewed and approved by the Flathead County Environmental Health Department and the Montana Department of Environmental Quality, as applicable.

3. **Stormwater**

Sheet SD-1 of the Preliminary Plat indicates the conceptual plan for the management of stormwater. The plan appears to adequately manage stormwater on site through directing stormwater to Open Space B where it may be absorbed within soil.

4. **Road Network**

Legal and physical access will be provided to each lot from proposed re-located Fox Run Court, an internal subdivision road which will be connected to the existing loop-style cul-de-sac. As indicated on the preliminary plat, Fox Run Court will approach onto Holt Drive along the western subdivision boundary. The existing cul-de-sac was approved and constructed to applicable standards as an approved subdivision improvement of the original Eagle rock Subdivision, and the portion of Fox Run Court to be re-located is proposed to be built and paved to current applicable county standards. Written comment submitted on April 18, 2012 indicates the Road and Bridge Department finds the proposal is acceptable.

5. **High Voltage Electric Lines/High Pressure Gas Lines**

There are no exposed high voltage electric lines or high pressure gas lines on the subject property.

6. **Fire and Emergency Services**

The site is in the Bigfork Fire District and the fire station is located approximately 2.3 driving miles to the subdivision entrance. The Kalispell Regional Medical Center is approximately 17 miles from the proposed subdivision, and the Bigfork Fire District Ambulance Service is available to serve the location. The property is comprised of grassy rolling terrain which is not mapped as being within the Wildland Urban Interface, and a fire hydrant is currently installed adjacent to the cul-de-sac. A letter of comment from the Bigfork Fire Department Chief indicates the Department supports approval the preliminary plat.

7. **Geologic Hazards**

Elevation contours shown on preliminary plat indicate slope characteristics across the proposal site. While the subject property has steep rocky outcrops, each Lot possesses buildable areas that comply with the Flathead County Subdivision Regulations in regard to slope and driveway access.

8. **Avalanche Hazards**

The subdivision is not located in an area of the County considered to be prone to avalanche hazards.

9. Airport Influence Areas

The subject property is not located within an airport influence area.

10. Soils

As indicated in submitted application materials, soils on the subject property are generally comprised of a variety of gravelly and silty loam soils, which generally are described as having low shrink-swell potential. It is anticipated soils on site would not pose a risk for health and safety, as other area properties similarly situated appear to be safely developed with stable residences.

Finding #16

Impacts of the proposed subdivision on public health and safety appear to be acceptable because adequate emergency services are available for the subdivision, the site does not appear to have substantial fire ‘ladder’ fuels, and adequate physical and legal access to the subdivision would ensure safe access to and from the subdivision by residents and emergency service providers.

Finding #17

Impact to the other criteria discussed relative to ‘public health and safety’ would be minimal and acceptable with the imposition of conditions because the site is not located in a special flood hazard area; the proposal for water, sanitation, and stormwater will be required to be reviewed and approved prior to installation of the proposed new facilities, and; there are no apparent hazards associated with geology, avalanche, or airport influence areas.

B. Compliance with Survey Requirements of 76-3-401 through 76-3-406 M.C.A.

Finding #18

The preliminary plat will conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which will be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.

C. Compliance with the Flathead County Subdivision Regulations

Finding #19

No variances are requested or required. No Phasing plan has been proposed or requested. The proposed subdivision is in general compliance with the Flathead County Subdivision Regulations, effective April 1, 2011 as compliant legal and physical access would be provided and potential impacts to the primary review criteria are able to be adequately addressed by conditions.

D. Compliance with the Flathead County Subdivision Review Procedure

i. Pre-application Conference Date

October 19, 2011

ii. Application Deadline Date

April 19, 2012

iii. Completeness Date

February 22, 2012

iv. Sufficiency Date

- April 9, 2012
- v. **Agency Referral Requests Mailing Date**
April 10, 2012
- vi. **Adjacent Property Notification Mailing Date**
April 16, 2012
- vii. **Legal Notice Publication Date**
April 22, 2012
- viii. **On-site Posting of Public Hearing Date**
April 12, 2012

Finding #20

The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective April 1, 2011.

E. Provision of Easements for the Location and Installation of Planned Utilities

Finding #21

The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.

F. Provision of Legal and Physical Access to Each Parcel

Finding #22

Holt Drive provides legal and physical access to the subdivision, and the proposed re-located Fox Run Court, a privately maintained internal subdivision road, would provide legal and physical access to the individual Lots. Fox Run Court would occur within a 60 foot wide private road and utility easement and be constructed and paved in compliance with applicable county standards.

G. Review of Applicable Plans

76-1-605(2)(b) M.C.A states that “A governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter.” Furthermore, 76-3-608(3) M.C.A. does not contain compliance with the growth policy as a primary criteria by which an individual subdivision proposal must undergo local government review or on which findings of fact are to be based. Review of general conformance with applicable plans is provided as an acknowledgement and consideration of the guidance offered by the information contained in the document(s).

i. Neighborhood Plan

The proposed subdivision is located within an area of the County guided by the Bigfork Neighborhood Plan. The plan was updated on June 2, 2009 by Resolution #2208, to bring the document into compliance with the Flathead County Growth Policy, as well as reflect the changing conditions in the Bigfork community and surrounding area. The Land Use Map adopted as part of the updated neighborhood plan document designates appropriate land use on the subject property as “Suburban

Residential”. In addition, the following goals and policies found within the neighborhood plan generally support the proposed subdivision:

- G.2 – Support growth and development in the Bigfork Planning Area (BPA) in a way that protects the character.
- P.2.1 – Encourage open space conservation to maintain the rural character of the BPA and protect resource quality and wildlife habitat.
- G.6 – Encourage and support residential development densities which are appropriate to existing and planned public facilities and services, which are absent of environmental constraints, and which enhance the character of the community.
- P.6.1 - Urban residential densities should be located in areas with a significant network of paved public roads, which are served by community water and sewer, which have convenient access to public facilities and services, such as schools, libraries, fire services, and commercial services, all in areas with minimal environmental constraints.
- P.6.2 - Suburban residential densities should be located in areas with paved roads, convenient access to commercial services, public services and facilities, and should have minimal environmental constraints.
- P.8.2 - Encourage lot size and configuration in rural areas that promote open space and scenic views, while maintaining the character of these areas and supporting agricultural operations.
- G.17 - Accommodate increased growth through development that harmonizes with and enhances the natural environment, and protects the wildlife habitat.
- P.18.1 - Encourage developers to provide open space within residential developments.
- G.25 - Utilize county zoning to protect environmentally sensitive open spaces, scenic views, and natural habitat in the BPA through use of buffer zones, setbacks, and creative planning techniques.

ii. Flathead County Growth Policy

In addition to the Bigfork Neighborhood Plan, the subject property is also under the jurisdiction of the Flathead County Growth Policy. The Growth Policy, adopted on March 19, 2007, is a general policy document meeting the requirements of 76-1-601 M.C.A. Regulations adopted by Flathead County used in the review of subdivisions are an implementation of the goals and policies established in the Growth Policy. This proposal conforms to the regulations used in the review of subdivision in Flathead County and is therefore in general compliance with the Flathead County Growth Policy.

H. Compliance with Local Zoning

The subject property is currently zoned as Eagle Rock R-2 Planned Unit Development (PUD) within the Bigfork zoning district, and the current preliminary plat request has been submitted for review in conjunction with a proposal to voluntarily abandon the R-

2 PUD (concurrently under review as file FPPUD-12-01). If the proposed abandonment of the PUD is approved, the subdivision area would revert back to a mix of *R-2 One Family Limited Residential* and *RC-1 Residential Cluster*, the underlying zoning which was in place prior to the approval of the Planned Unit Development. Lots 1-4 would be zoned R-2, Lot 7 would be zoned RC-1, and zoning on proposed Lots 5, 6, and 8 would be divided into both R-2 and RC-1.

In terms of density, anticipated use, and applicable bulk and dimensional requirements, the proposed lots would comply with the underlying zoning of R-2 and RC-1. The proposed lots would comply with the current R-2 PUD in terms of density, anticipated use, and applicable bulk and dimensional requirements; however the PUD plan did not anticipate the re-alignment of Fox Run Court or configuration of common Open Spaces A-E as currently proposed on the preliminary plat of Eagle Rock 2 Subdivision. Therefore the preliminary plat would comply with the applicable local zoning only if the proposed abandonment of the PUD is approved. In the event the PUD is not approved to be abandoned, the PUD plan would need to be amended in order for the preliminary plat of Eagle Rock 2 to comply with the applicable local zoning.

Finding #23

The preliminary plat is under review concurrently with a proposal to voluntarily abandon the existing Eagle Rock R-2 PUD which currently overlays the underlying R-2 and RC-1 zoning of the subject property. The preliminary plat would comply with the underlying zoning because each lot meets the density, use, and applicable bulk and dimensional requirements of the R-2 and RC-1 zoning use districts. The preliminary plat would not comply with local zoning if the PUD is not approved to be abandoned because the Eagle Rock R-2 PUD plan did not envision the currently proposed configuration of road access and common Open Space areas.

V. SUMMARY OF FINDINGS

1. There would be minimal impact on agriculture as a result of the proposed subdivision because the property is not currently utilized for agricultural purposes, is not located in an area of the County heavily utilized for agricultural, and is not adjacent to lands currently used for agricultural or silvicultural uses.
2. There would be no impact to agricultural water user facilities because the subject property is not irrigated for agricultural purposes, is not in an irrigation district, and is not party to any irrigation agreements.
3. The proposal for connection of all lots to the public water and sewer services of the Bigfork Water and Sewer District is acceptable because the subject property is annexed into the District and the water and sewer system infrastructure is installed to accommodate the number of lots in the proposal.
4. The proposal to re-locate Fox Run Court with a new approach onto Holt Drive and connecting to the existing a cul-de-sac appears reasonable because the internal

subdivision road is able comply with the standards outlined in Section 4.7.16 of the Flathead County Subdivision Regulations and the Flathead County Road and Bridge Department's *Minimum Standards For Design and Construction*.

5. The proposal to use common internal Open Spaces managed by a Home Owners Association to satisfy parkland requirements appears acceptable because the Open Space acreage exceeds the requirement for parkland as outlined in Section 4.7.24 of the Flathead County Subdivision Regulations (FCSR) and the Flathead County Parks and Recreation Department has not indicated concern with the proposal.
6. The proposed bike/walk easement is compliant with Section 4.7.19 FCSR because it is at least 10 feet in width and is situated along all subdivision boundaries adjacent to Holt Drive which is a public minor arterial road.
7. The proposal would not adversely impact services of the Bigfork Fire District because the location is in close proximity to a fire station, the site is equipped with a fire hydrant to aid in fire suppression, and the District has indicated their approval of the proposal upon review of the application and preliminary plat.
8. Effects of the proposed subdivision on local services would be minimal with imposed conditions because necessary utilities are currently available to the property within access and utility easements, emergency service providers have adequate access to the subdivision, the area is close to schools which have adequate capacity to accommodate additional students from the subdivision, a compliant mechanism for road maintenance exists, and the proposal would not adversely impact existing public water/wastewater services.
9. Impact to the other criteria discussed relative to 'impact on local services' would be minimal and acceptable with the imposition of conditions because the subject property and the primary accesses have no apparent physical constraints which cannot be adequately addressed through conditions of approval
10. Impacts to water quality as a result of the proposed subdivision are anticipated to be minimal because the site is generally not subject to shallow groundwater, and all lots would be served by public water and sewer systems, the extensions and connections of which will be required to undergo review and receive approval from MDEQ.
11. Minimal impacts to flora are anticipated because the site is predominately grass covered and sparsely vegetated with trees. No plant species of concern have been identified as being present on the subject property, completion and adherence to a weed control plan will be a condition of preliminary plat approval, and the proposed Open Space areas would serve to preserve lower elevation and perimeter vegetated areas in their present state.

12. No impact to floodplain, wetland or riparian areas is anticipated as a result of the proposed subdivision because none of these features have been identified as existing on the subject property.
13. Adverse effects of the proposed subdivision on the natural environment would be minimal and acceptable with the imposition of conditions requiring the developer to mitigate dust and to take necessary steps to manage noxious weeds on site. Impact to the other criteria discussed relative to 'impact on the natural environment' would be minimal and acceptable with the imposition of conditions.
14. Adverse impacts of the proposed subdivision on wildlife are not anticipated because the surrounding area is primarily residentially developed and the property is not inhabited by 'species of concern' which have been identified as being present at certain locations in the vicinity of the subdivision.
15. Effects of the proposed subdivision on wildlife habitat is not anticipated because the site does not contain critical habitat for 'species of concern' which have been identified in the vicinity of the subdivision according to submitted data from the Montana Natural Heritage Program.
16. Impacts of the proposed subdivision on public health and safety appear to be acceptable because adequate emergency services are available for the subdivision, the site does not appear to have substantial fire 'ladder' fuels, and adequate physical and legal access to the subdivision would ensure safe access to and from the subdivision by residents and emergency service providers.
17. Impact to the other criteria discussed relative to 'public health and safety' would be minimal and acceptable with the imposition of conditions because the site is not located in a special flood hazard area; the proposal for water, sanitation, and stormwater will be required to be reviewed and approved prior to installation of the proposed new facilities, and; there are no apparent hazards associated with geology, avalanche, or airport influence areas.
18. The preliminary plat will conform to all provisions of the Montana Subdivision and Platting Act if it contains all elements required to meet state survey requirements, which will be determined when it is reviewed by the Flathead County Examining Land Surveyor prior to final plat approval.
19. No variances are requested or required. No Phasing plan has been proposed or requested. The proposed subdivision is in general compliance with the Flathead County Subdivision Regulations, effective April 1, 2011 as compliant legal and physical access would be provided and potential impacts to the primary review criteria are able to be adequately addressed by conditions.

20. The proposal has been reviewed as a major subdivision in accordance with statutory criteria and standards outlined in Section 4.4 of the Flathead County Subdivision Regulations effective April 1, 2011.
21. The preliminary plat identifies adequate easements for utilities to serve the subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly located on the Final Plat to satisfy applicable requirements of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations.
22. Holt Drive provides legal and physical access to the subdivision, and the proposed re-located Fox Run Court, a privately maintained internal subdivision road, would provide legal and physical access to the individual Lots. Fox Run Court would occur within a 60 foot wide private road and utility easement and be constructed and paved in compliance with applicable county standards.
23. The preliminary plat is under review concurrently with a proposal to voluntarily abandon the existing Eagle Rock R-2 PUD which currently overlays the underlying R-2 and RC-1 zoning of the subject property. The preliminary plat would comply with the underlying zoning because each lot meets the density, use, and applicable bulk and dimensional requirements of the R-2 and RC-1 zoning use districts. The preliminary plat would not comply with local zoning if the PUD is not approved to be abandoned because the Eagle Rock R-2 PUD plan did not envision the currently proposed configuration of road access and common Open Space areas.

VI. CONCLUSION

In accordance with the provisions of Section 4.4 of the Flathead County Subdivision Regulations, a review and evaluation of the major subdivision application has been completed by the staff of the Planning Board. The proposed subdivision appears to generally comply with the applicable design standards and subdivision review criteria found in Section 4.7 FCSR, pursuant to Findings of Fact stated above. Should the Planning Board forward a recommendation of approval of this subdivision to the Flathead County Commissioners, the following conditions should be considered to supplement that recommendation.

VII. CONDITIONS

A. Standard Conditions

1. The applicant shall receive physical addresses in accordance with Flathead County Resolution #1626B. All road names shall appear on the final plat. Street addressing shall be assigned by Flathead County. [Section 4.7.16(g)(iv), 4.7.26(c) Flathead County Subdivision Regulations (FCSR)]
2. The applicant shall show proof of a completed approach permit from the Flathead County Road and Bridge Department for the approach of Fox Run Court onto Mt Holt Drive

- indicating the approach has been built and received final inspection and final approval. [Section 4.7.16, FCSR]
3. The applicant shall comply with reasonable fire suppression and access requirements of the Bigfork Fire District. A letter from the fire chief stating that the plat meets the requirements of the fire district shall be submitted with the application for Final Plat. [Section 4.7.26(b), FCSR]
 4. All areas disturbed during development of the subdivision shall be re-vegetated in accordance with an approved Weed Control Plan and a letter from the County Weed Supervisor stating that the Weed Control Plan has been approved shall be submitted with the final plat. [Section 4.7.25, FCSR]
 5. All internal subdivision roads (Fox Run Court) shall be certified by a licensed engineer and constructed and paved at least 22-feet wide in accordance with the Flathead County Minimum Standards for Design and Construction, as applicable. [Sections 4.7.16, 4.7.17 FCSR]
 6. With the application for final plat, the applicant shall provide a compliant Road Users' Agreement which requires each property owner to bear his or her pro-rata share for maintenance of the roads within the subdivision and for any integral access roads lying outside the subdivision. [Section 4.7.15(e), FCSR]
 7. All utilities shall be extended underground to abut and be available to each lot, in accordance with a plan approved by the applicable utility providers. [Section 4.7.23, FCSR]
 8. The proposed water, wastewater treatment, and stormwater drainage systems for the subdivision shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. [Section 4.7.12, 4.7.20, 4.7.21 FCSR]
 9. The mail delivery site shall be provided with the design and location approved by the local postmaster of USPS. A letter from the postmaster stating that the applicant has met their requirements shall be included with the application for final plat. [Section 4.7.28, FCSR]
 10. In order to assure the provisions for collection and disposal of solid waste, the developer shall submit a letter from the applicable solid waste contract hauler stating that the hauler is able to provide service to the proposed subdivision. [Section 4.7.22, FCSR]
 11. The following statements shall be placed on the face of the final plat applicable to all lots:
 - a. All road names shall be assigned by the Flathead County Address Coordinator and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c), FCSR]
 - b. All utilities shall be placed underground. [Section 4.7.23, FCSR]
 - c. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]
 - d. Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.22, FCSR]

- e. Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.25, FCSR]
12. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), M.C.A.]
13. The owners shall abide by the guidelines set forth in the approved Dust and Air Pollution Control and Mitigation Plan during and after site construction and development activities. [Section 4.7.14, FCSR]
14. All road names shall be approved by Flathead County and clearly identified and house numbers will be clearly visible from the road, either at the driveway entrance or on the house. House numbers shall be at least four inches in length per number. [Section 4.7.26(c), FCSR]
15. Where the aggregate total disturbed area of any infrastructure construction in the proposed subdivision as defined in A.R.M. 17.30.1102(28) is equal to, or greater than one acre; or where when combined with subsequent construction of structures such disturbed area will be equal to, or greater than one acre, a Montana State Department of Environmental Quality General Permit for Stormwater Discharges Associated with Construction Activity (General Permit) shall be obtained and provided to the Flathead County Planning & Zoning office prior to any site disturbance or construction. [17.30.1115 Administrative Rules of Montana (A.R.M.)]
16. All required improvements shall be completed in place or a Subdivision Improvement Agreement shall be provided by the subdivider prior to final approval by the County Commissioners. [Section 4.0.16, FCSR]
17. The final plat shall be in substantial compliance with the plat and plans submitted for preliminary plat review, except as modified by these conditions. [Section 4.1.13, FCSR]
18. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. Extension requests to the preliminary plat approval shall be made in accordance with the applicable regulations and following associated timeline(s). [Section 4.1.11 FCSR]

B. Project-Specific Conditions

19. The proposed extensions and connections of the public water and wastewater systems shall comply with the standards and requirements of the Bigfork Water and Sewer District. A letter from the district stating that the water and sewer improvements meet the district requirements shall be submitted with the application for Final Plat. [Sections 4.7.20, 4.7.21 FCSR]
20. A bike/pedestrian path easement of compliant width shall be shown on the face of the final plat. [Sections 4.7.19 FCSR]
21. The current Eagle Rock R-2 PUD shall be either abandoned or amended by Resolution of the Flathead County Board of Commissioners in order that the proposed subdivision is compliant with applicable local zoning prior to final plat approval.

Planner: AH

Filepath: S:\FCPZ\CURRENT PLANNING\SUBDIVISION AND ZONING REPORTS\FPP\2012\FPP-12-01