

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE  
SUBDIVISION REPORT (#FPP-10-02)  
PLANNED UNIT DEVELOPMENT REPORT (#FPPUD-10-01)  
SWAN PEAK HOMESTEAD  
FEBRUARY 23, 2011**

A report to the Flathead County Planning Board and Board of Commissioners regarding a request for a planned unit development (PUD) overlay on 123.8 acres of land and preliminary plat approval of Swan Peak Homestead, a major subdivision that would create 17 residential lots on 120.1 acres. The proposed subdivision and planned unit development are located along the east side of Bigfork Stage Road, approximately ½ mile north of the town center of Bigfork within the Bigfork zoning district.

The Flathead County Planning Board will conduct a public hearing on the proposed subdivision and planned unit development on March 9, 2011 at 6:00 PM in the 2<sup>nd</sup> Floor Conference Room, 1035 1<sup>st</sup> Ave West, Kalispell. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration. Final action on this proposal by the governing body must be taken prior to April 15, 2011, in accordance with the 60 day review period identified in Section 4.4.6 of the Flathead County Subdivision Regulations. All documents pertaining to the subdivision and planned unit development are available for public inspection at the Flathead County Planning and Zoning Office in the Earl Bennett Building located at 1035 First Avenue West, in Kalispell.

## **I. APPLICATION REVIEW UPDATES**

### **A. Land Use Advisory Committee**

The proposed subdivision and planned unit development is located within the advisory jurisdiction of the Bigfork Land Use Advisory Committee (BLUAC). On February 24, 2011 the Committee will hold a public meeting at Bethany Lutheran Church, beginning at 4:00 PM, to review the proposal and make 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 and planned unit development on March 9, 2011 and make a recommendation to the Flathead County Commissioners. This space is reserved for a summary of the Flathead County Planning Board's discussion and recommendation.

### **C. Commission**

The Flathead County Commissioners will consider the request and approve, conditionally approve or deny the proposed subdivision and planned unit development during a public meeting scheduled on a date and time to be determined. This space is reserved for a summary of the Commission's discussion and decision.

## **II. GENERAL INFORMATION**

### **1. Application Personnel**

#### **1. Applicant/Owner**

A & C Horn Trust  
c/o American Capital Companies  
10960 Wilshire Boulevard, Suite 1225  
Los Angeles, CA 90024

## **2. Technical Assistance**

Sands Surveying, Inc.  
Attn: Eric Mulcahy, AICP  
2 Village Loop  
Kalispell, MT 59901

Carver Engineering, Inc.  
Attn: Tom Cowan  
P.O. Box 2039  
Kalispell, MT 59903

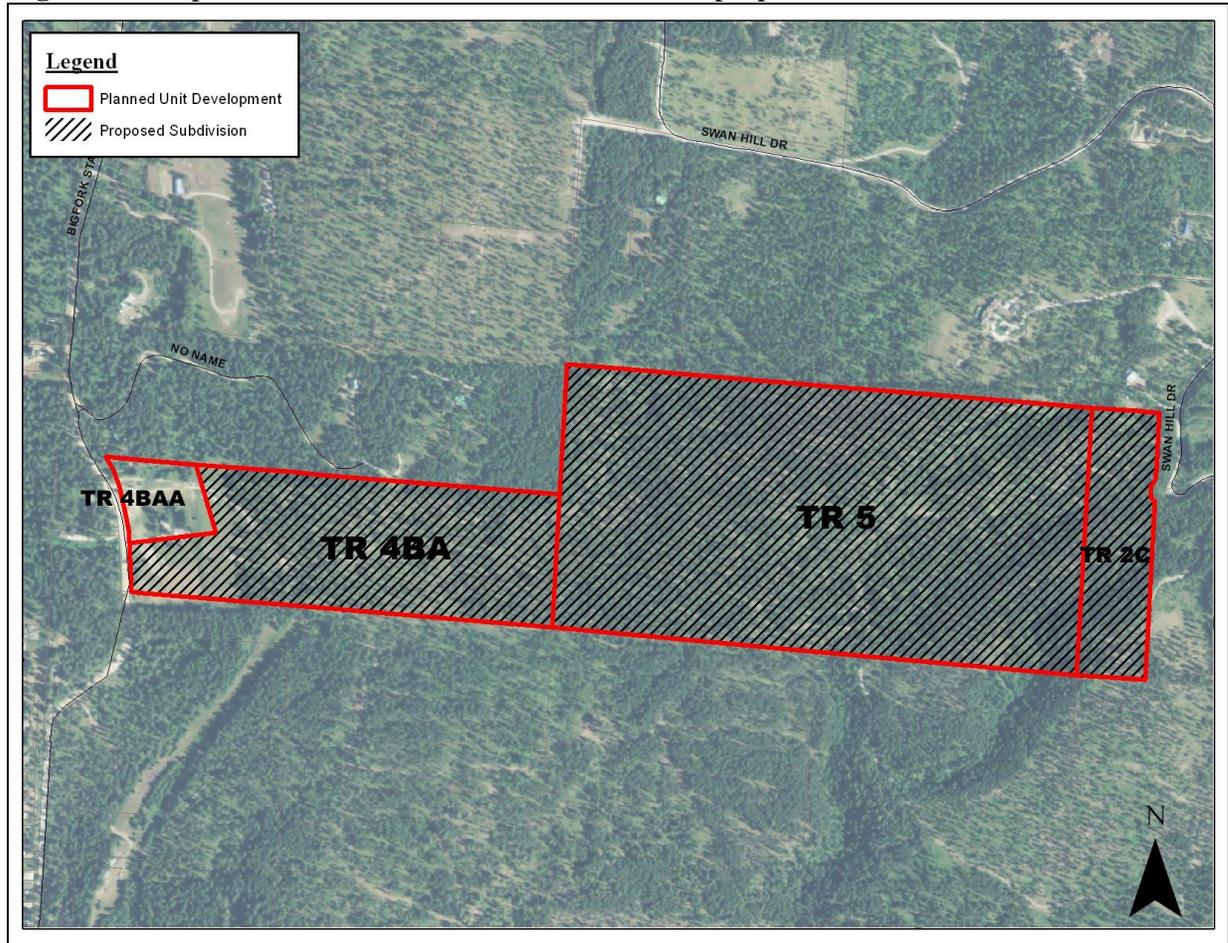
## **2. Project Description:**

The project encompasses 123 acres in its entirety, 120 of which are part of the proposed major subdivision. A 3.7 acre homestead tract is included as part of the planned unit development application (PUD), as it is under the same ownership and is currently a stand-alone tract across which the internal subdivision road would travel to gain access to the subdivision. The PUD would modify the lot configuration allowed based on the zoning in place – “R-1 Suburban Residential”, “SAG-5 Suburban Agricultural” and “SAG-10 Suburban Agricultural” – enabling lots to be clustered on the western portion of the site and reducing the minimum lot size requirements of each applicable zone. The reduction in minimum lot size would, in return, allow permanent open space to be set aside as part of the development plan. The application materials describe a 17-lot residential subdivision located on 50 of the 120 acres involved in the proposed subdivision. The bulk of the remaining acreage (approximately 53 acres) would be placed in a conservation easement under the administration of Montana Land Reliance; roughly 8 acres would be dedicated as parkland and maintained by the subdivision’s Homeowner’s Association, and the 9 remaining acres would be utilized for internal subdivision roads and utility easements as required by the regulations. Aside from the minimum lot size requirements, all permitted and conditional uses, bulk and dimensional requirements and regulatory restrictions would defer to the underlying zoning designations.

## **3. Legal Description:**

The proposed subdivision is comprised of three tracts of land that can be legally described as Tract 4BA, 2C and 5 located in Sections 29 and 30, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana. The PUD overlay proposed would include the three subdivision tracts described as well as the original homestead Tract 4BAA in Section 30, Township 27 North, Range 19 West, P.M.M., Flathead County, Montana (see Figure 1 below).

**Figure 1:** Properties included in subdivision and PUD proposal.



**4. Detailed Location**

The subject properties are located approximately ½ mile north of the town of Bigfork, along the east side of Bigfork Stage Road. Combined, the properties stretch east to west between Bigfork Stage Road and Swan Hill Drive, having access to both (see Figure 2 below).

**Figure 2:** Detailed location of subject properties (outlined in red).

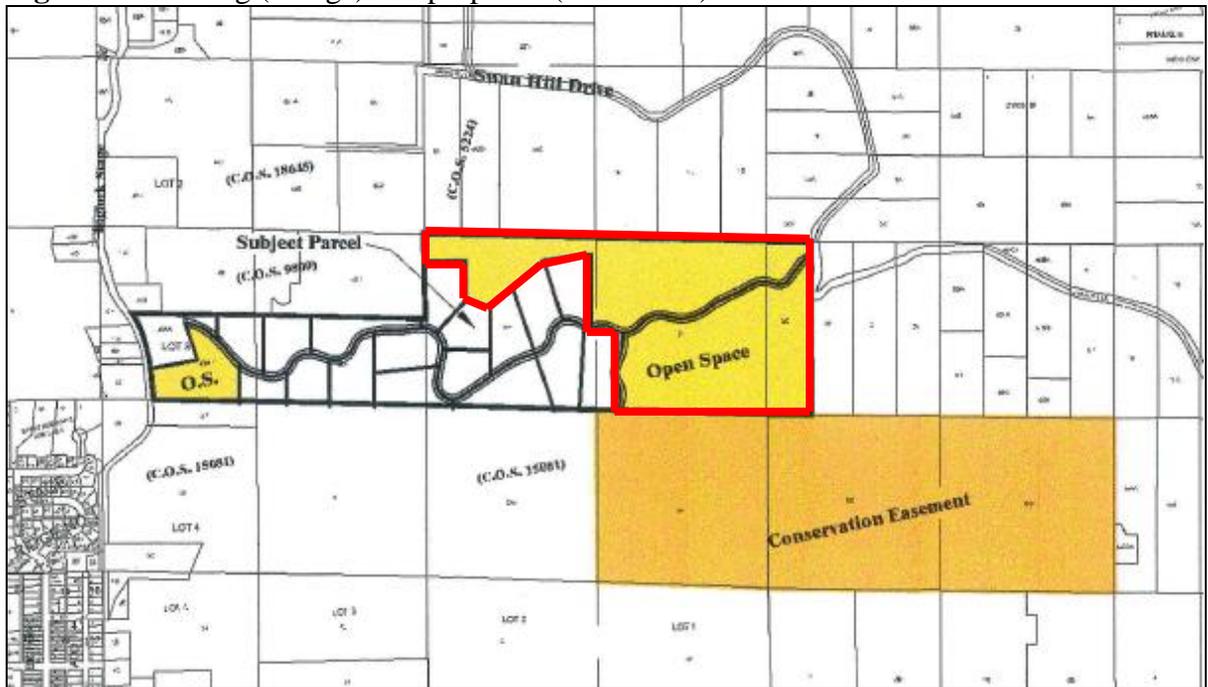


**5. Subdivision Layout Detail**

- 1. **Total PUD Acreage**.....123.80 acres
- 2. **Total Subdivision Acreage**.....120.10 acres
- 3. **Acreage in Lots (net)**.....49.28 acres
- 4. **Park, Common Area and/or Open Space Acreage**
  - 1. Park deeded to Flathead County.....0.00 acres
  - 2. Homeowner’s Association Park.....8.06 acres
  - 3. Open Space.....0.00 acres
  - 4. Common Area.....0.00 acres
- 5. **Minimum Lot Size**.....1.74 acres
- 6. **Maximum Lot Size**.....4.02 acres
- 7. **Overall Gross Lot Density**.....1 DU/7.06 acres
- 8. **Easements**.....53.59 acres

The proposed subdivision would set aside 53.59 acres of open space in permanent conservation easement under the administration of the Montana Land Reliance. A draft Deed of Conservation Easement has been submitted with the application materials and details specific contingencies and arrangements made as part of the plan for subdivision. The conservation easement proposed abuts an existing easement located south and east of the subject property(s) that is also held in conservation by the Montana Land Reliance (see Figure 3 below).

**Figure 3:** Existing (orange) and proposed (red outline) conservation easements.



## 6. Administrative Characteristics

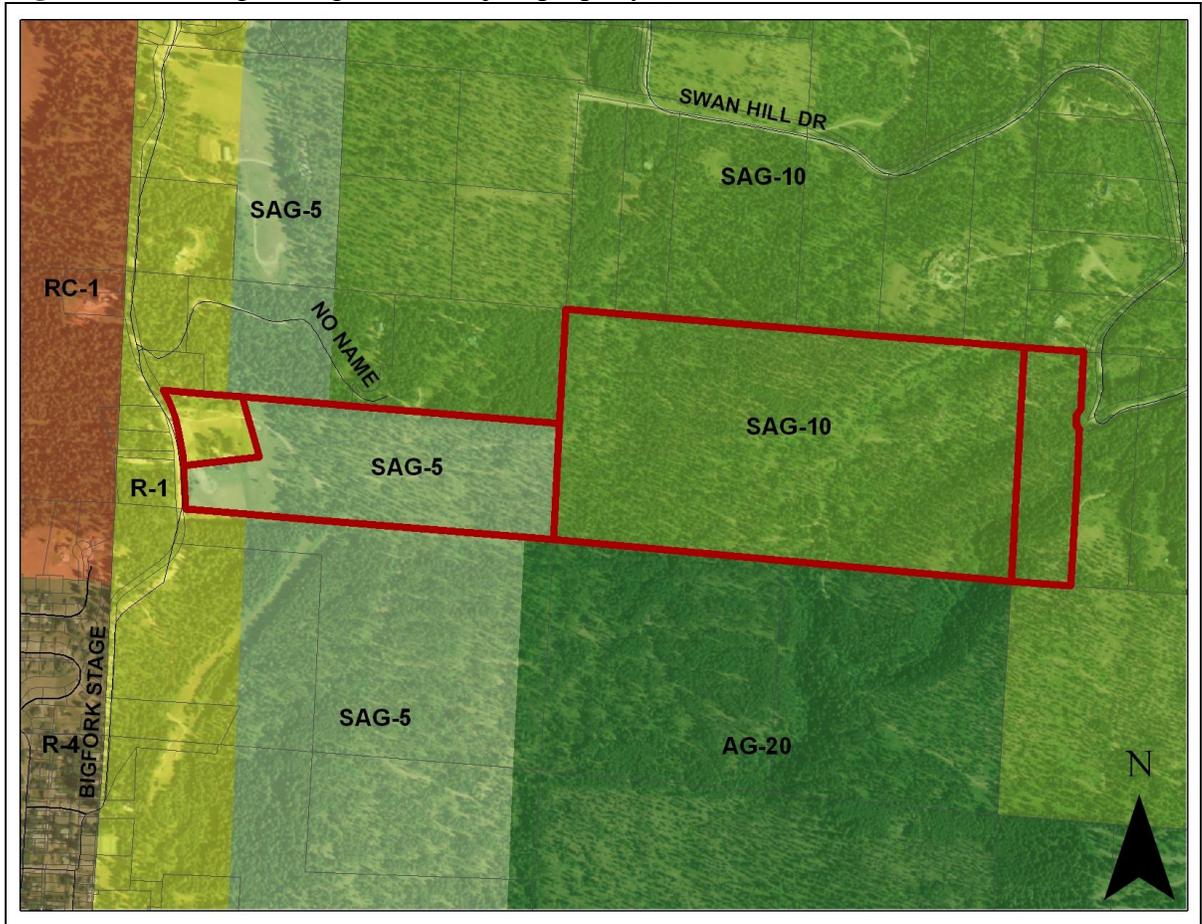
### 1. Current Land Use

Tracts 4BA, 5 and 2C are currently vacant land designated “agricultural rural” according to the Computer Assisted Mass Appraisal (CAMA) Parcel Details Report. There is an existing residence on Tract 4BAA (the original homestead tract), which has been assessed as “rural residential” according to CAMA parcel data. The majority of the property is moderately timbered but is not actively managed for silviculture activities.

### 2. Current Zoning

The subject properties are currently split between three different zoning designations (see Figure 4 below). Tract 4BAA is zoned “R-1 Suburban Residential”, while Tract 4BA is zoned “SAG-5 Suburban Agricultural” (5 acre minimum lot size) and Tracts 5 and 2C are zoned “SAG-10 Suburban Agricultural” (10 acre minimum lot size).

**Figure 4:** Existing zoning on the subject property(s).



**3. Proposed Land Use:**

The applicant is proposing a 17-lot residential cluster development with an approximate gross density of one dwelling unit per 7 acres. The underlying zoning of R-1, SAG-5 and SAG-10 would remain in place, diverging from the applicable regulations only in minimum lot size requirements, and would continue to regulate permitted and conditional uses as well as bulk and dimensional requirements (other than lot size) through the conditions of the PUD.

**7. Area Characteristics**

**1. Description of Area Surrounding Proposed Subdivision/Planned Unit Development**

The area surrounding the subject property is characteristically rural, moderately to heavily timbered and can generally be described as having rolling to mountainous terrain. Many of the properties surrounding the proposed subdivision are undeveloped, and those that are developed are overwhelmingly residential with estate-type homes on large acre lots. The exception would be a development located south and west of the subject property, zoned R-4 and developed in a traditional residential neighborhood pattern with water and wastewater services provided by the Bigfork Public Water and Sewer District. This higher-density development is located along Bigfork Stage on the way into the town of Bigfork, and is more consistent with development patterns in and around an urban area.

**2. Average Parcel Acreage**

Parcel sizes in the surrounding area generally reflect the zoning currently in place. Along Bigfork Stage Road, R-1 zoning allows a minimum of 1 acre lot size, but many of the properties are between 1 and 5 acres, with larger lots present as well. To the immediate north

parcel sizes generally range between 10 and 20 acres, consistent with the SAG-5 and SAG-10 zoning in place. To the east is a grouping of tracts along Swan Hill Drive between 5 and 10 acres in size, and to the south are predominantly large tracts of land ranging anywhere from 20 to 40 acres in size or more, reflecting the AG-20 zoning designation applicable to the area.

**3. Zoning**

Referencing Figure 4 and as discussed in the paragraph above, zoning in the immediate area surrounding the proposed development includes “R-1 Suburban Residential, “SAG-5” and “SAG-10 Suburban Agricultural” and “AG-20 Agricultural”. “RC-1 Residential Cluster” and “R-4 Two-Family Residential” zoning can be found to the west of Bigfork Stage Road and south of the subject property heading into the town of Bigfork, and properties within these zoning designations are also served by the Bigfork Public Water and Sewer District.

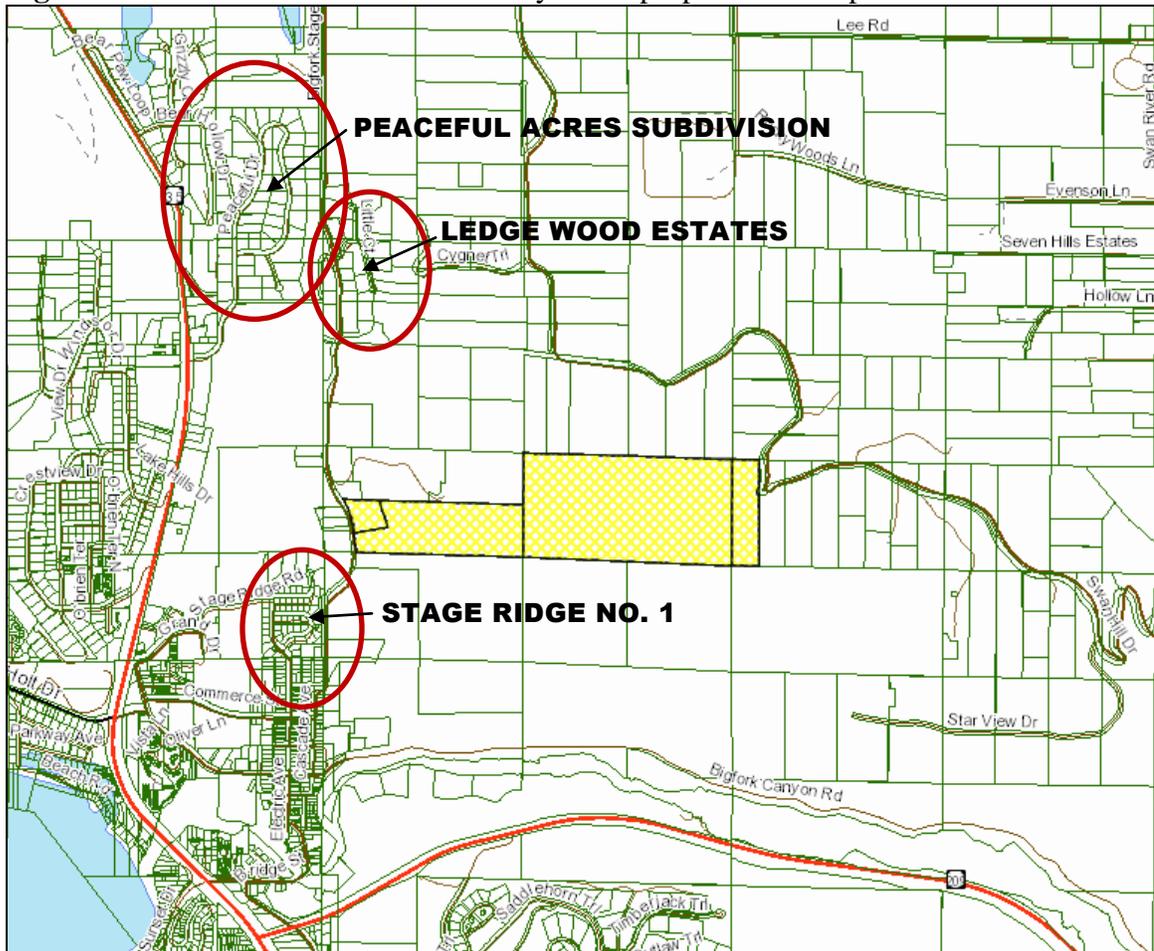
**4. Land Uses**

As previously stated, land uses surrounding the proposed subdivision and planned unit development oscillate between undeveloped and rural residential. Properties that have been developed along Bigfork Stage and Swan Hill Drive appear to be large-acre lots with estate type residential development.

**5. Previously Considered Subdivisions in Area**

Previous subdivisions have occurred in this area of the County, setting a precedent for development along Bigfork Stage Road. Peaceful Acres Subdivision and Ledge Wood Estates were completed during the 1970s and 80s, creating multiple lots less than one acre in size north of the subject property along Bigfork Stage Road (see Figure 5 below). Stage Ridge No. 1 Subdivision (located south and west of the subject property) was completed in 1994 and created 52 lots around ¼ acre in size just north of Bigfork. Peaceful Acres and Ledge Wood Estates are currently zoned R-2 Single Family Residential, while Stage Ridge No. 1 is zoned R-4 Two Family Residential; generally speaking, the previous subdivisions comply with the zoning as it exists today.

**Figure 5: Past subdivisions in the vicinity of the proposed development**



## 8. Utilities and Services

1. **Water**  
Individual on-site wells
2. **Wastewater**  
Individual on-site septic systems
3. **Electricity**  
Flathead Electric Cooperative
4. **Natural Gas**  
NorthWestern Energy
5. **Solid Waste**  
Contract haul - Allied Waste
6. **Telephone Service**  
CenturyTel
7. **Schools District(s)**  
Bigfork School District (K-12)
8. **Fire Districts**  
Bigfork Fire Department
9. **Police**  
Flathead County Sheriff's Department

### III. COMMENTS RECEIVED

#### 1. Agency Referrals

In accordance with applicable subdivision review requirements, agency referrals for comments on the proposed subdivision and planned unit development were sent to the following agencies on January 26, 2011:

- Chuck Curry, Flathead County Sheriff
- Dave Prunty, Public Works/Flathead County Road Department
- Jim Chilton, Flathead County Solid Waste
- Glen Gray, Flathead City-County Health Department
- Joe Russell, Flathead City-County Health Department
- Marcia Sheffels, Superintendent of Schools
- Jed Fisher, Flathead County Weeds and Parks Department
- Larry Van Rinsum, Flathead Conservation District
- Flathead County Address Coordinator/GIS Department
- Jamie Murray, Bonneville Power Authority (BPA)
- Mike Wyrwas, USPS Billings
- Chris Caye, Montana Fish, Wildlife and Parks (MT FWP)
- Fred Holmes, Montana Department of Natural Resources and Conservation (DNRC)
- Emily Gillespie, DEQ Subdivision Section (MT DEQ)
- Bigfork Fire District
- Bigfork Elementary and High School District
- Julie Spencer, Bigfork Water and Sewer
- Lynn Verlanic, U.S. Fish and Wildlife Service

As of the date of completion of this staff report, the following comments have been received:

- **Dave Prunty, Flathead County Road and Bridge Department**
  - After completing our review, we find the requested preliminary plat acceptable for road impact on Bigfork Stage Road.
- **Jim Chilton, Flathead County Solid Waste**
  - The landfill capacity currently available is from 30 to 60 years based upon an average tonnage increase of 8% per year or 2% per year, respectively.
  - The District requires all new subdivisions use a private hauler to bring solid waste to the landfill. Outlying green box sites should not be a primary method of solid waste disposal. Allied Waste is the PSC Public Service Commission licensed hauler in this area.
  - After reviewing the project summary, I believe the proposed major subdivision is approaching the issue of solid waste in an appropriate manner.
- **Marcia Sheffels, Superintendent of Schools**
  - The proposed development is located in the Bigfork Elementary School District and the Bigfork High School District.
  - Pursuant to MCA 20-10-101-2(c-i), the proposed subdivision is within 3 miles of the elementary and high school and the district is not legally required to provide transportation to area students.
  - The Bigfork District, according to the preliminary plat, informed developers that bus service was possible. Please refer to the district's request (pg. 31) for a bus stop.
- **Jamie Murray, Bonneville Power Authority**
  - In reviewing the proposed plan, we have found this proposal will not impact any BPA transmission line corridors located within this area. BPA does not have

any objections to the approval of this request at this time.

- **Fred Holmes, Kalispell Unit – Montana DNRC**
  - The subdivision complies with reasonable Wildland fire suppression and access requirements of this Department.
- **Nat O'Farrell, Assistant Chief, Bigfork Fire Department**
  - The road widths, grades and turnarounds should meet County standards to allow access for our apparatus.
  - A 60,000 gallon water storage tank shall be installed with a 1,000 gpm pump to refill tenders. The tank shall be maintained by the homeowner's association. All homes shall have residential sprinklers installed to NFPA standards.
  - Any electric opening security gates need to have a siren opener installed.
- **Glen Gray, Flathead County Sanitarian, Flathead City-County Health Department**
  - This application is proposing individual water and sewage treatment systems for each lot.
  - Based on the information provided and experience in the general area, I would not foresee any issues using individual services.
  - These and the storm drainage plans will be reviewed by this office and the subdivision section of the Department of Environmental Quality under the Sanitation in Subdivisions Act.
- **John Vore, Wildlife Biologist, Montana Fish, Wildlife and Parks**
  - The current proposal differs slightly from the previous proposal in the number and arrangement of the northeastern-most lots. I have no new comments outside of those offered in my 10/30/09 letter (attached and included with application materials).
  - Maintains that the subdivision does not appear to meet Flathead County Zoning Regulations for either SAG-10 or SAG-5; just pointing out that the proposal does not appear to meet the minimum lot size for base density and exceeds maximum lot size to be considered a cluster development.
  - The best development scenario for wildlife is to keep the development in as small an area as possible and as close to existing development as possible; even if the developer were to take advantage of the density bonus and put more houses on property smaller than 2 acres, that is okay (contrary to developer's assertions in the Environmental Assessment).
  - Truly appreciative of the developer's efforts to conserve un-fragmented open space habitat through a conservation easement and situation that open space next to existing open space on adjacent property; these are good design features that FWP highly endorses.

## 2. Public Comments

In accordance with Section 4.1.10 (b), adjacent property notification was mailed to neighboring property owners within 150 feet of the proposed subdivision and PUD on February 16, 2011. 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 February 23, 2011 will be summarized verbally and entered into the public record during the Planning Board hearing on March 9<sup>th</sup>, 2011. It is anticipated anyone wishing to provide verbal public comment will do so in person at the Planning Board hearing on March 9<sup>th</sup>.

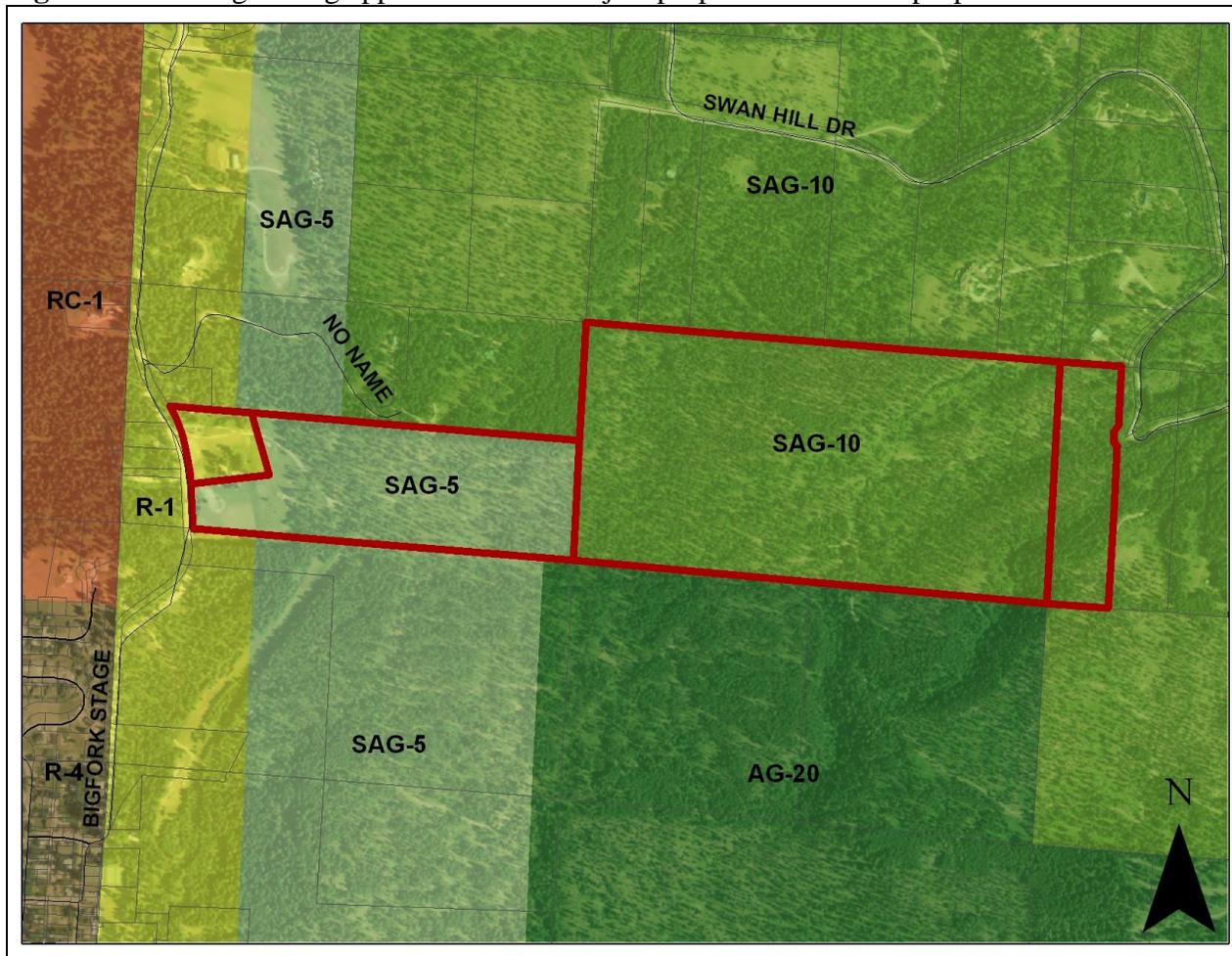
#### **IV. EVALUATION OF PUD OVERLAY REQUEST (#FPPUD-10-01)**

A Planned Unit Development (PUD) is a zoning overlay meant “to encourage the more efficient use of land and public services by providing a classification which may provide flexibility of architectural design and mixing of land uses while preserving and enhancing the integrity and environmental values of an area” (Section 3.31.010 FCZR). The underlying zoning in place at the time of a PUD application establishes the uses and density allowable in the PUD area.

The applicants have requested a residential PUD overlay applicable to the existing zoning in place on the four subject properties (see Figure 6 below). As previously discussed, Tract 4BAA is zoned “R-1 Suburban Residential”, Tract 4BA is zoned “SAG-5 Suburban Agricultural” and Tracts 5 and 2C are zoned “SAG-10 Suburban Agricultural”. The PUD overlay proposed would not increase development density on the subject property, but would serve to cluster the development closer to Bigfork Stage and the west half of the property, with the more rugged eastern portion of the property placed in permanent conservation easement. By implementing a PUD overlay (as opposed to utilizing the cluster development standards found in Sections 4.05 and 5.09 FCZR), the development would not have to adhere to the 2 acre maximum lot size requirement for cluster lots.

It should be noted that the review of a planned unit development differs from a zoning text or map amendment in that specific review criteria found in Section 3.31.020 (2) are used to evaluate the appropriateness of the plan itself. Planned unit developments are also required to meet certain performance standards identified in Section 3.31.030 regarding their location, land area requirements and use regulations. The following is an evaluation of the proposed PUD using the criteria identified.

**Figure 6:** Existing zoning applicable to the subject properties and PUD proposed.



**A. The extent to which the plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to, density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.**

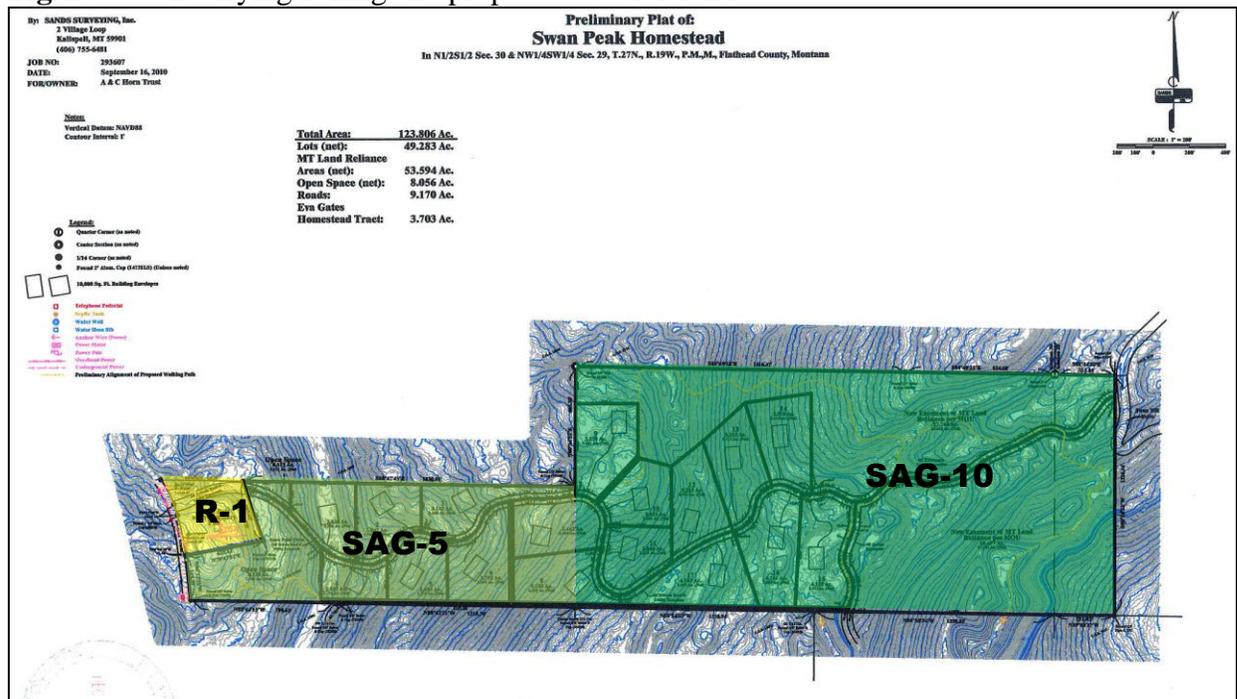
The proposed Swan Peak Homestead Planned Unit Development departs from the underlying zoning designations (R-1, SAG-5, and SAG-10) in only one way – minimum lot size requirements. The intent of the PUD is to enable the 17 lots proposed by the subdivision accompanying this plan (and reviewed in the following sections) to be clustered on approximately 50 acres on the western portion of the subject property, closer to public services and facilities and on topography more conducive to residential development. The remaining acreage would either be set aside in permanent conservation easement or utilized for internal roads and open space associated with the proposed subdivision.

Of the 123.8 acres involved in the planned unit development, approximately 3.7 acres are zoned “R-1 Suburban Residential”, 28.8 acres are zoned “SAG-5 Suburban Agricultural” and 89.3 acres are zoned “SAG-10 Suburban Agricultural”. Tract 4BAA – the original homestead tract – would not be altered as a result of the subdivision or PUD, as it is currently a standalone tract approximately 3.7 acres in size. All permitted and conditional uses as well as bulk and dimensional requirements of R-1 zoning would continue to apply to this tract, including minimum lot size (refer to Table 1 below). Given the combined acreage and the applicable

zoning, a total of 18 lots could be created through subdivision (a breakdown of 3.7 lots under R-1, 5.76 lots under SAG-5, 8.93 lots under SAG-10). Instead of spreading the lots out as required under the existing zoning, the applicant has requested a PUD that would allow a reduced minimum lot size, clustering 17 of the lots permitted under the existing zoning onto the western portion of the property and setting aside the remaining acreage in open space or under conservation easement. The applicants chose a PUD rather than implementing the cluster development standards found in Sections 4.05 and 5.09 of the zoning regulations due to the fact that the net average lot size in a residential cluster development is restricted to a maximum of 2 acres. Given the PUD’s location in a rural residential area as well as the underlying large-acreage zoning in place, the applicants felt a higher net average lot size would be appropriate coupled with a substantial amount of open space set aside. The 17 lots proposed would be limited to 49.2 acres for an approximate gross density of 1 dwelling unit per 7 acres and an average net lot size of 2.99 acres.

Lots 1-8 are proposed to be located on existing Tract 4BA, which is currently zoned “SAG-5 Suburban Agricultural”. All permitted and conditional uses as well as bulk and dimensional requirements under SAG-5 would continue to be applicable to these lots, with the exception of lot size. SAG-5 typically requires a minimum 5 acre lot size, whereas lots 1-8 range between 1.8 and 3.4 acres in size. Note that lots 7 and 8 are split by the underlying SAG-5 and SAG-10 zoning districts (see Figure 7 below); as proposed, only a small portion of the lots would be zoned SAG-10, and future property owners would have the ability to utilize their property in accordance with Section 3.02.030 of the zoning regulations. However, with the exception of minimum lot size – which is already reduced as a result of the PUD proposal – the permitted and conditional uses as well as the bulk and dimensional requirements of SAG-5 and SAG-10 zoning are nearly identical.

**Figure 7:** Underlying zoning and proposed subdivision lots.



Similarly, lots 9-17 are located on existing Tract 5 and zoned “SAG-10 Suburban Agricultural”. All permitted and conditional uses as well as bulk and dimensional requirements under SAG-10

zoning would continue to apply to these lots, with the exception of lot size. SAG-10 requires a minimum 10 acre lot size, whereas lots 9-17 range between 2.7 and 4.2 acres in size. The table below provides a brief comparison of the underlying zoning and the differences proposed as part of the PUD; again, the only divergence from the underlying zoning would be in the minimum lot size requirements of the zoning districts.

**Table 1: Planned Unit Development Characteristics**

<b>Lot/Tract No.</b>	<b>Tract 4BAA</b>	<b>Lots 1-8</b>	<b>Lots 9-17</b>
Underlying Zoning	R-1 Suburban Residential	SAG-5 Suburban Agricultural	SAG-10 Suburban Agricultural
Minimum Lot Size	1 acre	5 acres	10 acres
Proposed Lot Size	3.7 acres	1.8-3.4 acres	2.7-4.2 acres
Applicable Permitted Uses	FCZR Section 3.09.020	FCZR Section 3.08.020	FCZR Section 3.07.020
Applicable Conditional Uses	FCZR Section 3.09.030	FCZR Section 3.08.030	FCZR Section 3.07.030
Applicable Bulk & Dimensional Requirements	FCZR Section 3.09.040	FCZR Section 3.08.040	FCZR Section 3.07.040

**Finding #1** – The proposed Swan Peak Homestead PUD departs from existing zoning in only one way, reducing the minimum lot size requirements for land that is zoned SAG-5 and SAG-10 to allow the clustering of lots on a portion of the property; this departure is not anticipated to impact or be of interest to the public because the proposed development will not be increasing density on the subject property, only relocating density otherwise permitted under the existing zoning to enable clustering and provide open space set aside in perpetuity.

**B. The nature and extent of the common open space in the planned development project, the reliability of the proposals for maintenance and conservation of the common open space and the adequacy or inadequacy of the amount and function of the open space in terms of the land use, densities and dwelling types proposed in the plan.**

As discussed above, the overall density of the proposed PUD (1 DU/7 acres) falls below the maximum permissible density allowed under Section 3.31.030(4)(A) of the zoning regulations for R-1, SAG-5 and SAG-10 districts. Planned unit developments do not require a specific amount of open space set aside for increased development density (such as that which is required for residential cluster developments in Sections 4.06 and 5.09 FCZR); and the applicant is not requesting additional density as part of the PUD application. Of the 123.8 acres involved, approximately 62 acres are proposed to be set aside under permanent conservation easement or as dedicated parkland owned and maintained by the Homeowner’s Association. A draft Deed of Conservation Easement was submitted with the application materials identifying 53.594 acres of land to be held by Montana Land Reliance in permanent conservation easement. The draft document specifies permitted uses and practices within the conservation easement (Exhibit B), as well as identifying prohibited activities such as subdivision, commercial facilities, dumping, construction and billboards (Exhibit C). Limited non-commercial mineral removal and timber management are permissible according to the draft document; however, the purpose of the easement (Section I, Article A) expressly states the intent is to assure that conservation values be maintained in perpetuity, through land management and limited recreational uses.

Approximately 8 acres of open space will be set aside as parkland for the residents of the proposed subdivision and planned unit development, owned and maintained by the Homeowner's Association. This acreage is located on the western portion of the property, near the subdivision entrance off of Bigfork Stage Road. A draft Declaration of Covenants, Conditions and Restrictions for Swan Peak Homestead identifies this open space as a "common element/area" and identifies provisions for the continued maintenance and care of such areas, on behalf of the Homeowner's Association (reference Article 2: Areas of Common Responsibility in the draft CCRs provided). The acreage provided meets the requirements of Sections 4.7.26(c)(i) and (ii) of the Flathead County Subdivision Regulations, which state the parkland dedication requirement (to the County) may be waived by the Commissioners if the proposed subdivision provides for a "planned unit development... with land permanently set aside for parkland sufficient to meet the needs of the residents of the development and equals or exceeds the area of the required parkland dedication pursuant to Subsection (d)" and is maintained by the homeowners association.

**Finding #2** – Open space associated with the proposed PUD is adequate in both amount and function because 53.594 acres will be placed under permanent conservation easement deeded to and held by Montana Land Reliance and an additional 8.056 acres of open space will be set aside as parkland associated with the proposed subdivision, to be maintained by the Homeowner's Association, and because both mechanisms are reliable in their ability to maintain and conserve the proposed open space in perpetuity as reviewed herein.

**C. The manner in which said plan does or does not make adequate provision for public services, provide adequate control over vehicular traffic and further amenities of light or air, recreation or visual enjoyment.**

A preliminary plat for the Swan Peak Homestead subdivision accompanies the proposed PUD application, and details how the plan and subdivision will address the matter of public services and facilities, vehicular traffic and recreational components simultaneously. The subject properties involved in the PUD (and subsequent subdivision application) are located within the Bigfork Fire District and would be served by the District, as well as the Flathead County Sheriff's Department in the event of an emergency. Comment from the Nat O'Ferrall, Assistant Chief with the Bigfork Fire Department, indicates an agreement was reached between the developer and the fire department requiring a 60,000 water storage tank be constructed on the property and maintained by the Homeowner's Association, and that all residential development shall have residential sprinklers installed to NFPA standards. Flathead County does not have a building department, nor does the Planning and Zoning Office have the ability to require the installation of sprinklers in residential homes through subdivision review. However, conditions of the planned unit development can address sprinkling requirements for residential structures through design standards [Section 3.31.020(2)], particularly when requested by the public service provider and given the rural character of the area, forested site conditions and topography as well as the development's location within the Wildland Urban Interface [discussed in greater detail in Section VII(A), Subsection (vii)(6) below].

Lots proposed as part of the Swan Peak Homestead Subdivision will be served by individual well and septic facilities onsite, and will have direct driveway access to an internal subdivision road that will be paved and constructed to County standards. Approximately 8 acres of open space will be dedicated parkland as part of the subdivision's conditions of approval, and will be owned and

maintained by the Homeowner's Association for recreational use by the residents of the subdivision. Additionally, nearly 54 acres of land will be set aside in permanent conservation easement as part of the planned unit development and subdivision request, adding to lands available for recreational use. Lots created through subdivision as part of the PUD will continue to abide by the underlying zoning in place with regard to minimum setbacks, lot coverage and permitted and conditional uses, ensuring the adequate provision of light and air and maintaining public health and safety for the subject property and surrounding area.

**Finding #3** – The PUD proposed makes adequate provision for public services, vehicular traffic and amenities of light, air and recreational enjoyment because the properties are located within the jurisdiction of local fire and emergency service providers and will be required to adhere to all requests made by public service providers to ensure public health and safety; the PUD has been proposed as part of a subdivision request and will utilize an internal subdivision road with dual access points to safely and effectively direct traffic; adequate open space is being set aside for the recreational and visual enjoyment of the residents, and the underlying zoning will continue to regulate bulk and dimensional requirements of the development.

**D. The relationship, beneficial or adverse, of the planned development project upon the neighborhood in which it is proposed to be established.**

The proposed PUD is located in a rural residential area of the County, approximately ½ mile north of the town of Bigfork. Under the current zoning, the four tracts of land involved in the PUD would be able to subdivide outright, creating up to 19 residential lots on the combined 123.8 acres. The difference between this scenario and the proposed PUD is that under the current zoning lots would be spread across the entirety of the property to meet the minimum lot size requirements of the underlying SAG-5 and SAG-10 designations. Allowing a reduced lot size with no additional development density enables the lots to be clustered in a manner still consistent with the rural character of the area but located closer to public facilities and services, thus limiting the impacts resulting from development. Previous subdivisions have occurred to the north and south of the proposed development along Bigfork Stage Road, creating lots as small as ¼ to ½ an acre in size in patterns more consistent with urban or suburban residential development than rural residential development. The provisions of the PUD proposed attempts to maintain larger lot sizes while still developing in a way that reduces the cost of extending necessary services and reduces impacts on the natural environment and surrounding area. Compared to the type and scale of development that could occur on the property given the existing zoning in place, the proposed PUD would be anticipated to have a distinctly more positive impact on the surrounding, predominantly rural character of the neighborhood.

**Finding #4** – As proposed, the PUD may be of benefit to the surrounding area by directing the intensity of development currently allowable under existing zoning to an area of the property more efficiently served by public facilities and utilities, limiting impacts resulting from development.

**E. In the case of a plan that proposes development over a period of years, the sufficiency of the terms and conditions proposed to protect and maintain the integrity of the plan which finding shall be made only after consultation with the County Attorney.**

As proposed, neither the subdivision nor PUD will be phased. The project will be constructed in a single stage over the standard three year preliminary approval period, with the potential for a one year extension and use of a Subdivision Improvements Agreement (SIA) should the developer need additional time to complete the required improvements conditioned through subdivision. The final plan and final plat review required prior to the implementation of the

overlay and creation of subdivision lots will ensure the integrity of the plan is met and the subdivision is constructed according to applicable regulations.

**Finding #5** – Development relating to the PUD proposed will not be phased, and provisions within the Flathead County Subdivision Regulations, as well as conditions of plan and subdivision approval will ensure all improvements are completed in accordance with the intent of the plan reviewed herein.

**F. Conformity with all applicable provisions of this chapter.**

A Residential PUD must be reviewed for conformance to and consistency with the provisions of Section 3.31.030 of the Flathead County Zoning Regulations regarding “Standards for Planned Unit Development District”. The following criteria are applicable to the proposal:

- 1. Location of PUD** - The proposal is located in an area of the County where public and private facilities and services are available (or will become available) to meet the needs of the proposal rural development; the property is located within the Bigfork Fire District and the Bigfork School District, is served by the Flathead County Sheriff’s Department, and will have individual wells and septic drain fields available to serve the subdivision proposed in conjunction with the PUD.
- 2. Land Area Requirement** - The proposed PUD encompasses 123.8 acres of land, well in excess of the 2 acre minimum land requirement necessary for a change in designation.
- 3. Establishment of PUD Districts** - The proposed PUD meets the establishment requirements of a “Residential PUD” district, as the tracts of land involved in the development plan are currently zoned “R-1 Suburban Residential”, “SAG-5 Suburban Agricultural” and “SAG-10 Suburban Agricultural”.
- 4. Use Regulations** - The PUD proposal would not alter any of the underlying zoning designations with regard to use (permitted or conditional) or bulk and dimensional requirements, with the exception of minimum lot size. As previously discussed, a reduction in lot size for lots within the proposed subdivision (currently zoned SAG-5 and SAG-10) would enable development to be clustered on the western portion of the site. The applicant is not requesting any increased density according to Section 3.31.030(4)(A), but is merely requesting a reduction in minimum lot size through a PUD overlay to cluster the development proposed in the most appropriate areas onsite.
- 5. PUD Preliminary Plan-** The PUD Preliminary Plan application contains all elements required in this section of the regulations.

**Finding #6** – The proposed Swan Peak Homestead PUD conforms with the provisions of the Zoning Regulations by being located within an area of the county where adequate public and private services and facilities are available, being larger than two acres, meeting the establishment criteria for a residential PUD district, conforming with the applicable use regulations for a residential PUD, and containing all elements necessary for review.

**V. SUMMARY OF FINDINGS FOR PROPOSED PUD**

1. The proposed Swan Peak Homestead PUD departs from existing zoning in only one way, reducing the minimum lot size requirements for land that is zoned SAG-5 and SAG-10 to allow the clustering of lots on a portion of the property; this departure is not anticipated to impact or be of interest to the public because the proposed development will not be

increasing density on the subject property, only relocating density otherwise permitted under the existing zoning to enable clustering and provide open space set aside in perpetuity.

2. Open space associated with the proposed PUD is adequate in both amount and function because 53.594 acres will be placed under permanent conservation easement deeded to and held by Montana Land Reliance and an additional 8.056 acres of open space will be set aside as parkland associated with the proposed subdivision, to be maintained by the Homeowner's Association, and because both mechanisms are reliable in their ability to maintain and conserve the proposed open space in perpetuity as reviewed herein.
3. The PUD proposed makes adequate provision for public services, vehicular traffic and amenities of light, air and recreational enjoyment because the properties are located within the jurisdiction of local fire and emergency service providers and will be required to adhere to all requests made by public service providers to ensure public health and safety; the PUD has been proposed as part of a subdivision request and will utilize an internal subdivision road with dual access points to safely and effectively direct traffic; adequate open space is being set aside for the recreational and visual enjoyment of the residents, and the underlying zoning will continue to regulate bulk and dimensional requirements of the development.
4. As proposed, the PUD may be of benefit to the surrounding area by directing the intensity of development currently allowable under existing zoning to an area of the property more efficiently served by public facilities and utilities, limiting impacts resulting from development.
5. Development relating to the PUD proposed will not be phased, and provisions within the Flathead County Subdivision Regulations, as well as conditions of plan and subdivision approval will ensure all improvements are completed in accordance with the intent of the plan reviewed herein.
6. The proposed Swan Peak Homestead PUD conforms with the provisions of the Zoning Regulations by being located within an area of the county where adequate public and private services and facilities are available, being larger than two acres, meeting the establishment criteria for a residential PUD district, conforming with the applicable use regulations for a residential PUD, and containing all elements necessary for review.

## **VI. CONCLUSION**

Per Section 3.31.020 of the Flathead County Zoning Regulations (FCZR), a review and evaluation of the proposed planned unit development has been completed by the staff of the Planning Board in accordance with the process and criteria for review found in Section 3.31.020(2) FCZR. Said review has found the proposal generally complies with the established review criteria, based upon the 6 Findings of Fact cited above and with the imposition of conditions of approval.

## **VII. CONDITIONS OF PUD FINAL PLAN**

Should the PUD Preliminary Plan be approved based upon analysis completed above and the Findings of Fact presented, the applicant shall submit a PUD Final Plan in accordance with Sections 3.31.030(6) and 3.31.020 (3) of the Flathead County Zoning Regulations, and pursuant to the conditions below:

1. The Declaration of Covenants, Conditions and Restrictions (CCRs) for Swan Peak Homestead shall be modified as needed to reflect the standards outlined in the PUD preliminary plan

evaluated above, or as required below.

2. The PUD Final Plan shall clearly identify the underlying zoning in place, the boundaries of the separate zoning designations and which zoning designations will specifically apply to each subdivided lot (pursuant to Table 1 above). In addition to visually clarifying this in the final plan layout, this information shall be incorporated into the CCR documents to inform future landowners.
3. The following statement shall be placed on the face of the final plan:
  - a. *Excepting minimum lot size requirements, all other development standards (permitted and conditional uses, bulk and dimensional requirements) of the underlying zoning designations identified shall apply to the development and use of the property.*
4. As required by Section 3.31.030(6)(B), the following statement shall be placed on the face of the final plan:
  - a. *I, \_\_\_\_\_, owner and developer of the property set forth above, do hereby agree that I will develop the above property as a Planned Unit Development in accordance to the submitted PUD Plan.*

\_\_\_\_\_

*Signature Property Owner/Developer*

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by the Flathead County Commissioners.

Attest: \_\_\_\_\_

*Clerk & Recorder*
5. Open space in the amount of 61.65 acres shall be set aside as proposed by the applicant and reviewed as follows:
  - a. 53.594 acres shall be deeded to Montana Land Reliance and placed under permanent conservation easement in accordance with the draft Deed of Conservation Easement document reviewed by this office. The Deed of Conservation Easement shall be filed and recorded prior to final plan submittal and review. All land held in conservation easement shall be identified on the face of the final plan.
  - b. 8.056 acres of open space shall be dedicated to meet the parkland requirements in found in Section 4.7.26 of the subdivision regulations, and shall be clearly identified on the face of the final plan.
6. The applicant shall submit the PUD Final Plan pursuant to Section 3.31.030(6) of the Flathead County Zoning Regulations, meeting all applicable requirements therein.
7. All homes within the planned unit development shall have residential sprinklers installed to NFPA standards as required by the Bigfork Fire Department. The CCR documents shall be modified to reflect this requirement, and the following statement shall be placed upon the face of the final plan:
  - a. *All homes within the planned unit development shall have residential sprinklers installed to NFPA standards.*

## VIII. EVALUATION OF SUBDIVISION PRELIMINARY PLAT (#FPP-10-02)

### 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

Currently undeveloped, the subject property is not utilized at present, nor has it ever been used for agricultural purposes. Moderately forested with terrain ranging from rolling hills to slopes greater than 40%, the site is not suited for traditional agricultural uses. The proposed development is located on soils identified as marginally productive for crops and grazing, better suited for silvicultural activities. A proposed conservation easement on 50+ acres of the property would allow limited timber management in the future, although there are no active management activities occurring at present on the subject property or in the surrounding area. The remaining acreage would be utilized for residential development, and its location clustered on the west half of the property near Bigfork Stage Road would not appear to impact existing or future agricultural or silvicultural uses. Adjacent properties do not appear to be actively used for timber sales or harvesting.

**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, has no history of agricultural use and is not located in an area of the County heavily utilized for agricultural or silvicultural uses.

#### ii. Impact on Agricultural Water User Facilities

There are no existing water user facilities on the subject property, as it has no history of agricultural use. A search for water rights conducted by staff on the entirety of the property confirmed there are no existing agricultural water rights that would be abandoned or negatively impacted by the proposed development. The only water right that currently exists is for the domestic well located on adjacent Tract 4BAA, part of the proposed PUD but not a part of the subdivision, and not designated for agricultural use.

**Finding #2** – There would be no impact on agricultural water user facilities as a result of the proposed subdivision because no such facilities exist onsite, and because there are no existing water rights for agricultural use associated with the subject property.

#### iii. Impact on Local Services

##### 1. Water and Wastewater

The subject property is located outside of the Bigfork Public Water and Sewer District, and lots within the proposed subdivision will be served by individual wells and septic drainfields located onsite. Well logs submitted from the adjacent Eva Gates homestead tract (Tract 4BAA) indicate adequate capacity and water quality exists on and around the subject property to serve the proposed subdivision. Proposed individual wells will be designed for single family residences to produce a minimum 320 gallons per day (gpd) for domestic use, with an additional 1,250 to 1,570 gpd for residential gardening and irrigation demand. Wells on each lot will also produce enough flow to accommodate a residential sprinkler system as required by the Bigfork Fire Department and as a condition of PUD approval. Proposed water and wastewater facilities will require review and approval by the Montana

Department of Environmental Quality's Subdivision Section, as well as the Flathead City County Health Department prior to final plat approval.

## **2. Schools**

The subject property is located within the Bigfork School District for both elementary and high school education. Both school facilities are located less than one mile from the proposed subdivision, at 600 Commerce Street in Bigfork. Comment received from the Superintendent of Schools indicates when a subdivision is located within 3 miles of the elementary and/or high school, bus service is not legally required to be provided by the District. However, additional comments from Russell Kizner, Superintendent of the Bigfork School District, summarized in the information submitted by the applicant (E.A. Part 3, Section 'g', page 31) indicates the District does provide bus service to the area, although no current routes travel along Bigfork Stage Road. If school-age children were to reside in the subdivision and request bus service in the future, it would be provided; however, an approved bus stop would be required to be constructed at the entrance to the subdivision, as school buses do not travel on privately maintained roads. The proposed subdivision has the potential to generate 8 school-aged children (based on the County-wide average of 0.42 children per lot). It is reasonable to anticipate some school-aged children may reason within the subdivision and request bus service in the future; in anticipation of such a request, a bus stop should be required as a condition of preliminary plat approval.

## **3. Mail Delivery**

The applicant is proposing a centralized mailbox to serve the 17 lots proposed through subdivision. The location of this centralized mail facility shall require review and written approval from the local postmaster as a condition of final plat approval.

## **4. Recreation**

The proposed subdivision would create 17 new residential lots ranging from 1.8 acres to 4.2 acres in size. Section 4.7.26 of the Subdivision Regulations generally requires parkland dedication for all subdivisions, based upon applicable calculations found under Item (d). A land donation of 5% of the combined gross area of land proposed to be subdivided into lots between 1 and 3 acres in size, and 2.5% of the combined gross area of land proposed to be subdivided into lots between 3 and 5 acres in size is required. Of the 17 lots proposed, 5 lots have a gross area between 1 and 3 acres, for a combined total 12.845 acres (gross). The remaining 12 lots have a gross area between 3 and 5 acres, for a combined total of 42.156 acres (gross). Applying the percentage formulas, a total of 1.696 acres of land would be necessary to meet the parkland dedication requirements of the Subdivision Regulations; the applicants have proposed 8.056 acres (net) of open space be set aside to meet the parkland dedication requirement, in addition to over 53 acres of open space being placed under permanent conservation easement with Montana Land Reliance. Sections 4.7.26(c)(i) and (ii) of the Flathead County Subdivision Regulations state the parkland dedication requirement (to the County) may be waived by the Commissioners if the proposed subdivision provides for a "planned unit development... with land permanently set aside for parkland sufficient to meet the needs of the residents of the development and equals or exceeds the area of the required parkland dedication pursuant to Subsection (d)" and is maintained by the homeowners association. As proposed, the 8 acres of dedicated parkland would be



170 vehicle trips per day would increase traffic volumes by 67%. Cumulative impacts resulting from this traffic increase will be discussed in greater detail under Subsection (iv)(2) of this report.

#### **6. Fire/Emergency Medical Services**

The proposed subdivision is within the Bigfork Fire District, and the nearest station is located at the intersection of Commerce Street and Grant Drive, approximately one mile west of the entrance to the development. The Captain of the Fire Department, Kattie Edwards, indicated in a previous phone interview with the applicant (documented on pg. 30 of the E.A.) that anticipated emergency response times would be between 6 and 9 minutes. Ambulance service in the event of a medical emergency would be provided by Bigfork Volunteer Ambulance, housed within the main Fire Hall. It is anticipated ambulance response times would be similar to those of the Fire District, as the responding units are located in the same area. For time-sensitive medical emergencies, ALERT service is and would be provided by the Kalispell Regional Medical Center, approximately 15 miles northwest of the proposed subdivision.

#### **7. Police Services**

The proposed subdivision is located in rural Flathead County and would be served by the Flathead County Sheriff's Department. Although solicited, no comment was received from the Sheriff's Department regarding the proposed subdivision. Given existing staffing levels and shift rotations, the size of the county and the dispersed nature of the population, delayed response times in the event of an emergency may be anticipated.

#### **8. Solid Waste Disposal**

The applicant has indicated contract haul will be the mechanism for solid waste disposal for the proposed subdivision. Comment from the Flathead County Solid Waste District indicated Allied Waste is the Public Service Commission licensed hauler for this area, and that the proposed subdivision is approaching the issue of solid waste in an appropriate manner. Although relatively close to Bigfork, the proposed subdivision is located in a rural area of Flathead County where interactions with wildlife should be anticipated, if not expected. Trash bins and other refuse containers should be animal proof, secured and kept in a centralized location to limit potential conflicts with wildlife.

#### **9. Other Utilities**

Electric, telephone, natural gas and cable/internet utilities will be placed underground within the proposed 60-foot internal subdivision road and utility easement, to serve the lots within the subdivision. As stated in the application, Flathead Electric will provide electrical power, CetryTel will provide telephone service, NorthWestern Energy will provide natural gas and Bresnan Communications will provide cable and internet service. Utilities currently exist along Bigfork Stage Road, generally located within the public road and utility easement adjacent to the proposed subdivision.

**Finding #3-** Impacts on local services would be acceptable with the imposition of standard conditions because lots within the proposed subdivision will be served by individual well and septic facilities, will utilize public haul services and a centralized mail location, will be served by the Bigfork Fire District, Volunteer Ambulance and

County Sheriff's Department in the event of an emergency, and will have access to public utilities extended underground in conformance with the applicable regulations.

**Finding #4** – Impacts to the Bigfork School District are anticipated because bus service is not currently provided to the subject property, the subdivision has the potential to add school-aged children to the District and should bus service be requested in the future, an approved bus stop would be required to be located along Bigfork Stage Road near the entrance to the subdivision in order to adequately serve the proposal.

**Finding #5** – Impacts to external recreational facilities are not anticipated as a result of the proposed subdivision, and recreational opportunities for the residents of the development will improve as a result of the subdivision because the developer has proposed adequate open space be set aside to meet the parkland dedication requirements of the Subdivision Regulations, and will place over 53 acres under permanent conservation easement.

#### **iv. Impact on the Natural Environment**

##### **1. Water Quality**

There are no surface waters present on the subject property, and no known groundwater recharge areas have been identified on or in the vicinity of the subdivision. Two series of test holes were dug – nine in May 2009, followed by an additional 11 holes in 2010 - to monitor for evidence of high groundwater on the property. Monitoring results and accompanying statements made by Jerry Lipp of Environmental Consulting Services indicate no high groundwater was observed in any of the test holes. Soil analysis completed in conjunction with the test holes also gave no indication of hydric soils; lack of hydric soils was further confirmed by the site assessment completed by Calypso Ecological Consulting, LLP (October 2009).

Analysis of drinking water quality based on well log data submitted for the Eva Gates Homestead tract, adjacent to the proposed subdivision and included in the PUD application, indicated existing water quality in the area was acceptable with regard to nitrate loading and conductivity. A non-degradation analysis on phosphorous breakthrough and nitrate sensitivity confirmed that even under the worst case scenario, impacts to existing water quality are not anticipated given the density of development proposed. Both the phosphorous breakthrough and nitrate sensitivity analysis appear to exceed the requirements of MDEQ according to supplemental information submitted by the applicant and discussed at length in the E.A. The proposed subdivision will be required to adhere to such standards when reviewed by the MDEQ and the City-County Health Department to ensure impacts to water quality have been addressed.

##### **2. Air Quality**

The dust control plan submitted with the application materials identifies dust mitigation measures for all on-site construction activities associated with the proposed subdivision. Swan Peak Drive, the internal subdivision road providing access to all 17 lots proposed, will be paved and constructed to the County Road and Bridge Department's "Minimum Standards for Design and Construction Manual", in accordance with Section 4.7.19(a) of the Flathead County Subdivision Regulations. Swan Peak Drive will transition to an emergency access easement and be constructed to secondary road access standards beginning east of the junction that provides access to the conservation easement south of the subject property

(reference Figure 8 above). The emergency access easement will be gated where it connects to Swan Hill Drive, and traffic generated by the proposed development will utilize the paved portion of Swan Peak Drive, except in the event of an emergency.

While the internal subdivision road providing access to each lot will be paved, gravel roads provide access to the subdivision beyond the property boundaries. As Swan Hill Drive is a private gravel road that will only be used in the event of an emergency, Swan Peak Drive will direct all traffic generated by the subdivision onto Bigfork Stage Road, a gravel public road maintained by the County. Pursuant to Section 4.7.10(f) of the subdivision regulations, where an existing unpaved road provides the primary access to a subdivision and has an average daily traffic volume exceeding 200 trips per day, the road is required to be paved using the direct impact formula found in Section 4.7.9 of the regulations. Traffic counts conducted in 2009 along Bigfork Stage Road north of Blenn Road averaged 253 vehicle trips per day. Based on this current traffic count and the amount of traffic anticipated to be generated by the proposed subdivision, the direct impact formula would be applied as follows:

$$\frac{\text{Total proposed subdivision trips (170)}}{\text{Total ADT (253) + subdivision trips (170)}} = 0.402 \text{ (ratio)}$$

The application states there is approximately 881 feet of unpaved road between the entrance to the subdivision and the beginning of pavement to the south; this approximate length was confirmed by GIS data maintained by the County. Using the ratio determined above, 354 feet of pavement would be required to be applied to Bigfork Stage Road to mitigate impacts related to dust resulting from the increased vehicle traffic created. Typically the required paving is added at the end of the existing paving, to create a continuous paved road; however, the applicant has requested the paving be applied in front of the proposed subdivision. Without requiring a formal Traffic Impact Study (TIS) to determine which direction traffic generated by the subdivision will travel, it is reasonable to assume traffic will head north to Highway 83 as often as traveling south to Bigfork. In this scenario it may be appropriate to allow the paving requirement be applied to 354 linear feet of Bigfork Stage, in front of the proposed subdivision, as it would directly serve to mitigate impacts to air quality resulting from traffic created by the subdivision.

### **3. Impact of Noise**

Noise associated with construction and development activities can be anticipated should this subdivision receive approval. Noise levels may be temporarily out of character for a rural area of the County, and impacts to wildlife as well as the immediate neighbors along Bigfork Stage Road could occur. Full build-out of 17 lots, in addition to infrastructure improvements required of any subdivision, could take many years to complete; however, it is unlikely full build-out (and associated noise) would occur all at once. It is most likely construction noise will occur during a 3-4 year time period, with occasional noise continuing as individual lots are sold and developed. The subdivision proposes locating all development on the western half of the property, preserving the eastern portion by placing it under conservation easement and limiting development impacts to a single gravel emergency access easement. The bulk of the impacts related to noise would therefore be confined to the western portion of the property and immediate neighbors along Bigfork Stage.

#### **4. Impact to Flora**

The subject property is moderately forested, with a small clearing for pasture on the west side near Bigfork Stage Road. According to the Environmental Assessment, the forested portion of the property consists of a variety of species including Larch, Fir, Ponderosa Pine, Birch, Willow and Lodge Pole. Ground cover includes snowberry, wild rose and various grasses that generally make up the understory on the property. While there are isolated areas of spotted knapweed throughout the subject property, weed control will be addressed and mitigated through a required weed control management plan applicable to all lots, the draft conservation easement submitted addresses weed management for the portion of the property to be dedicated, and open space to be held in common by the homeowner's association will manage weed control through a similar agreement with Montana Land Reliance (so the open space can be dealt with collectively). There are no wetland or riparian areas onsite, and analysis conducted by Calypso Ecological Consulting, LLP (October 2009) indicated little, if any "hydrophytic vegetation" onsite. A search conducted by the Montana National Heritage Program locating "Species of Concern" for areas throughout the County identified two sensitive vascular plant species as being present in the general area – the Beck water marigold and the Columbia Water-meal. However, the accompanying map specifically identifying the subject property in relation to these plant species did not locate them on or near the proposed subdivision itself. While any development on the property will have a limited, site-specific impact on the flora present, nearly 50% of the property will be placed in open space or under conservation easement, mitigating the overall impact to plant species the development may have.

#### **5. Impact to Floodplain**

The subject property is located in an area of the County designated "Zone X" according to FIRM Panel(s) 2305G and 2310G. "Zone X" refers to areas outside the 0.2% annual chance floodplain, typically regarded as 500-year floodplain.

#### **6. Impact to Riparian/Wetland Areas**

There are no rivers, streams (ephemeral or otherwise), designated wetlands or riparian areas present on the subject property. No hydrographic reaches have been identified by the National Hydrography Database, and no wetlands have been designated according to the National Wetland Inventory maintained by the County's GIS Department. Topographic features on the subject property indicate there are natural swales and depressions present that direct stormwater runoff and snowmelt during storm events or seasonal changes. One such depression, located between proposed Lots 9 and 10, was reviewed by Jennifer Asebrook, Plant Ecologist and Wetland Specialist for Calypso Ecological Consulting, LLP in October of 2009. A letter submitted with preliminary plat application materials confirms there was no evidence of hydrologic activity in this area and no hydric soils present. A comprehensive survey of the entire property indicated no additional wetland or riparian features present onsite.

#### **7. Impact to Historical Features**

Tracts 4BA, 5 and 2C are currently undeveloped, and a cultural resource file search conducted by the Montana State Historic Preservation Office (SHPO) did not find any previously recorded cultural or historic sites in the area. However, comment from the department indicates that, based upon the lack of previous inventory and the level of ground disturbance resulting from the proposed subdivision, impacts to

cultural and historic resources may be high. Although not a part of the subdivision, the adjacent Eva Gates Homestead (Tract 4BAA) is older than 50 years of age, and would be considered historic and potentially eligible for listing through the National Register of Historic Places. There may be additional artifacts on the adjacent properties involved in the subdivision that may have cultural or historic relevance, and SHPO has suggested conducting a cultural resource inventory to determine whether such sites exist and, if so, the degree of impact resulting from the subdivision proposed.

**Finding #6** – 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 #7** – Limited impacts to flora are anticipated because the site is heavily vegetated and any development would require the removal of vegetation; however, no plant species of concern have been identified as present on the subject property, completion and adherence to a weed control plan will be a condition of preliminary plat approval, and the open space proposed set aside would serve to offset potential impacts by conserving nearly 50% of the property in its natural state.

**Finding #8** – Impacts resulting from dust and noise are anticipated as a result of the proposed subdivision because future development will create noise and dust resulting from traffic and construction; impacts would be acceptably mitigated by requiring the developer and future lot owners to adhere to the approved dust control plan and requiring offsite paving along Bigfork Stage Road; impacts resulting from construction noise cannot be effectively mitigated but would be limited in duration and intensity.

**Finding #9** – According to MT SHPO, the proposed subdivision has the potential to negatively impact cultural and historical features onsite due to the level of disturbance resulting from construction activities coupled with a lack of inventory on the subject property.

**Finding #10** – Impacts to water quality as a result of the proposed subdivision are anticipated to be minimal because analysis of existing wells exhibit good water quality, groundwater monitoring conducted over the course of two years showed no indication of high groundwater onsite, and proposed well and septic systems will be required to undergo review and receive approval from MDEQ as well as the City-County Health Department to ensure these facilities will not degrade existing water quality.

#### **v. Impact on Wildlife**

Given the rural location of the subject property, some level of impact to wildlife and wildlife habitat can be anticipated. Based upon information provided by Montana Fish, Wildlife and Parks; the Montana Natural Heritage Program; and data maintained by the Flathead County GIS Department, the property has been mapped with an overall distribution of black bear and a medium distribution of whitetail deer. Animals including but not limited to turkeys, raccoons, coyotes, and a myriad of small mammals and birds may also be found on the subject property. The Montana Natural Heritage Program identified nine species of concern for a 12 square mile area surrounding the subject property; Bald Eagle, Westslope Cutthroat Trout, Bull Trout, Gray Wolf, Fisher,

Wolverine and Canada Lynx are all species that may frequent the area, in addition to the two vascular plant species noted in the “Flora” section above. A letter from Montana Fish, Wildlife and Parks indicates the general area is also considered important winter range and home to grizzly bears and mountain lions in addition to the species listed above.

It is reasonable to assume animal species associated with water features would not be found on the subject property. While larger mammals including the Gray Wolf, the Wolverine and the Canada Lynx do not typically frequent developed areas, it is not out of the question that these species may be present onsite, however infrequently. According to the E.A. provided, there are currently no known eagle nesting sites on the subject property.

The reduced lot sizes discussed in the review of the PUD above are intended to minimize impacts to wildlife and associated habitat by clustering development on the west side of the subject property, maintaining over 53 acres under conservation easement in the more heavily timbered areas of the site. Comment provided with the application materials from the Montana Department of Fish, Wildlife and Parks identifies some concerns with the proposed development and its impacts to wildlife, particularly with regard to the development densities proposed and the location of open space. The development density requested of the PUD and subdivision is the same development density allowable under the existing zoning; the minimum lot size requirements have simply been reduced (upon approval of the PUD). Comment from FWP further stresses the importance of contiguous wildlife habitat, which the subdivision is attempting to address by locating the proposed conservation easement adjacent to an existing easement south of the subject property. The applicant is not utilizing the clustering provisions of the Flathead County Zoning Regulations, choosing instead to implement a PUD that would allow minimum lot sizes required by the underlying zoning to be reduced. The proposed development is not required to set aside open space in return for a reduced lot size, with the exception of the parkland dedication requirements of subdivision. Impacts to wildlife resulting from the applicant’s ability to subdivide the property in accordance with the underlying zoning in place today would be significantly higher, as there would be no open space requirement (even for parkland dedication), and impacts resulting from development would affect the entire 123 acre property.

**Finding #11** – Impacts to wildlife as a result of the proposed subdivision are anticipated as with any large scale development; however, impacts would be offset because development has been clustered away from the open space proposed to be placed under permanent conservation easement; the conservation easement would be adjacent to existing open space to the south, creating a large, contiguous area for wildlife; and because a general statement could be placed on the face of the final plat alerting property owners of their rural location and influence on wildlife.

**vi. Impact on Wildlife Habitat**

As described above, the subject property is moderately forested with mountainous topography in areas. The property has not been designated as elk or mule deer habitat, and there are no water bodies, riparian or wetland features typically identified as ‘key’ wildlife habitat onsite, nor are there waterfowl nesting areas in the vicinity. A number of mammal species classified as ‘sensitive’ or ‘threatened’ were identified by the Montana Natural Heritage Program as present in the area, and comment from Montana

Fish, Wildlife and Parks indicates the subject property, combined with adjacent undeveloped land is part of a larger, unfragmented ecosystem in the area. While there are a number of large, undeveloped tracts of land abutting the subject property, only the 120 acre conservation to the south and east of the proposed development has been placed off-limits to future development. The applicant is proposing 53 acres be placed under permanent conservation easement, adjacent to the existing 120 acres and creating a contiguous area for wildlife and wildlife habitat. By doing so, development would be clustered on the western portion of the subject property, close to Bigfork Stage Road and existing, higher density residential development to the southwest.

**Finding #12** – Impacts to wildlife habitat as a result of the proposed subdivision are anticipated because agency comment indicates any scale and intensity of development has the potential to affect a wide-ranging habitat; however, impacts anticipated would be limited because the subject property does not exhibit areas traditionally thought of as ‘key’ wildlife habitat, and because development will be clustered on the west half of the property while the east half will be placed under permanent conservation easement, contiguous to existing, preserved open space and creating un-fragmented habitat.

**vii. Impact on Public Health and Safety**

Findings in this part of the staff report are applicable to the impacts of the proposed subdivision on public health and safety.

**1. Flood Risk**

The property is located in an area of the County outside designated 100 or 500 year floodplain, according to FIRM Panel(s) 2305G and 2310G. The property has been monitored for the presence of seasonal high groundwater; the first series of test holes were dug in May of 2009 and monitored through the season, while a second set of test holes were dug in July 2010. Neither set of test holes gave any indication there was high groundwater on the subject property. Research conducted by Calypso Ecological Consulting, LLP confirmed there were no riparian or wetland features on the subject property. While topographic dips and swales throughout the subject property may collect occasional stormwater runoff or snowmelt, the presence of such features would pose a minimal flood risk to homes and personal property and such events would be limited in frequency and duration. The location of proposed building envelopes, wells and septic drainfields attempt to avoid these in order to prevent potential impacts resulting from these topographic features.

**2. Water and Wastewater Treatment**

As previously stated, lots within the proposed subdivision will utilize individual wells and septic drainfields designed and constructed for single-family residential use. Each primary and replacement drainfield location will be required to meet the standards set forth by the Montana Department of Environmental Quality and Flathead City-County Health Department with regard to slope restrictions and non-degradation analysis. Groundwater monitoring conducted in 2009 and 2010 gave no indication there was high groundwater present that would limit the placement of drainfields on the subject property. Soils data provided with the application materials show soils classes with limitations ranging from ‘not limited’ to ‘very limited’, particularly with regard to slope. NRCS soil survey data, while generally useful, is merely one component of a detailed analysis to be used in conjunction with site specific soils testing. On-site testing and analysis submitted with this application generally indicate septic drainfields could be accommodated in locations

meeting the slope and separation requirements of the reviewing body, and this information was supported by agency comment received.

### **3. Stormwater**

The application proposes all stormwater runoff will be retained and treated onsite. The previously mentioned low spot between Lots 9 and 10 will be utilized to detain, treat and control the rate of discharge of stormwater generated by development on the upper (east) portion of the property. On the lower (west) half of the property, where the majority of the residential development is set to occur, a series of detention ponds will detain, treat and control the rate of stormwater discharge accordingly (reference Stormwater Drainage Plans provided in the application materials). The Drainage Plan utilizes existing topography and capitalizes on the general east to west slope of the property to capture and manage run-off efficiently through a series of shallow catchment basins and detention ponds, treating stormwater onsite using a combination of bio-swales, conveyance through dense vegetation and reducing flow velocities to more effectively mitigate erosion. Calculations provided by the technical representative show the amount of stormwater created at full build-out can be adequately contained using the infrastructure proposed.

### **4. Traffic Safety**

Primary access to the proposed subdivision occurs from Bigfork Stage Road, a gravel public road maintained by the County. All lots within the proposed subdivision will have access to Swan Peak Drive, an internal subdivision road that will be constructed and paved to County Road and Bridge Standards and located within a 60-foot road and utility easement. The internal subdivision road will be paved from Bigfork Stage Road east through the subdivision, all the way to the intersection with the road and utility easement traveling south and providing access to the adjacent conservation easement. This access road, as well as the continuation of Swan Peak Drive from this point to its intersection with Swan Hill Drive, will function as an emergency access easement constructed to County standards for secondary roads and maintained as gravel. The point of intersection (on the subject property) will serve as a 'hammer-head turnaround' in conformance with Section 4.7.18(d) of the subdivision regulations. Swan Hill Drive is a private gravel road, and the applicant has entered into agreement with the Swan Hill Road Association (see referenced Memorandum Of Understanding dated September 20, 2010) allowing emergency egress for Swan Peak Homestead residents via Swan Hill Drive, and for residents of the Swan Hill Drive area through the proposed subdivision. As the access easement will only be used in the event of an emergency, the point of access from Swan Hill Drive will be gated. The gate shall be equipped with a 'yelp' mechanism to allow emergency vehicles to enter the property if necessary, meeting the requirements of the Bigfork Fire Department.

As previously stated, all non-emergency traffic generated by the proposed subdivision would utilize the approach onto Bigfork Stage Road. The subdivision has the potential to create an average 170 vehicles trips per day, a significant number when compared to the 253 vehicle trips averaged along this section of Bigfork Stage. Although comment received from the Flathead Road and Bridge Department indicates Bigfork Stage is able to accommodate this increased traffic, a stop sign should be placed at the intersection of Swan Peak Drive and Bigfork Stage to ensure

safety standards are met both for vehicles entering and existing the subdivision, and those traveling along Bigfork Stage Road.

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

There are no high voltage electric lines or high pressure gas lines traversing the subject property or in the vicinity of the proposed subdivision. Comment received from Jamie Murray with the Bonneville Power Authority (BPA) indicated the proposed subdivision would have no impact on any existing transmission lines.

#### **6. Fire and Emergency Services**

As previously stated the proposed subdivision is located within the jurisdiction of the Bigfork Fire District and would be served by the Flathead County Sheriff's Department as well as the Bigfork Volunteer Ambulance in the event of an emergency. While response times may vary, the property's close proximity to both the fire department and ambulance service, as well as its location along Bigfork Stage, a public gravel road maintained by the County, result in the property being quickly and easily accessible in the event of an emergency. Lots located within the proposed subdivision have direct driveway access onto Swan Peak Drive, a paved internal subdivision road designed and constructed to meet the requirements of the Flathead County Subdivision Regulations and the Flathead County Road and Bridge Departments "Minimum Standards for Design and Construction".

The property is located in a "High Priority Area" of the Wildland Urban Interface (WUI). As such, the applicant has submitted a Fire Prevention Control and Fuels Reduction Plan in accordance with, and meeting the applicable requirements of Section 4.7.29 of the Subdivision Regulations. The emergency access easement discussed above ensures ingress and egress to the development in the event of an emergency. Statements required placed on the face of the final plat will ensure future property owners are aware of the requirements for development within the WUI. Comment received from Fred Holmes, Fire Supervisor with the Kalispell Unit of the Montana DNRC indicates the subdivision proposed complies with reasonable Wildland fire suppression and access requirements of the Montana DNRC. Correspondence between the developer and the Bigfork Fire District, and supplemented by agency comment received from Nat O'Farrell, Fire Marshall with the District, indicates a 60,000 gallon water storage tank will be required to be installed, with a 1,000 gpm refill pump to meet the standards of the District. Once installed, the storage tank would be maintained by the Homeowner's Association. The developer has acknowledged this requirement in the application materials and has incorporated the requirement within the Fire Prevention and Fuels Reduction Plan submitted.

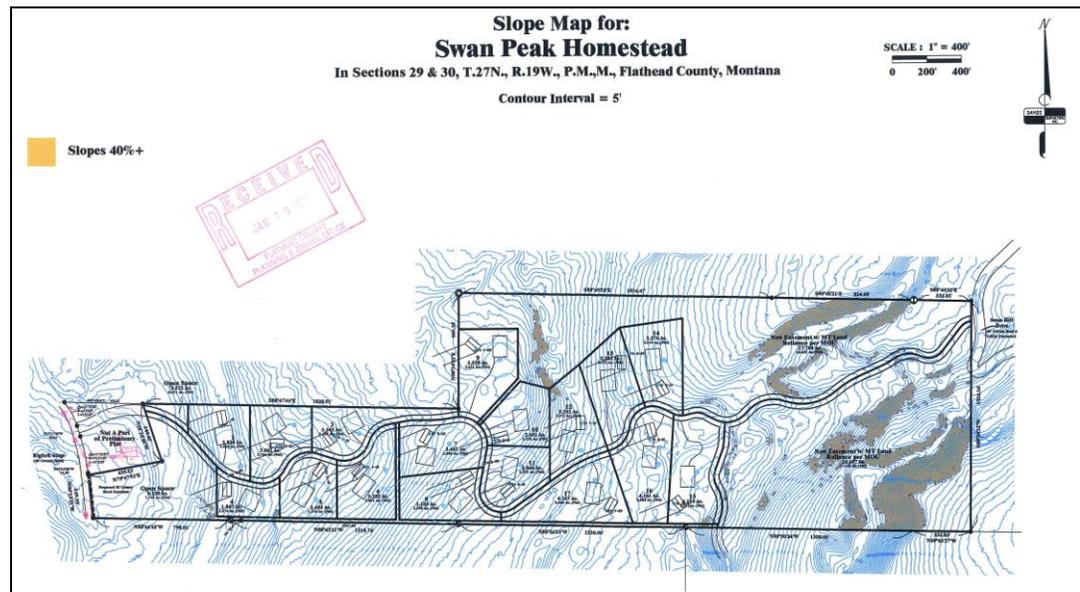
The District has also required all residences have a sprinkler system installed meeting current National Fire Protection Association (NFPA) standards. This requirement is based on an agreement with the developer outlined in a letter dated September 7, 2010 and included with the application materials; a lesser-sized water storage tank is required in exchange for sprinkling the residences. Since the County does not have a building department, and houses are not under construction at the time of final plat approval, it would be impossible for the Planning and Zoning Office to guarantee that such a condition is met, regardless of written agreements or statements placed on the face of the final plat. However, conditions of final plan

approval can adequately address this requirement, as previously discussed in Section IV(C) of the planned unit development review.

## 7. Geologic Hazards

While the subject property exhibits areas of steep and mountainous terrain, the lot layout proposed clusters the majority of development away from the steepest topography onsite. The site plan below shows slopes greater than 40% are primarily contained on the eastern portion of the property, in the area proposed to be placed under permanent conservation easement (see Figure 9). According to data prepared for the applicant's Environmental Assessment, and generally confirmed by staff upon visit to the site, there is no evidence of unstable soils, rock outcroppings, falls or slides on the subject property that would indicate significant geologic hazards.

**Figure 9:** Slopes exceeding 40 % in relation to proposed development.



## 8. Avalanche Hazards

While areas of steep terrain exceeding 40% are present on the subject property, these slopes are predominantly tree-covered and located on the portion of the property to be placed under permanent conservation easement. The subdivision is not located in an area of the County considered to be prone to avalanche hazards, and the proposed development on the subject property has been directed away from much of the steep terrain that could, on rare occasion, be prone to a slides.

## 9. Airport Influence Areas

The subject properties are not located in an area of the County identified as an airport influence area. Glacier International Airport is located nearly 20 miles from the subject property, and while there is a private airstrip in Ferndale (approximately 2 miles east), the proposed subdivision would not impact – nor be affected – by the airstrip's location.

## 10. Soils

The subject property is not mapped on any fault lines according to data on geologic faults prepared and maintained by the Flathead County GIS Department. As indicated by the application materials and supporting documentation, soils appear generally comprised of fine sandy loams (Hd) and stony silt loams (Wzh), prevalent

in areas of steeper topography but typically well-drained. It is anticipated soils onsite would not pose a risk to public health and safety.

**Finding #13** – Minimal risks to public health and safety are anticipated because the proposed subdivision is not located in an area of Flathead County subject to avalanche hazards or negatively affected by airports or air traffic; there are no high voltage electric or high pressure gas lines on or around the subject property; there is no evidence of rock falls, slides or other geologic hazards on the subject property; the subdivision is not mapped on any fault lines and soils are typically well-drained.

**Finding #14** – Minimal risk to public health and safety is anticipated as a result of the proposed subdivision because it is located outside of any FEMA designated floodplain; limited seasonal flooding anticipated from stormwater runoff and snowmelt will be managed using a series of detention basins, bio-infiltration swales, conveyance and flow reduction techniques to capture and treat stormwater onsite; and because lots will be served by individual well and septic facilities requiring review and approval through the MDEQ and Flathead City-County Health Department.

**Finding #15** – Impacts resulting from traffic generated by the proposed subdivision would not pose an undo threat to public health and safety because the applicant has proposed an emergency egress route to access Swan Hill Drive that would be built to secondary road standards and gated according to the Fire District’s recommendations; the internal subdivision road provides adequate turnaround for the public as well as emergency vehicles in conformance with the regulations; the internal subdivision road will be constructed and paved to County standards and a stop sign will be required at the intersection with Bigfork Stage to control access.

**Finding #16** – Impacts relating to public health and safety as a result of the proposed subdivision can be effectively mitigated because although the subject property is located in a “High Priority” area of the Wildland Urban Interface, the development is within the jurisdiction of Bigfork Fire District, the applicant has submitted a Fire Prevention Control and Fuels Reduction Plan, the subdivision has adequate egress in the event of an emergency via a secondary access road, and a water storage tank meeting the requirements of the Fire District will be required to be constructed as a condition of preliminary plat approval.

**Finding #17** – The proposed subdivision may be unable to mitigate impacts to public health and safety in the event of a fire because no mechanism exists in Flathead County to ensure residential sprinkling requirements imposed by the Bigfork Fire District are met prior to final plat approval.

#### **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**

No variances to the requirements of the Flathead County Subdivision Regulations have been requested as part of this application.

#### **D. Compliance with the Flathead County Subdivision Review Procedure**

##### **i. Pre-application Conference Date**

Initial Pre-Application Meeting: October 28, 2009

Subsequent Pre-Application Meeting: September 2, 2010

##### **ii. Application Deadline Date**

Deadline: Thursday, December 9, 2010

##### **iii. Completeness Date**

Incomplete: December 16, 2010

Complete: January 3, 2011

##### **iv. Sufficiency Date**

Insufficient: January 13, 2011

Sufficient: January 21, 2011

##### **v. Agency Referral Requests Mailing Date**

Sent: January 26, 2011

##### **vi. Adjacent Property Notification Mailing Date**

Sent: February 16, 2011

##### **vii. Legal Notice Publication Date**

Noticed: February 20, 2011

##### **viii. On-site Posting of Public Hearing Date**

Posted: February 22, 2011

**Finding #19** - 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 January 15, 2009.

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

**Finding # 20** - The preliminary plat identifies existing electrical and telephone utilities within the Bigfork Stage road and utility easement; existing utilities would be extended within the designated internal subdivision road and utility easement (Swan Peak Drive), to be available and adequately serve all lots within the proposed subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly identified on the face of the final plat to satisfy all applicable requirements of the Montana Subdivision and Platting Acts and the Flathead County Subdivision Regulations.

#### **F. Provision of Legal and Physical Access to Each Parcel**

**Finding #21-** Swan Peak Drive, the proposed internal subdivision road and utility easement, will provide legal and physical access to each of the 17 lots within the proposed subdivision. The developer will be required to secure a 60 foot easement across adjacent Tract 4BAA as a condition of preliminary plat approval, to enable the road and utility easement to legally traverse the original homestead tract.

#### **G. Review of Applicable Plans**

Section 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).

## **ix. 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” and “Agricultural”. 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.8.1 - Advocate standards and incentives for the development of housing that continues established patterns such as housing density and style, promotes roadway connectivity, maintains the character of Bigfork, and protects wildlife habitat and water resources.
- 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.17.8 - All developments should provide alternative fire exit routes.
- P.18.1 - Encourage developers to provide open space within residential developments.
- P.19.2 - Flathead County, acting through the Planning Department and the BLUAC, should encourage Planned Unit Developments
- G.20 - Promote cluster development, using existing county zoning as a tool, to provide attractive residential communities that leave significant, commonly accessible open space, paying particular attention to natural features and constraints.

- P.23.1 - Development should encourage preservation of natural mountain, ridgeline, or other prominent topographical horizons.
- P.24.8 - Developers should remove and thin all overgrown, dead and dying timber, and other fuels by prescribed guidelines to mitigate fire potential. (Reference Flathead County Subdivision Regulations, Appendix L)
- 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.

**x. 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 proposed subdivision has been submitted as a component of the Swan Peak Homestead Planned Unit Development (#FPPUD-10-01), reviewed in Section IV above. The properties involved in the subdivision request are currently zoned “SAG-5” and “SAG-10 Suburban Agricultural”, and provisions of the PUD require that lots created through the subdivision proposed continue to adhere to all elements of the underlying zoning in place, with the exception of minimum lot size requirements. The proposed subdivision would comply with the local zoning regulations so long as the PUD, as proposed and reviewed in Section IV, is also approved in conjunction with this request.

**Finding #22** – The proposed subdivision would comply with the Flathead County Zoning Regulations if the Swan Peak Homestead Planned Unit Development (#FPPUD-10-01) is approved in conjunction with the subdivision request.

**IX. 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, has no history of agricultural use and is not located in an area of the County heavily utilized for agricultural or silvicultural uses.
2. There would be no impact on agricultural water user facilities as a result of the proposed subdivision because no such facilities exist onsite, and because there are no existing water rights for agricultural use associated with the subject property.
3. Impacts on local services would be acceptable with the imposition of standards conditions because lots within the proposed subdivision will be served by individual well and septic facilities, will utilize public haul services and a centralized mail location, will be served by the Bigfork Fire District, Volunteer Ambulance and County Sherriff’s Department in the event of an emergency, and will have access to public utilities extended underground in conformance with the applicable regulations.

4. Impacts to the Bigfork School District are anticipated because bus service is not currently provided to the subject property, the subdivision has the potential to add school-aged children to the District and should bus service be requested in the future, an approved bus stop would be required to be located along Bigfork Stage Road near the entrance to the subdivision in order to adequately serve the proposal.
5. Impacts to external recreational facilities are not anticipated as a result of the proposed subdivision, and recreational opportunities for the residents of the development will improve as a result of the subdivision because the developer has proposed adequate open space be set aside to meet the parkland dedication requirements of the Subdivision Regulations, and will place over 53 acres under permanent conservation easement.
6. 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.
7. Limited impacts to flora are anticipated because the site is heavily vegetated and any development would require the removal of vegetation; however, no plant species of concern have been identified as present on the subject property, completion and adherence to a weed control plan will be a condition of preliminary plat approval, and the open space proposed set aside would serve to offset potential impacts by conserving nearly 50% of the property in its natural state.
8. Impacts resulting from dust and noise are anticipated as a result of the proposed subdivision because future development will create noise and dust resulting from traffic and construction; impacts would be acceptably mitigated by requiring the developer and future lot owners to adhere to the approved dust control plan and requiring offsite paving along Bigfork Stage Road; impacts resulting from construction noise cannot be effectively mitigated but would be limited in duration and intensity.
9. According to MT SHPO, the proposed subdivision has the potential to negatively impact cultural and historical features onsite due to the level of disturbance resulting from construction activities coupled with a lack of inventory on the subject property.
10. Impacts to water quality as a result of the proposed subdivision are anticipated to be minimal because analysis of existing wells exhibit good water quality, groundwater monitoring conducted over the course of two years showed no indication of high groundwater onsite, and proposed well and septic systems will be required to undergo review and receive approval from MDEQ as well as the City-County Health Department to ensure these facilities will not degrade existing water quality.
11. Impacts to wildlife as a result of the proposed subdivision are anticipated as with any large scale development; however impacts would be offset because development has been clustered away from the open space proposed to be placed under permanent conservation easement; the conservation easement would be adjacent to existing open space to the south, creating a large, contiguous area for wildlife; and because a general statement could be placed on the face of the final plat alerting property owners of their rural location influence on wildlife.
12. Impacts to wildlife habitat as a result of the proposed subdivision are anticipated because agency comment indicates any scale and intensity of development has the potential to affect a wide-ranging habitat; however, impacts anticipated would be limited because the subject property does not exhibit areas traditionally thought of as 'key' wildlife habitat, and because

development will be clustered on the west half of the property while the east half will be placed under permanent conservation easement, contiguous to existing, preserved open space and creating un-fragmented habitat.

13. Minimal risks to public health and safety are anticipated because the proposed subdivision is not located in an area of Flathead County subject to avalanche hazards or negatively affected by airports or air traffic; there are no high voltage electric or high pressure gas lines on or around the subject property; there is no evidence of rock falls, slides or other geologic hazards on the subject property; the subdivision is not mapped on any fault lines and soils are typically well-drained.
14. Minimal risk to public health and safety is anticipated as a result of the proposed subdivision because it is located outside of any FEMA designated floodplain; limited seasonal flooding anticipated from stormwater runoff and snowmelt will be managed using a series of detention basins, bio-infiltration swales, conveyance and flow reduction techniques to capture and treat stormwater onsite; and because lots will be served by individual well and septic facilities requiring review and approval through the MDEQ and Flathead City-County Health Department.
15. Impacts resulting from traffic generated by the proposed subdivision would not pose an undo threat to public health and safety because the applicant has proposed an emergency egress route to access Swan Hill Drive that would be built to secondary road standards and gated according to the Fire District's recommendations; the internal subdivision road provides adequate turnaround for the public as well as emergency vehicles in conformance with the regulations; the internal subdivision road will be constructed and paved to County standards and a stop sign will be required at the intersection with Bigfork Stage to control access.
16. Impacts relating to public health and safety as a result of the proposed subdivision can be effectively mitigated because although the subject property is located in a "High Priority" area of the Wildland Urban Interface, the development is within the jurisdiction of Bigfork Fire District, the applicant has submitted a Fire Prevention Control and Fuels Reduction Plan, the subdivision has adequate egress in the event of an emergency via a secondary access road, and a water storage tank meeting the requirements of the Fire District will be required to be constructed as a condition of preliminary plat approval.
17. The proposed subdivision may be unable to mitigate impacts to public health and safety in the event of a fire because no mechanism exists in Flathead County to ensure residential sprinkling requirements imposed by the Bigfork Fire District are met prior to final plat approval.
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. 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 January 15, 2009.
20. The preliminary plat identifies existing electrical and telephone utilities within the Bigfork Stage road and utility easement; existing utilities would be extended within the designated internal subdivision road and utility easement (Swan Peak Drive), to be available and

adequately serve all lots within the proposed subdivision. All other easements associated with this subdivision and the subdivided property shall be clearly identified on the face of the final plat to satisfy all applicable requirements of the Montana Subdivision and Platting Acts and the Flathead County Subdivision Regulations.

21. Swan Peak Drive, the proposed internal subdivision road and utility easement, will provide legal and physical access to each of the 17 lots within the proposed subdivision. The developer will be required to secure a 60 foot easement across adjacent Tract 4BAA as a condition of preliminary plat approval, to enable the road and utility easement to legally traverse the original homestead tract.
22. The proposed subdivision would comply with the Flathead County Zoning Regulations if the Swan Peak Homestead Planned Unit Development (#FPPUD-10-01) is approved in conjunction with the subdivision request.

## **X. 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 20 of the 22 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.

## **XI. CONDITIONS**

### **1. 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 approved by Flathead County. [Section 4.7.18(g)(iv), 4.7.28(c) Flathead County Subdivision Regulations (FCSR)]
2. The applicant shall show proof of a completed approach permit from the Flathead County Road Department indicating the approach for Swan Peak Drive onto Bigfork Stage Road has been built and received final inspection and final approval. [Section 4.7.18, FCSR]
3. The applicant shall comply with all reasonable fire suppression and access requirements of the Bigfork Fire District and the Department of Natural Resources (DNRC). Letters from both the fire chief and DNRC stating that the plat meets the applicable requirements of the district shall be submitted with the application for Final Plat. [Section 4.7.28(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 4.7.27, FCSR]
5. All internal subdivision roads shall be certified by a licensed engineer and constructed in accordance with the Flathead County Minimum Standards for Design and Construction. [Section 4.7.18, FCSR]
6. With the application for final plat, the applicant shall provide a 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 4.7.17(e), FCSR]
7. 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 4.7.14, 4.7.22, 4.7.23 FCSR]
  8. 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 4.7.30, FCSR]
  9. 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 4.7.24, FCSR]
  10. The following statements shall be placed on the face of the final plat applicable to all lots:
    - a. *Address numbers shall be posted at the commencement of construction and be clearly visible at all times thereafter. Numbers shall be placed in the driveway entrance and at any subsequent divergent points of access for shared driveways. All address numbers shall be displayed on a contrasting background using a minimum four-inch numeral height. [Section 4.7.28.c, FCSR]*
    - b. *All utilities shall be placed underground. [Section 4.7.25, FCSR]*
    - c. *Solid Waste removal for all lots shall be provided by a contracted solid waste hauler. [Section 4.7.24, FCSR]*
    - d. *Lot owners are bound by the Weed Control Plan to which the developer and the Flathead County Weed Department agreed. [4.7.27, FCSR]*
    - e. *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 4.7.15, FCSR]*
  11. 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 4.7.28(c), FCSR]
  12. All utilities shall be placed underground. [Section 4.7.25, FCSR]
  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 4.7.15, FCSR]
  14. The final plat shall comply with state surveying requirements. [Section 76-3-608(b)(i), M.C.A.]
  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 4.4.27 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 4.4.22 FCSR]
18. Preliminary plat approval is valid for three years. The final plat shall be filed prior to the expiration of the three years. [Section 4.4.20 FCSR]

## **2. Project-Specific Conditions**

19. The applicant shall be required to pave 354 feet of Bigfork Stage Road; application of paving shall either continue from the end of the existing pavement south of the subject property, or shall be applied along the length of Bigfork Stage upon which the subdivision fronts.
20. A 10 foot bike/pedestrian easement shall be shown on the face of the final plat along the portion of subdivided property fronting Bigfork Stage Road [Section 4.7.21 FCSR].
21. 8.056 acres of open space shall be dedicated as parkland to be maintained by the Swan Peak Homeowner's Association in accordance with the provisions of Section 4.7.26(c)(i) and (ii) FCSR, and shall be designated on the face of the final plat.
22. The applicant shall furnish proof of a completed 60-foot road and utility easement across Tract 4BAA to ensure legal and physical access can be provided to lots within the proposed subdivision, should Tract 4BAA ever change hands in the future.
23. The 53.594 acres of open space to be placed under permanent conservation easement with Montana Land Reliance shall be identified on the face of the final plat. Proof that a formal Deed of Conservation Easement has been filed and recorded with the Flathead County Clerk & Recorder shall be submitted with the final plat application materials.
24. An official Memorandum of Understanding between Swan Hill Road Association (SHRA) and Swan Peak Homestead (SPH) ensuring the availability and conditions of emergency access onto Swan Hill Drive shall be signed by both parties and submitted with the final plat application materials.
25. The Fire Prevention Control and Fuels Reduction Plan submitted with the preliminary plat application shall be implemented before approval of the final subdivision plat, and the local/reviewing fire authority shall inspect the subdivision and provide written documentation that all thinning, clearing and other mitigation measures described in the plan have been completed as proposed.
26. A 60,000 gallon water storage tank shall be installed with a 1,000 gpm pump to refill tenders. The tank shall be maintained by the homeowner's association, and documents pertaining to the HOA (such as Covenants, Conditions and Restrictions) shall identify provisions for maintenance and repair of the water storage tank as required. Written approval from the Bigfork Fire Department shall be required submitted with final plat application materials to ensure the tank has been installed as required.
27. A stop sign shall be placed at the intersection of Swan Peak Drive and Bigfork Stage Road as a traffic control measure for vehicles existing the subdivision.

28. The following statements shall be shown on the face of the final plat:

- a) *This subdivision is located in the Wildland Urban Interface wildfire priority area where wildfires can and do occur.*
- b) *Only Class A and Class B fire-rated roofing materials are allowed.*
- c) *Fire-Wise defensible space standards shall be incorporated around all primary structures and improvements.*
- d) *Lot owners are alerted to the presence of potentially dangerous wildlife in the area and are reminded that **feeding big game is illegal**. Lot owners are encouraged to contact the Montana Department of Fish, Wildlife, and Parks to obtain information on safely living near wildlife and minimizing habitat impact, including such things as bear proofing, pet control, wildlife friendly fencing, and removing food sources.*

Planner: AM

Filepath: S:\FCPZ\CURRENT PLANNING\SUBDIVISION AND ZONING REPORTS\FPP\2010\FPP-10-02 Swan Peak Homestead