AGENDA

REGULAR MEETING
COLUMBIA FALLS CITY-COUNTY
PLANNING BOARD AND ZONING COMMISSION

Tuesday, October 13, 2015 - Beginning at 6:30 PM

CITY HALL
COUNCIL CHAMBERS

A. CALL TO ORDER
   a. Roll Call
   b. Pledge of Allegiance

B. APPROVAL OF MINUTES: *Minutes of the September 15, 2015 Regular Board Meeting

C. VISITOR OR PUBLIC COMMENT: (An opportunity for the Public to comment on any items not on tonight’s agenda)

D. PUBLIC HEARINGS:

   The Columbia Falls City-County Planning Board will hold a public hearing for the following items at their regular meeting on Tuesday, October 13th at 6:30 p.m. at the Council Chambers of City Hall, 130 6th Street West, Columbia Falls, Montana. The Columbia Falls City Council will hold subsequent hearings on October 19th, 2015 starting at 7:00 p.m. in the same location:

   *A. Request for a Planned Unit Development in the Columbia Falls Zoning Jurisdiction:

   Ruis Holdings LLC is requesting a Planned Unit Development (PUD) to place an 82 room three story hotel (64 rooms first phase) on property located at the southwest corner of Highway 2 and Second Avenue West. This is the vacant parcel just east of the City Park and Pool. The PUD will review the large building standards as well as deviations to height, landscape buffer and parking counts. The property is Zoned CB-2 and hotels are a permitted use in this zone. The property is specifically described in Exhibit A.

   a. Adopt Staff Report CPUD-15-01 as findings of fact.
   b. Approve, amend or deny Planned Unit Development

   *B. Request by the City of Columbia Falls to adopt new Floodplain Regulations:

   The City of Columbia Falls is a participant in the National Flood Insurance Program (NFIP) which is administered through the Federal Emergency Management Agency
(FEMA). The City participates in this program so that citizens within its jurisdiction can secure federally backed flood insurance and in cases of flooding, the City and its citizens can be eligible for Federal Disaster Assistance through FEMA. As a condition of participation in the NFIP, FEMA requires that enrolled communities adopt Floodplain Regulations compliant with the State and Federal Floodplain Regulation Model. The proposed Floodplain Regulations will replace the existing Floodplain Regulations which were last updated in 2007.

a. Adopt Staff Report CFREGS-15-01 as findings of fact
b. Approve, amend or deny the Floodplain Regulations

E. NEW BUSINESS:

*a. Urban Highway Program Committee Memorandum of Agreement

F. REPORTS:

1. Planning Board
2. Planning Staff

G. ADJOURNMENT

Next Meeting – November 10, 2015
MINUTES
REGULAR MEETING
COLUMBIA FALLS CITY-COUNTY
PLANNING BOARD AND ZONING COMMISSION
Tuesday September 15, 2015 - Beginning at 6:30 PM
CITY HALL
COUNCIL CHAMBERS

A. CALL TO ORDER AND ROLL CALL
Chairman Vukonich called the meeting to order at 6:30 p.m. PRESENT: Vukonich, Duffy, Haverfield, Schlesinger, Hughes and Stene. ABSENT: Nolan & Shepard.

Also present were City Planner Eric Mulcahy, City Manager Nicosia and City Clerk Staaland.

Pledge of Allegiance

B. APPROVAL OF MINUTES:
Duffy motioned to approve the minutes of the August 11, 2015 Regular Planning/Zoning Board Meeting, second by Haverfield and the motion carried.
Duffy motioned to approve the minutes of the September 9, 2015 Special Planning/Zoning Board Meeting second by Stene and the motion carried.

C. VISITOR OR PUBLIC COMMENT: (An opportunity for the Public to comment on any items not on tonight’s agenda)
Gary Seaman, 1740 Talbot Road, said his suggestion to the City is to go back to allowing animals in the city limits.

D. PUBLIC HEARINGS:
A. Conditional Use Permit Application Request: A request by Logan and Hannah Nolan for a Conditional Use Permit (CUP) to keep five horses on four acres of the applicants six acre parcel. The pasture will be fenced with a three rail wood fence. The applicants/owners live on the property and will care for the animals including removal of waste. The property is addressed as 1736 Talbot Road in Columbia Falls and described as Assessor’s Tracts 8CA and 8BCA in Section 18, Township 30 North, Range 20 West, P.M.M., Flathead County.
City Planner Mulcahy presented Staff Report CCU-15-02, addressing the five recommended conditions.
Chairman Vukonich asked the Board if they had any questions for staff. Vukonich asked Mulcahy about page 10 section F item 4 on the setbacks for primary structures. Mulcahy said the majority of the property is rectangular, to the east is the front of the property and west is the rear. All
structures associated with the horses must meet the setbacks for primary structures and shall be allowed only in the rear and side yards of the lot.

Stene asked if 2 horses per acre was a city code. Mulcahy said yes as well as in the county.

Vukonich asked if the CUP is granted, and they construct an out building for horses they would have to have a CUP, if it is a garage then it would not need a CUP.

City Planner Mulcahy said there are setbacks in place in the zoning district, in this instance this is a single family residence, any additional barn would be addressed through a CUP. Mulcahy said there are approximately 5 parcels that meet the requirements to have horses in the city limits.

Schlesinger asked if there are other properties in Columbia Falls that could have horses. Nicosia said there are about 5 properties in the city limits that could potentially meet the code requirements.

Hughes inquired if there were setback requirements for materials for the horses such as an arena or hay storage. Mulcahy said the hay will be stored in the pole barn. Nicosia said there could be conditions added to address concerns of an arena or hay storage.

Chairman Vukonich opened the public hearing at 7:22 p.m.

Gary Seaman, 1730 Talbot Road, has been a neighbor of the Nolan’s for the last 12 years. He considers them upstanding citizens and believes they will follow through with what they say. Mr. Seaman said he is for having horses next door.

Tanna Friske, 2100 Drift Water Way, said she lives behind Logan Nolan and is worried about property values and the location of the house. Ms. Friske said she has no doubt they will do what they are supposed to, but her concern is future use. Ms. Friske believes the City does not enforce a lot of ordinances already in place and is worried the conditions of the CUP won’t be enforced. She would like the Planning Board to consider the windfall down the road.

Molly Johnson, 1902 Riverwood Lane, said her backyard is their front yard; her big concern is dust and manure. Ms. Johnson said she has a problem with horses in the city because she lives in a residential subdivision. Ms. Johnson believes the extra traffic and hauling hay on Talbot road is not a good idea with 2 schools and a medical facility on the same road. Ms. Johnson said she lives in the city and not the country.

Scott Nolan, 1734 Talbot Road, said he has lived in the country and currently resides in the city. Mr. Nolan said there are some real issues in the world and we don’t have to make things up as to what may happen. Mr. Nolan supports having horses in the city.

Warren Gardner, 2120 Drift Water Way, said he is against having horses in the city. He is concerned with the dust, rain and snow and believes water drainage will be an issue. His main concern is the property value. Mr. Gardner said he moved to the city with the thought of not being next to horses.

Melissa Nolan, 1734 Talbot Road, said emotions seem to be running high this evening. There are a lot of parameters in place with rules and regulations and knows Logan will follow what is required of him. Ms. Nolan said the property is not going to be overcrowded, as far as the smell goes there are other smells in the area such as the sewer plant. Ms. Nolan does not think this is an unreasonable request.

Schlesinger said this will not be the traffic of a typical family; there will be extra traffic with horse trailers and hay hauling causing possible dust. He referenced the staff report Page 8 d. Immediate Neighborhood Impact. The proposed use should not be detrimental to abutting properties. It also states the proposed use is no different than any County parcel located near the edge of the City limits where livestock is permitted but limited by CUP requirements in the City. Schlesinger believes when the wind blows it will cause dust and odor from the said property. He
is also concerned with the noise the horses may make. Schlesinger recognizes recommendation #3 that the applicant shall manage manure as specified in the application, which includes mucking out the stalls and hauling off the property or spreading the manure on the pasture and dragging the pasture once a year to break up manure for quicker decomposition. How will that be enforced? Schlesinger said he lives in section 18-30-20 and the Nolan's live in the same area. In his neighborhood they have covenants that read no livestock. Mulcahy said the Nolan's do not live in a subdivision and do not have covenants on their property.

Haverfield reported watching a program on National Geographic that showed how land and vegetation can be reclaimed when used for grazing animals, the show was about cows, so the land isn't just a dust and weed patch.

Stene said she would be interested to know if property values would be affected and whether or not the Nolan's will follow through with the CUP Conditions. Stene asked if the property value is lower for an equestrian facility. Mulcahy said he was not an appraiser and could not speculate. Stene believes that 2 horses per acre seem high for the acreage. Stene, noting that she is be a horse owner, said for her to keep her pasture green she has to properly maintain it. Stene said individual accountability is what is needed and it seems that the Nolan's can comply with the conditions.

Duffy said on the discussion about odor, it's not so much the manure but the urine that causes most of the odor based on information he read on the internet. Duffy remembered that there was a conflict in language between zoning and City ordinance so we came up with common language but the Board was not asked to change the animal units that were allowed. The ratio should be 1 horse per 2 acres. Duffy said that per his research, the waste from one horse is approximately 7 tons manure per horse per year, where one hauls that is not going to be an easy task. Duffy would like to see more information on the 3 rail fence. Duffy asked if there were to be any stallions in the group. Mr. Nolan said there were no studs and they are not breeding. Duffy asked if there was a private road for your family. Mr. Nolan replied yes his family and his parents share the same driveway. Duffy asked if there would be a horse drawn carriage or ride in the city. Mr. Nolan said we ride in the mountains and his wife is a barrel racer.

Vukovich said he knows the property very well; the wind does blow and can see the neighbors being affected. Vukovich is also concerned with the number of horses per acre.

Stene said the horses per acre depend on the proper soil and maintenance. Stene asked Mr. Nolan if there will be any watering on the pasture. Mr. Nolan replied yes. Mr. Nolan said the horses will be in runs by the barn for ½ of the day and then turned out to pasture for the other ½ of the day. Stene said they are contained and manure will be removed. Stene asked Mr. Nolan if his application addressed his plans for removing manure. Mr. Nolan said yes we will be removing manure. Stene said what the Nolan's are proposing is very usual and not unreasonable. If the horses are kept in runs ½ of the day that will give the pasture a chance grow. They are here to improve the quality of their lives.

Vukovich said according to the sketch there is a fence from the barn. Mr. Nolan said yes the side yard setbacks are 5 feet and the front is 20 feet.

Schlesinger asked Mr. Nolan if he was the owner of the property. Mr. Nolan said he and his wife are the owners. Schlesinger asked where the horses are now. Mr. Nolan said at his in-laws just out
of town. Schlesinger asked what is the downside of keeping them where they are. Mr. Nolan replied they are not where we live. Hughes asked Mr. Nolan what they use the horses for. Mr. Nolan said his wife barrel races, hunting and trail riding.

Chairman Vukonich closed the public hearing at 8:20 p.m.

Hughes motioned to approve staff report CCU-15-02 as findings of fact, second by Haverfield with the Board voting as follows. YES: Haverfield, Hughes, Duffy, Stene and Vukonich. NOES: Schlesinger. ABSENT: Shepard and Nolan.

Schlesinger motioned to deny the Conditional Use Permit, second by Duffy with the Board voting as follows. YES: Schlesinger and Duffy. NOES: Haverfield, Hughes, Stene and Vukonich. ABSENT: Shepard and Nolan. Motion failed.

Schlesinger said the property is in the city and surrounded by kids; cities should be cities and counties should be counties. Hughes said there are rules in affect with the Conditional Use Permit and zoning regulations; the Board could add provisions to the conditional use permit in order to address some of the concerns expressed in the hearing.

Vukonich asked if the Board can have the permit sunset. Mulcahy said on condition 5 – Should the land owner cease to keep horses on the property for a period of more than 12 months, the CUP will expire. Mulcahy said we cannot allow horses for 5 years and then not allow them. Vukonich asked can we revise a condition. Mulcahy said once we issue a CUP and they are not complying with the conditions we can revoke the CUP. Nicosia added if it is complaint driven or if the city notices noncompliance we notify the owner to make corrections, or we may rescind the CUP.

Schlesinger said there will be people complaining about smell and dust. Condition 3 says the applicant will manage manure as specified in the application, which includes mucking out the runs and hauling off the property or spreading the manure on the pasture and dragging the pasture once a year. Mulcahy said that is how the staff report was written, but at this point the conditions can be changed.

Stene said they would have to haul the manure to manage the waste. Mr. Nolan said he doesn’t want excess manure around his property and will keep it clean and has access to a machine with a truck and trailer to haul off premise. Stene asked if that was a condition would you be able to comply. Mr. Nolan said yes. Stene said it was pointed out about neighborhood concern and just a fraction of people that live in the area made comments, we have not heard from all the neighbors. The majority of people have not responded.

Schlesinger said even though there are no covenants, wouldn’t they still have to abide by them? Mulcahy said the CCR’s only apply to a specific subdivision, if they do not live in a subdivision there would be no covenants.

Vukonich asked if the City Council can add conditions as well. Mulcahy said that is correct. Schlesinger said it can go without a recommendation to approve from the Planning Board as well. Mulcahy said yes.
Schlesinger made a motion to deny the conditional permit, second by Duffy. Motion failed with Board voting as follows: YES: Schlesinger, Duffy NOES: Hughes, Stene, Haverfield, Vukonich, ABSENT: Shepard and Nolan.

Stene made a motion to amend the conditions as follows:
Amend Condition #3 requiring waste in the paddock area to be removed from the property every 8 weeks.

Change from eight horses on the property to a maximum of six.

And add Condition 6. Storage of feed and hay is limited to the area in and around the existing pole barn.

Second by Haverfield with the Board voting as follows. YES: Duffy, Stene, Haverfield, Hughes and Vukonich. NOES: Schlesinger. ABSENT: Shepard and Nolan. Motion carried.

Hughes asked if the property was to be used for family use only and not a training facility. Mr. Nolan said they are using the property only for their family use.

Stene motioned to approve the CUP with the amended conditions and send to City Council for the September 21, 2015 meeting, second by Haverfield with the Board voting as follows. YES: Stene, Haverfield, Hughes, Duffy and Vukonich. NOES: Schlesinger. ABSENT: Shepard and Nolan. Motion passed.

E. NEW BUSINESS: None

F. OLD BUSINESS: None

G. ADJOURNMENT:
Schlesinger motioned to adjourn, second by Hughes at 8:42pm.

______________________________________________
Chairman

______________________________________________
City Clerk
CITY OF COLUMBIA FALLS
NOTICE OF PUBLIC HEARINGS

The Columbia Falls City-County Planning Board will hold a public hearing for the following items at their regular meeting on Tuesday, October 13th at 6:30 p.m. at the Council Chambers of City Hall, 130 6th Street West, Columbia Falls, Montana. The Columbia Falls City Council will hold subsequent hearings on October 19th, 2015 starting at 7:00 p.m. in the same location.

Request for a Planned Unit Development in the Columbia Falls Zoning Jurisdiction:
Ruis Holdings LLC is requesting a Planned Unit Development (PUD) to place an 82 room three story hotel (64 rooms first phase) on property located at the southwest corner of Highway 2 and Second Avenue West. This is the vacant parcel just east of the City Park and Pool. The PUD will review the large building standards as well as deviations to height, landscape buffer and parking counts. The property is Zoned CB-2 and hotels are a permitted use in this zone. The property is specifically described in Exhibit A.

Request by the City of Columbia Falls to adopt new Floodplain Regulations:
The City of Columbia Falls is a participant in the National Flood Insurance Program (NFIP) which is administered through the Federal Emergency Management Agency (FEMA). The City participates in this program so that citizens within its jurisdiction can secure federally backed flood insurance and in cases of flooding, the City and its citizens can be eligible for Federal Disaster Assistance through FEMA. As a condition of participation in the NFIP, FEMA requires that enrolled communities adopt Floodplain Regulations compliant with the State and Federal Floodplain Regulation Model. The proposed Floodplain Regulations will replace the existing Floodplain Regulations which were last updated in 2007.

Persons may testify at the hearing or submit written comments prior to the meeting. Written comment may be sent to Columbia Falls City Hall, Attention: Susan Nicosia, City Manager, 130 6th Street West, Room A, Columbia Falls, MT 59912. For more information call Eric Mulcahy, Columbia Falls City Planner at 755-6481.

DATED this 23rd day of September, 2015.

Susan Nicosia
Susan Nicosia, CPA, MPA, City Manager
COLUMBIA FALLS CITY-COUNTY PLANNING BOARD

Publish: Daily Interlake: September 27, 2015
Legal Description
A TRACT OF LAND IN THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 17, TOWNSHIP 30 NORTH, RANGE 20 WEST, PRINCIPAL MERIDIAN, FLATHEAD COUNTY, MONTANA MORE PARTICULARLY DESCRIBED AS FOLLOWS:
ALL OF BLOCK 67 OF FIRST ADDITION TO COLUMBIA FALLS ACCORDING TO THE PLAT THEREOF ON FILE AND OF RECORD IN FLATHEAD COUNTY, STATE OF MONTANA TOGETHER WITH THE ABANDONED PORTIONS OF THIRD AVENUE WEST AND TENTH STREET IMMEDIATELY ADJACENT TO THE ABOVE DESCRIBED PARCELS AND LOT 1, LOT 6, THE NORTH 15-FEET OF LOT 2, AND THE NORTH 15-FEET OF LOT 7 OF BLOCK 70 OF FIRST ADDITION TO COLUMBIA FALLS ACCORDING TO THE PLAT THEREOF ON FILE AND OF RECORD IN FLATHEAD COUNTY, STATE OF MONTANA TOGETHER WITH THE ABANDONED PORTIONS OF THIRD AVENUE WEST AND TENTH STREET IMMEDIATELY ADJACENT TO THE ABOVE DESCRIBED PARCELS. TOGETHER WITH AND SUBJECT TO ALL APPURTEINT SERVITUDES EXISTING OR OF RECORD. CONTAINING 2.55 ACRES MORE-OR-LESS.
ZONE CHANGE REQUEST
COLUMBIA FALLS AREA ZONING JURISDICTION
RUIS HOLDING HOTEL SITE - PLANNED UNIT DEVELOPMENT
CITY OF COLUMBIA FALLS STAFF REPORT # CPUD-15-01
October 2, 2015

A report to the Columbia Falls City County Planning Board regarding a request for a Planned Unit Development overlay (PUD) on property zoned CB-2.

BACKGROUND INFORMATION

A. PETITIONERS
Ruis Holdings, LLC
P.O. Box 1928
Columbia Falls, MT 59912

B. PETITIONER’S TECHNICAL ASSISTANCE
Rory Young, PE
Jackola Engineering and Architects
2250 Hwy 93 South
Kalispell, MT 59901
(406) 755-3208

C. LOCATION/DESCRIPTION
The property is located at 930 Second Avenue West, just east of the City Pool and Park. The property area has frontage on Highway 2 but because of the grade has no direct access to Highway 2. The property is further described in Exhibit A of the PUD Report.

D. REQUEST
The applicant is requesting a PUD overlay to develop an 82 room Hotel. Hotels are considered a permitted use in the CB-2 Zoning District. However, as the building is over 10,000 square feet the Columbia Falls Zoning Ordinance requires a Conditional Use Permit under the “Large Building” standards (Chapter 18.428). As the PUD accomplishes the same review as a CUP with public notice, public hearings, and the review of the zoning criteria; and the PUD allows the applicant to request certain deviations in zoning standards, staff has determined the PUD as the best mechanism for the review of this particular project.

The hotel/conference center is proposed with three stories and approximately 25,000 square feet of hotel/conference space. The conference space takes up approximately 3,000 square feet of the hotel. The hotel will sit on the western side of the property with the parking on the east side of the property.

Zoning Deviations requested with the PUD:

Height – The CB-2 zoning district has a maximum height requirement of 45-feet (Chapter 18.336.040.F). The requested deviation would allow the building to be 48-feet in height measured from the lowest adjacent grade to the peak of the roof.

Perimeter Landscape Buffering - Chapter 18.428.070.D.1 of the Large Building Standards requires a 10-foot wide landscape buffer around the perimeter of the site.
The applicants are requesting a deviation to allow approximately 35 feet of the hotel pool structure to encroach within five feet of the western property boundary. The western boundary of the hotel abuts the east boundary City Park property.

Parking - The Columbia Falls Zoning Ordinance determines the amount of parking required for individual uses (Chapter 18.500). For Hotels the ratio is one parking space per guest room plus one space per employee at maximum shift equaling 87 Parking spaces for this hotel. For the Conference Center the parking ratio is one space per forty square feet of gross floor space. The 3000 square foot conference area requires 75 parking spaces. The hotel and conference Center combined requires 162 spaces. The applicants propose 126 spaces and want to utilize the Joint Parking Provision of the regulations (Chapter 18.532) that allows night time uses and day time uses to share as much as 50% of the parking. The applicants make the argument that the conference center is primarily a daytime use and the hotel is primarily a night time use.

These deviations will be discussed further in this report.

The PUD overlay\(^1\) is intended to be a flexible tool that can be applied to an existing zone in order to encourage a more efficient use of land and public services by allowing, under certain circumstances, a more flexible means of land development than is otherwise generally allowed by the underlying zone. In order for a tract to be eligible for a PUD designation, it must contain a minimum of 2 acres. The PUD overlay allows deviations from the underlying standards of the zone (height, setback, density, parking, etc.) when it can be shown by the applicant that negative impacts have been addressed and the resulting design is equal to or superior to what would have been allowed under the existing zone.

**E. REASON FOR REQUEST**

The proposed PUD complies with the basic land use category of the underlying zoning classification (CB-2). However because the Hotel is greater than 10,000 square feet the City requires a Conditional Use Permit (CUP) for compliance with the Large Building Standards and public participation process provided by the CUP. The PUD review will substitute for the CUP review for the hotel project as it allows the City to review for the Large Building Standards and allow for the public participation in the process. The PUD mechanism was chosen over the CUP because it also allows the City and the public to review the deviations requested in the application process.

**F. EXISTING LAND USE**

The subject property is currently vacant with the exception of old structures (storage shed, a four-plex apartment, and a single wide) which will be removed at the commencement of the project. The property is Zoned CB-2 (General Business) and is located in proximity to other commercial uses along the Highway 2 corridor and the Nucleus Avenue Central Business District.

**G. ADJACENT ZONING AND LAND USE:**

<table>
<thead>
<tr>
<th>North</th>
<th>CB-2</th>
<th>One single family structure, office, vacant lot</th>
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<tbody>
<tr>
<td>South</td>
<td>CB-2</td>
<td>Vacant</td>
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<tr>
<td>East</td>
<td>CB-2</td>
<td>Xanterra Glacier Headquarters and Laundry</td>
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<tr>
<td>West</td>
<td>CB-2</td>
<td>City Pool and Park</td>
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\(^1\) PUD district is defined in Title 18 as: “A district to encourage a more efficient use of land and public services by allowing, under certain circumstances, a more flexible means of land development than is otherwise generally permissible under lot-by-lot restrictions.”
Approximate area of PUD
H. **GROWTH POLICY DESIGNATION**
   The Growth Policy map shows the property is within the Commercial designation.

I. **UTILITIES/SERVICES**
   The property is located inside the City limits of Columbia Falls.
   
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<thead>
<tr>
<th>Utility</th>
<th>Service Provider</th>
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<tbody>
<tr>
<td>Water</td>
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<td>Sewer</td>
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<td>Columbia Falls City Fire Department</td>
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<td>Columbia Falls City Police</td>
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<td>Electricity</td>
<td>Flathead Electric</td>
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J. **LOT SIZE DETAILS**
   The site proposed for the hotel is approximately 2.55 acres in size. The property is currently made up of a number of platted city lots and an abandoned City Street. The applicant will be going through an amended plat process to consolidate the numerous lots into three parent parcels the largest of which is the hotel site. The CB-2 zoning
district does not have a minimum lot size requirement and typically does not have setback requirements except when abutting residential zoned properties. However, since the property meets the large building criteria, it is subject to a 10-foot landscape buffer around the perimeter.

EVALUATION BASED ON STATUTORY CRITERIA

This request is reviewed pursuant to the criteria set forth in Section 76-2-304, M.C.A.; and as stated by the Montana Supreme Court; Chapters 18.348, Planned Unit Development Standards, and Chapter 18.428, Large Building Standards of the Columbia Falls Area Zoning Ordinance. The following findings are made:

1. **Conformity to the Large Building Criteria as required in Columbia Falls Zoning Ordinance Section 18.428.**

   1. **Facades and Exterior Walls:**
      A. The building is greater than 60-feet in length and the applicants have incorporated numerous recess and projections along the façade of the building in both the front and rear to comply with these standards.
      B. All four sides of the building have windows and architectural elements such as belly bands, awnings, doors, textural changes in siding materials, changes in building height, and the porte-cochere in the main entrance.
      C. The proposed building uses horizontal lap siding on the first two floors and a shingled siding on the third floor to give the appearance of a two and a half story building. The gabled roof provides architectural interest and the angled roof planes give the perception of a shorter structure.

   2. **Roofs and Parapets:**
      A. The applicant chose “lodge” architectural motif with the gabled roof rather than a flat roof for the architectural interest it provides as opposed to a flat roofed structure that can have a more modern appearance. There will be no roof top units (RTU) on the gabled part of the building. Most of the mechanical will be housed inside the building and/or in the ceilings. The conference facility will have a RTU but it will be screened by the parapet or similar screening structures.
      B. The only parapet is on the conference center and the pool structure roof. Both are single story and the parapet fit the scale of the structure.
      C. The parapets have three dimensional cornice treatments.
      D. The gabled roof has a minimum three foot overhang
      E. The main part of the Hotel has a gabled roof with a 5:12 pitch. The Main gable is broken in height at the north end to lessen the mass. The entrance and north and south ends have dormers to break off the roof mass.
      F. The roof has three main gable planes as well as dormers and the flat roof for variety and mitigation of mass.
      G. The applicant is requesting a deviation from the CB-2 height standards of 45-feet. The applicant is requesting the maximum height of the hotel be 48-feet as measured at the peak of the gable to the lowest adjacent grade. The applicant could lower the pitch of the roof but has requested the deviation for the architectural and visual benefit. The applicant points out in their application that Highway 2 grade is approximately 20-feet above the finish grade of the hotel. This translates to the traveling public only seeing the upper half of the structure above the highway. The Hotel project went through the Columbia Falls Site Review process with the City
departments and Rick Hagen, Columbia Falls Fire Chief, reviewed the height deviation from a health and safety standpoint. As the hotel will be fully sprinkled, and the fire department has access to the roof at the eaves the Fire Department did not have a problem with the three foot height deviation. Staff is recommending approval of the height deviation.

3. Entrance:
The main entrance to the structure utilizes a porte-cochere for visual interest and for the practicality of protecting guests from the weather while checking in and out of the facility. The porte-cochere is supported by four columns in the mountain lodge/craftsman style of architectural. The hotel uses projecting entrance features and awning at the conference entrance and the north and south entrances.

4. Materials and Color:
   A. The exterior materials will consist of “hardi” plank (concrete based materials) simulating wood and shingle sides. The applicant is selecting the “hardi” products for the long term maintenance and factory finish. Stone and cedar posts will be used on the entrance columns and around the entrance. The awning roofs will be made out of Corten which weathers to a nice rusty colored patina while the main gabled roof will have asphalt architectural shingles. (See color rendering in the application materials.)
   B. The applicant proposes that the roof trusses and framing will come from Western Building Center and that the owner plans to use as much local labor and material as possible.
   C. The color of the structure is earth tone browns reflecting that of the wood materials.
   D. The trim compliments the wall colors and is not bright.
   E. The applicant is not proposing any concrete block, tilt-up concrete, or smooth faced steel.

5. Landscaping:
   A. The site has approximately 1.72 acres of the 2.55 acre devoted to building and parking lot. Approximately 0.83 acre of the site is devoted to landscaped area or 32% of the site. The consultants worked with the topography of the site to set the building location, avoiding sever cuts which in turn preserves many of the trees in the northwest corner of the property as well and the line of trees along the Highway frontage.
B. The applicant proposes 32% of the site as landscape area which exceeds the 15% requirement. The 32% also exceeds the 30% requirement of the PUD standards.

C. The site plan incorporates the existing features of the site and preserves a number of the large ponderosa trees on the northwest part of the lot and along the highway frontage. The applicants will have a walkway from rear of the hotel to the City Park. This pedestrian linkage allows hotel guests to enjoy the park and also walk to neighboring businesses and restaurants. It would also allow out of town swimmers and guests’ participating in one of the local swim meets to walk back and forth to the hotel. The site plan shows a walkway through the parking lots connecting the main hotel entrance with the Second Avenue West sidewalk and the sidewalk along Highway 2. Presently we have a schematic landscaping plan that does not indicate the plant mix or irrigation system. Staff will recommend a condition of approval that requires City Manager approval of the detailed landscape plan prior to issuance of the occupancy permit. Staff can work with the applicant and the time of year to insure that the approved landscaping plan is implemented through a developer’s agreement.

D. The regulations require that large buildings on sites of less than 30 acres provide a 10-foot landscape buffer around the perimeter of the site. The intent of this standard is to provide some buffering and mitigate some of the shadowing effect on adjacent uses. For the most part the applicant meets this requirement, however they are asking for a deviation for approximately 35-feet of the building on the western side of the structure. The applicants are requesting to encroach within five feet of the western property line for a one story projection of the building on this west side. The neighbor to the west is the City Pinewood Park and the park sits on a bench that is approximately ten feet higher in elevation than the hotel site. Therefore there will be little visual or shadowing effect from this encroachment. The majority of the hotel sits more than 50-feet from the western property boundary creating a large landscaped yard area. The hotel open space will blend together nicely with the park and pool use to the west. Staff is recommending approval of this deviation.

E. The parking lots have six to eight foot landscape islands at the ends of the parking isles and intermittently every eight to nine spaces. The parking lots have large planting areas on the west and east sides and the applicants will maintain the ten foot landscape buffer on the Highway 2 and Second Avenue West property.

6. Parking Lot:
A. The site plan for the hotel shows an eight foot wide concrete walk from the Hotel entrance to Second Avenue. As part of this project, the City of Columbia Falls is rebuilding Second Avenue West with curb, gutter,
sidewalk on the west side of the street and on-street parking. The developer will participate in a cost share for the sidewalk along Second Avenue West.

**B.** The hotel walkway will connect to the new Second Avenue sidewalk. From Second Avenue, hotel guests can connect to the Highway 2 sidewalk and walk to businesses along Highway 2 or walk two blocks over to the Nucleus Avenue Business District.

**C.** The landscape islands and eight foot walkway will visually and physically segment the parking lot as required by code.

**D.** The applicant does not propose any parking isles greater than 30 spaces in length as required by code.

**E.** The applicant has segmented the parking area so that the parking lot is separated by landscape islands and landscaped roads.

**F.** No traffic calming (such as speed bumps or round-about) is proposed. The ITE Trip General Manual provides projected traffic counts for a number of uses. The Manual has a trip generation for Hotels but the study results looked at Hotels as those with sleeping quarters, restaurants/bars, and banquet/convention facilities. As the proposed hotel does not have a restaurant or bar, so the following counts might be somewhat higher than actual traffic counts but they do provide some approximation to the projected traffic volumes.

<table>
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<tr>
<th></th>
<th>Trip/Day/Room</th>
<th>Peak AM Trips/hr</th>
<th>Peak PM Trips/hr</th>
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</tr>
<tr>
<td>Saturday</td>
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<td></td>
</tr>
<tr>
<td>Sunday</td>
<td>5.95</td>
<td></td>
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</tr>
</tbody>
</table>

With 82 rooms there are an estimated 670 trips per weekday associated with the Hotel. The peak AM hours will see 43 vehicle trips during a week day and the peak PM hour will see 50 vehicle trips. A trip is defined as an end, so when you arrive at the hotel that is one trip and when you leave that is a second trip.

The City of Columbia Falls has had Second Avenue West high on its list for street reconstruction and with the Hotel project it is now at the top of the list and will be slated for reconstruction in 2016. Second Avenue will be reconstructed for two-way traffic and public parking along the west side of the street. Because of the location of the Xanterra building and the access to the rear of that building, on-street parking will not be installed on the east side of the street. Second Avenue has direct access to Highway 2 which is four lanes and built to accommodate a full complement of Commercial Structures along this corridor. The City and MDOT infrastructure is designed to handle the proposed use and the associated vehicle trips.

**G.** As noted at the beginning of this report, the applicant is requesting a deviation from the parking standards. The Columbia Falls Zoning Ordinance determines the amount of parking required for individual uses (Chapter 18.500). For Hotels the ratio is one parking space per guest room plus one space per employee at maximum shift equaling 87 Parking spaces for this hotel. For the Conference Center the parking ratio is one space per forty square feet of gross floor space. The 3000 square foot conference area requires 75 parking spaces. The hotel and conference center combined requires 162 spaces. The applicants propose 126 spaces and want to utilize the Joint Parking Provision of the regulations (Chapter 18.532) that allows night time uses and day time uses to share as much as 50% of the parking.
The applicants make the argument that the conference center is primarily a daytime use and the hotel is primarily a night time use.

Staff concurs that there will be some parking share between the conference center and the hotel use. If the hotel was booked to full occupancy and each room had a vehicle and there were five employees on shift, all driving their own car, they would consume 87 parking spaces leaving 39 of the 126 spaces empty. It is unlikely that the conference center would also have an event and nobody staying at the hotel would be attending the event in the conference center.

The applicant goes on to state in their application that most conferences occur during business hours (8:00 am to 5:00 pm) and most hotel guests arrive at the hotel after 5:00 pm and leave by 8 or 9:00 am to continue on their trip or to visit local attractions such as Glacier Park, Flathead River, Big Mountain Resort, or one of the many golf courses in the valley.

With the reconstruction of Second Avenue West, the City will be widening the pavement width to provide on-street parking. If the City paves to a 26 foot width, they would have parallel parking on the west side totaling approximately 15 public parking spaces. If the new road was widened to provide diagonal parking the street could accommodate 24 public spaces.

As public on-street parking would benefit the hotel use and they are 36 spaces short of the full required parking, it would be reasonable to request that the hotel pay for the additional pavement to make the street wide enough for diagonal parking with the 24 public spaces that would provide overflow parking for the rare event that fills the Hotel parking lot.

Staff supports the parking deviation subject to the condition of the cost share for the diagonal parking.

7. **Snow Storage.**
   The applicant provided a site plan that indicates snow storage areas. The primary snow storage area will be in the landscape buffer along the east side of the parking lot between the parking lot curb and the property line. Additional snow storage is proposed on the south side of the shared access. Depending on the future use of the lot to the south this snow storage area may need to be moved or accommodated in the future design of the south lots.

8. **Lighting**
   A. At this point in time we do not have a sign package or lighting information for the Hotel use which is typical for projects at this stage. Not many developers would go to the expense to design all of the building details when they don’t know if they have an approval to construct the building. The City of Columbia Falls requires all applicants to fill out a sign application and receive a sign permit from the City prior to erecting any signage. The City staff will review the sign permit application for compliance with the standards of the Columbia Falls Zoning Regulations prior to issuing a sign permit.
   
   B. The sign package will be reviewed with the building plans for compliance with full shields and/or opaque shields for direct lights to walks, entrances and parking areas.
   
   C. As the lighting is close to the residentially zoned property to the south, maximum height of the parking lot lights will be 18 feet.
9. Pedestrian Circulation
   A. There is a wide public sidewalk on the north side of the property within the
      MDOT right-of-way. Currently there is no sidewalk on the Second Avenue
      West right-of-way but the City and the developer will cost share for the
      installation of a six foot sidewalk with the adjacent diagonal parking.
   B. The applicant is providing an eight foot concrete walk from the main
      entrance of the Hotel east to the new Second Avenue West sidewalk. From
      this point pedestrians can move along the existing sidewalks to businesses
      along Highway 2 and Nucleus.
   C. The applicant is providing a seven foot walkway along the front of the
      building which seems adequate to move guests from the parking or
      conference area to the hotel lobby.
   D. A pedestrian crossing using stamped asphalt of pavers will be to be installed
      where the eight foot walk crosses the internal loop driveway in front of the
      hotel.
   E. There are no bicycle lanes proposed with the project. There is a bicycle lane
      along the Highway 2 corridor but nothing along Second Avenue West.
   F. Hotels parking lots typically have the trash receptacles at the entrance of the
      hotel and hotels typically do not have bike racks. Touring cyclists staying at
      hotels typically take their bikes to their rooms as opposed to locking them in
      a bike rack.

10. Community Space
    A. The applicant is providing a walking path from the rear of the facility to the
        City Park. Otherwise, the Highway and Second Avenue West has or will
        shortly have sidewalks.

11. Trash and receiving
    A. The applicant’s site plat is showing a trash enclosure in the northwest
       corner of the parking lot. The applicant indicates that the enclosure will be
       constructed of masonry with steel doors. Given the grades between the
       parking lot and the highway along with the existing and proposed
       landscaping, this appears to be a suitable location for the enclosure as it
       would not be seen from the public driving along Highway 2, the site provides
       convenient access for the solid waste haulers and it is well away from
       residential uses to the south.
    B. The developer is not proposing a loading dock for the hotel as laundry will be
       handled within the facility and there will be little food service with only the
       continental breakfast and catering for the convention facility.
    C. No outdoor storage is proposed for the hotel use.

2. Does the requested zone comply with the Growth Policy?

The Hotel and PUD comply with the Columbia Falls Growth Policy.

The Columbia Falls Growth Policy provides the following:

Chapter 4 Land Use – Commercial
   - Goal #1    Balanced commercial development providing convenient access to
                 a broad selection of goods and services.
   - Goals #2   Columbia Falls as a gateway community to Glacier National Park
                 and the surrounding recreational assets which provide the traveler and residents
                 a broad array of retail businesses, services, and accommodations.
• Goal #4   Focused commercial development along US Highway 2 that embraces good signage, access, and landscaping serving as an entrance corridor to Columbia Falls.
• Policy 1.b. Utilize Planned Unit Developments as a tool to ensure that commercial areas provide appropriate buffers to adjacent residential areas and that all planned uses are compatible.
• Policy 4.b. Encourage the use of innovative land use regulations to achieve a pleasing community entrance
• Policy 4.c. Encourage access by a secondary street or use of shared driveways and interconnected parking lots where secondary street access is unfeasible.
• Landscape highway frontage and parking lots, to enhance development sites and soften visual impacts of development

Chapter 7 Urban Design/Historic and Cultural Facilities
• Policy 3   Continue to encourage the design of new commercial and multi-family developments to incorporate pedestrian access, well designed and landscaped off-street parking, integrated signage and the screening of storage areas and refuse collections areas.
• Recommendations 7. Encourage the development of a hotel or motel in the City of Columbia Falls.

The proposed PUD is being reviewed under the City’s “Large Building” standards which were adopted right before the economic downturn and I believe this is the first building to be reviewed under these heightened standards. The Large Building standards incorporate many of the goals and policies of the Growth Policy as outlined above. Of particular importance, the City has been looking for a hotel use in the core of the commercial district for many years. It is anticipated that a hotel use will help capture some of the thousands of tourists that travel through Columbia Falls on the way to Glacier Park but have, in the past, stayed in Whitefish or Kalispell where they use those City’s restaurants and businesses. Secondly, having a hotel in Columbia Falls will allow out of town business persons doing business in Columbia Falls to stay in the City. Lastly, having a hotel will allow traveling sports teams to stay in the City and for the City to capture this economic benefit.

3. Is the requested zone designed to lessen congestion in the streets?

The parcel is located immediately adjacent Highway 2 which is a four lane US Highway. The City will be reconstructing Second Avenue West which will serve as the primary access. The transportation network is well suited for the Hotel use at this site.

4. Will the requested zone secure safety from fire, panic, and other dangers?

The project was reviewed by the Columbia Falls Fire Chief at site review and he is satisfied with the basic site plan. Items such as sprinkling and hose connections will be reviewed at the time of building plan review. The property has good access to City streets and the interior parking/driving lanes provides good access for emergency vehicles. The fire department did specify that the clearance under the porte-cochere be a minimum of 13’ – 6”.
5. **Will the requested change promote the health and general welfare?**

The site is located well outside of any floodplains, wildland urban interface or other hazards. The subject property is zoned CB-2 which anticipates hotel uses and the project will connect to municipal sewer and water services.

6. **Will the requested zone provide for adequate light and air?**

The site is zoned CB-2 and for most buildings the General Commercial district does not require setbacks when located adjacent to other commercial zoned properties. However, because the project is over 10,000 square feet in size it is subject to landscape buffers and a minimum 15% landscape area. With the exception of a small protrusion on the west side, the project complies with the 10’ landscape buffer. Staff is recommending approval of the small deviation. (See discussion 1.5.C. of this report for deviation). The applicant is also providing approximately 32% of the site as landscaped green areas.

7. **Will the requested zone prevent the overcrowding of land?**

The property is zoned CB-2 (General Business) and this zoning designation anticipates intense commercial uses. Given the performance standards of the “Large Building” provisions, the project will not overcrowd the property.

8. **Will the requested zone avoid undue concentration of people?**

As stated previously the existing zoning anticipates large concentrations of people. The infrastructure is available to address the use and associated guests of the hotel.

9. **Will the requested zone facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements?**

The property is located along a major arterial street (Highway 2). Second Avenue West will be reconstructed and will support the local and business traffic associated with the hotel. The project will connect to municipal sewer and water services.

There is a sewer main that runs north to south along an old abandoned alley way. There is an existing manhole located in the proximity of the porte-cochere. Public Works will require that this manhole be moved south so that is in not under the structure and is accessible for maintenance.

The commercial use does not generate school children but the hotel use may benefit the school when it hosts meets or tournaments as the visiting school will not have to travel for accommodations.

The project is adjacent to a City park and the landscape area of the hotel and the pedestrian access will blend nicely with the park area.

10. **Does the requested zone give reasonable consideration to the peculiar suitability of the property for particular uses?**

The proposed PUD does give consideration to the CB-2 zoning as it proposes a use that is permitting in the underlying zoning. The land conditions, proximity to adequate roads, services and utilities make this area suitable for the proposed commercial use.
11. Does the requested zone give reasonable consideration to the character of the district?

The character of the neighborhood is commercial with nearby restaurants, cafes, parks and other businesses. The property fronts on US Highway 2 which provides access to Glacier National Park. This is an ideal location for a hotel use.

12. Will the new zoning affect property values?

Given that this property used to support a number of dilapidated apartments and mobile homes up until the mid-1990's and has been more or less vacant since that time, the proposed hotel will greatly improve property values of nearby commercial and residential properties.

13. Will the requested zone encourage the most appropriate use of the land throughout the municipality?

The property is zoned CB-2 (General Business) which is the zoning district the City has designated for Hotel use. The site in question is within walking distance of the Nucleus Avenue commercial district and it is presumed that guests of the hotel will walk to restaurants and retail business on Nucleus Avenue providing economic benefits to these business owners.

SUMMARY

The PUD request conforms to the Columbia Falls City Growth Policy, and complies with “Large Building” standards, and the findings as discussed above. The project will be fully served by Municipal services. The requested PUD allowing Hotel development is consistent with the neighboring use and intent of the property.

RECOMMENDATION

Staff recommends that the Columbia Falls City-County Planning Board and Zoning Commission adopt Columbia Falls Planning Office Staff Report #CPUD-15-01 as findings of fact and recommend approval of the requested zones subject to the following conditions:

1. The Ruis Holding PUD will allow the following deviations:
   a. Building Height – The maximum building height is 48-feet at the top of the gable.
   b. Landscape Buffer - The projection on the west side of the building (approximately 35-feet) may encroach within five feet of the western property boundary.
   c. Parking – The applicant will have a minimum of 126 off street parking stalls for the hotel and conference facility.

2. The project shall be built in substantial compliance with the submitted “Columbia Falls Hotel” application and all accompanying drawings, as prepared by Jackola Engineering and Architecture.

3. The fire department specifies that the clearance under the porte-cochere be a minimum of 13’ – 6”.

4. Public Works requires the sewer main manhole be moved south so that is in not under the structure and is accessible for maintenance.

5. Landscaping and landscaping features will generally follow the PUD plan with the understanding that the PUD plan is not a detailed Landscaping Plan. The applicants
shall provide the City Manager a detailed Landscape plan, in compliance with the landscape provisions of the “Large Building Standards”. The landscape plan shall be approved and the landscaping installed prior to the issuance of an occupancy permit. If, due to weather, the landscaping cannot be completed prior to occupancy, the applicant may enter into a developer’s agreement with the City of Columbia Falls and provide a security (bond or letter of credit) in the amount of 125% of the landscape improvements. The security amount will be determined by actual bid or licensed engineer. The developer’s agreement will not be for longer than six months.

6. The developer of the hotel shall pay for the additional pavement to make Second Avenue West wide enough for diagonal parking. If the City is not ready to rebuild the street prior to occupancy of the hotel, the applicant shall provide the cash amount to the City prior to issuance of the occupancy permit, or the applicant and the City may substitute the cash for a bond or letter of credit backed by a developer’s agreement stating when the cash will be paid to the City for the street improvement. The cost of the additional pavement will be determined by the City of Columbia Falls.

7. The developer will cost share in the construction of the sidewalk along Second Avenue West. The cost share will be determined by the City Manager and Public Works Director.

8. The City staff will review the sign permit application for compliance with the standards of the Columbia Falls Zoning Regulations prior to issuing a sign permit.

9. Where the eight foot walkway crosses the driveway in front of the hotel, the developer shall install stamped asphalt of pavers to delineate and differentiate the pedestrian crossing from the driveway asphalt.

10. Any RTU will be screened by the parapet or similar screening so that it is not visible from the public.

11. The light details will be reviewed at the building permit stage to insure that they comply with the 18-foot height standards and that all lighting has full cut off and/or opaque shields.

12. All conditions of the PUD shall be complied with prior to the issuance of the occupancy permit or otherwise addressed as provided for in this PUD.
Exhibit A

Legal Description
A TRACT OF LAND IN THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-
QUARTER OF SECTION 17, TOWNSHIP 30 NORTH, RANGE 20 WEST, PRINCIPAL
MERIDIAN, FLATHEAD COUNTY, MONTANA MORE PARTICULARLY DESCRIBED AS
FOLLOWS:
ALL OF BLOCK 67 OF FIRST ADDITION TO COLUMBIA FALLS ACCORDING TO THE PLAT
THEREOF ON FILE AND OF RECORD IN FLATHEAD COUNTY, STATE OF MONTANA
TOGETHER WITH THE ABANDONED PORTIONS OF THIRD AVENUE WEST AND TENTH
STREET IMMEDIATELY ADJACENT TO THE ABOVE DESCRIBED PARCELS AND LOT 1,
LOT 6, THE NORTH 15-FEET OF LOT 2, AND THE NORTH 15-FEET OF LOT 7 OF BLOCK
70 OF FIRST ADDITION TO COLUMBIA FALLS ACCORDING TO THE PLAT THEREOF ON
FILE AND OF RECORD IN FLATHEAD COUNTY, STATE OF MONTANA TOGETHER WITH
THE ABANDONED PORTIONS OF THIRD AVENUE WEST AND TENTH STREET
IMMEDIATELY ADJACENT TO THE ABOVE DESCRIBED PARCELS. TOGETHER WITH AND
SUBJECT TO ALL APPURTEAIl SERVITUDES EXISTING OR OF RECORD. CONTAINING
2.55 ACRES MORE-OR-LESS.
PETITION FOR ZONING MAP AMENDMENT

NAME OF APPLICANT:  Ruis Holdings
MAIL ADDRESS:  PO Box 1928
CITY/STATE/ZIP:  Columbia Falls, MT, 59912
PHONE:  (406) 845 3236
INTEREST IN PROPERTY:  Owner

PLEASE COMPLETE THE FOLLOWING:

A. Address of the property: ___930 2nd Ave W
B. Legal Description: (Subdivision Name, Lot & Block and/or Tract Number (Section, Township, Range)  See Attached Legal Description
C. Land in zone change (ac)  2.55 Ac
D. The present zoning of the above property is:  CB-2
E. The proposed zoning of the above property is:  CB-2 PUD
F. State the changed or changing conditions that make the proposed amendment necessary:  See Attached Narrative

HOW WILL THE PROPOSED CHANGE ACCOMPLISH THE INTENT AND PURPOSE OF:

A. Promoting the Growth Policy _
   The PUD promotes the growth policy by directly addressing one of the recommendations in Chapter 7 Urban Design that suggests that Columbia Falls encourage the development of a hotel in the City of Columbia Falls.
B. Lessening congestion in the streets and providing safe access

The PUD will provide sufficient parking for the operation of the hotel and conference center. The additional parking created on 2nd Ave W will lessen congestion associated with the thriving Farmers Market and provide additional parking and accommodation options during the annual swim meet.

C. Promoting safety from fire, panic and other dangers

The proposed development will be fully sprinkled so as to provide safety from fire. All fire code related issues will be coordinated with the City of Columbia Falls Fire Chief.

D. Promoting the public interest, health, comfort, convenience, safety and general welfare

The addition of a hotel and conference center will provide additional accommodation and a valuable meeting amenity in the City of Columbia Falls thereby promoting convenience and public interest for the City.

E. Preventing the overcrowding of land

The hotel and conference center are of a compact design and will reduce the possibility of overcrowding when compared with a more spread out Motel type accommodation. By combining the two uses the PUD will reduce the need for a separate lot thereby further reducing overcrowding.

F. Avoiding undue concentration of population

While the hotel will by its nature be a densely populated building it will not encourage an undue concentration of population as most staff will be living within the community and the “population” of the hotel will be visitors contributing to the economy of Columbia Falls.

G. Facilitating the adequate provision of transportation, water, sewage, schools, parks and other public facilities

By adding to the economic base of the City of Columbia Falls this PUD will assist in the provision of these important utilities and infrastructure.
H. Giving reasonable consideration to the character of the district
   The hotel and conference center are being designed to blend in with the local environment. It is
   recognized that this site sits between a City park and an industrial facility east to west and between
   a highway and residential areas north to south. Wherever possible the existing trees will be
   maintained and landscaping used to transition between the varying adjacent land uses.

I. Giving consideration to the peculiar suitability of the property for particular uses
   As discussed in section H the hotel and conference center will be carefully designed so as to blend
   in with this particular site and provide a well thought out transition for the various adjoining uses.

J. Protecting and conserving the value of buildings
   No buildings will be demolished by this PUD however the new hotel and conference center are
   expected to add significant visual appeal to the lot thereby preserving the value of buildings.

K. Encouraging the most appropriate use of land by assuring orderly growth
   The PUD overlay is requested in order to seek relief from specific items, or clarification of certain
   items, in the zoning regulations. The hotel and conference center are permitted uses in the CB-2
   zone and are therefore appropriate use of the land and promote growth of the City.

The signing of this application signifies approval for Columbia Falls Planning staff to be
present on the property for routine monitoring and inspection during approval process.

(Applicant Signature)  

(Date)

(6/26/09)
APPLICATION PROCESS

APPLICABLE TO ALL ZONING APPLICATIONS:

A. Pre-Application Meeting:

A discussion with the planning director or designated member of staff must precede filing of this application. Among topics to be discussed are: Growth Policy compatibility with the application, compatibility of the proposed zone change with surrounding zoning classifications, and the application procedure.

B. Completed application form.

C. Application fee per schedule, made payable to the Columbia Falls Planning Department.

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<th>Zone Change: Base fee</th>
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<td>For next 50+ acres add</td>
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<table>
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<tr>
<td>Commercial</td>
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<tr>
<td>Mixed Use</td>
</tr>
</tbody>
</table>

| Letters to Adjoining Property Owners: | $4 per address |

* Deduct $300 from PUD fee if application is concurrently submitted with a preliminary plat.

D. The application must be accepted as complete by the Columbia Falls Planning staff thirty-five (35) days prior to the date of the planning board meeting at which it will be heard in order that requirements of state statutes and the zoning regulations may be fulfilled.

E. Application Contents:

1. Petition for zone change signed by the real property owners representing at least 65% of the land area for which the change in zoning classification is sought.

2. A map showing the location and boundaries of the property.

3. A list of the names and mailing addresses of all property owners within 150 feet of the subject property as shown on the Assessor's roll. See example below and attached notice from County Plat Room.

| Assessor No | Sec-Twn-Rng | Lot/Tract No | Property Owner & Mailing Address |
LEGAL DESCRIPTION

A TRACT OF LAND IN THE NORTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 17, TOWNSHIP 30 NORTH, RANGE 20 WEST, PRINCIPAL MERIDIAN, FLATHEAD COUNTY, MONTANA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF BLOCK 67 OF FIRST ADDITION TO COLUMBIA FALLS ACCORDING TO THE PLAT THEREOF ON FILE AND OF RECORD IN FLATHEAD COUNTY, STATE OF MONTANA TOGETHER WITH THE ABANDONED PORTIONS OF THIRD AVENUE WEST AND TENTH STREET IMMEDIATELY ADJACENT TO THE ABOVE DESCRIBED PARCELS AND LOT 1, LOT 6, THE NORTH 15- FEET OF LOT 2, AND THE NORTH 15- FEET OF LOT 7 OF BLOCK 70 OF FIRST ADDITION TO COLUMBIA FALLS ACCORDING TO THE PLAT THEREOF ON FILE AND OF RECORD IN FLATHEAD COUNTY, STATE OF MONTANA TOGETHER WITH THE ABANDONED PORTIONS OF THIRD AVENUE WEST AND TENTH STREET IMMEDIATELY ADJACENT TO THE ABOVE DESCRIBED PARCELS, TOGETHER WITH AND SUBJECT TO ALL APPURTENANT SERVITUDES EXISTING OR OF RECORD. CONTAINING 2.55 ACRES MORE-OR-LESS.

(6/26/09)
Columbia Falls Hotel & Conference Center

Planned Unit Development Application Narrative

Prepared by Jackola Engineering & Architecture
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1.0 OVERVIEW

The Columbia Falls Hotel and Conference Center is a proposed 3 story structure with a footprint of approximately 25,000 sf. The development is proposed for the north portion of a 4 Ac lot located between 11th Street W and US Hwy 2 and between the City of Columbia Falls Pinewood Park and 2nd St W. (See Exhibit A) The developed site will be 2.55 Ac in size and has the address 930 2nd Ave W. The hotel will include 82 rooms at full build-out but phase 1 is anticipated to include 64 rooms. The conference center will have a meeting space of approximately 3,000 sf.

2.0 CURRENT ZONING

The 4.0 Ac parcel is currently zoned CB-2 General Business. The Hotel is a permitted use in this zone. The Large Building in this zone would trigger a conditional use review. There are no minimum requirements for lot area, lot width, lot coverage or yards as this lot does not abut a residential district. The maximum fence height allowed is 6’ although no fencing is thought to be needed.

The maximum building height allowed in this zone is 45’.

The off street parking requirements as detailed in Chapter 18.502 are shown below:
- 18.506.020 Hotels – One space per guest room + one space per two staff.
- 18.508.020 “Other places of assembly” – one space per 5 seats or one space per 40sf of floor area.

The large building requirements in Chapter 18.428 will be addressed during building and site design. The requirement in this chapter to provide a 10’ perimeter landscaping buffer is addressed below.

A conceptual site plan is included in Exhibit B.

3.0 PLANNED UNIT DEVELOPMENT APPLICATION

Pursuant to Chapter 18.348 a Planned Unit Development (PUD) is requested for this project. The PUD request is proposed to address the following site constraints:

- Building Height
- Perimeter Landscaping Buffer
- Parking Count

Each of these constraints is addressed in more detail below.

3.1 Building Height

The proposed building height is 48’ from floor grade to the ridge line. The building has been intentionally located at the rear of the lot to prevent the impression of an imposing bulk along 2nd Ave W. In addition the highway grade in the NW corner of the lot closest to the building is 20’ above the existing property grade which means that only roughly 28’ of the building would be visible above the highway. Every effort will be made to maintain the large trees as an additional visual barrier.
From a more technical review there are several portions of the building (See Exhibit C) where the adjacent grade will be raised to just below the window height near the guest rooms and to approximately 4' near the pool. Using these grades and the lengths to which they apply would provide us with the following:

<table>
<thead>
<tr>
<th>Description</th>
<th>Measurement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Perimeter length at FFL</td>
<td>700'</td>
</tr>
<tr>
<td>Perimeter Length at FFL + 3' Ave.</td>
<td>110'</td>
</tr>
<tr>
<td>Perimeter Length at FFL + 5' Ave</td>
<td>90'</td>
</tr>
<tr>
<td>Average Building Floor Grade</td>
<td>(2053x701 + 2056x110 + 2058x90)/(900) = 2056.15</td>
</tr>
<tr>
<td>Adjusted Building Height</td>
<td>(2053+47)-2056.15 = 43.85'</td>
</tr>
</tbody>
</table>

Based on the above we would request that the PUD allow for a building height of 50' allowing some flexibility in the building design.

### 3.2 Perimeter Landscaping Buffer

The building has been located in the NW corner of the 4.0 Ac parcel to nestie into the slope East of the City Park. To the greatest extent possible the large trees on site will be maintained as an integral part of the landscape. Additionally the grade of Highway 2 along the North property line varies from 10' above to 20' above the existing property grade thereby creating a natural buffer. The Large Building zoning a requirement triggers a 10' perimeter landscape buffer for sites under 30 Ac. The lot West of the Hotel is the City of Columbia Falls Pinewood Park and it is not anticipated that this land use will change. The site plan makes adequate provisions for landscaping while maintaining the required parking count and sidewalk access requirements.

Based on the above it is requested that the perimeter landscaping buffer be reduced to 5'.

### 3.3 Parking Count

The proposed 82 room hotel would require 87 parking spaces at full build out. Based on our interpretation of the zoning requirements the 3,000 sf conference center would require 75 parking spaces for a total of 162 parking spaces. Currently we have 126 spaces shown on the conceptual site plan.

Chapter 18.532 Joint Use Parking addresses the fact that some uses can be primarily day time uses while others are likely to be night time uses. Neither a hotel nor a conference center is addressed in the current version of this zoning requirement. It could be argued that a hotel is primarily a night time use and a conference center is primarily a day time use. Most hotel guests check in between 5 and 8 pm. Generally business clients are up early and leave by 8 am while tourist type guests are most likely to have left the hotel by 10 am. In general a conference would run from around 9 am to 5 pm. If the conference center were to be used for wedding or a large business function there would be attendees who were also guests in the hotel.

A reduction in the required parking would allow for additional landscaping thereby mitigating some of the large paved parking areas that are not desirable.

Based on the above we would request a 40% overlap in the hotel parking count or an allowance to use the on street parking and a 15% overlap in order to meet the parking requirements.
4.0 EXHIBITS

4.1 Exhibit A – Project Location
4.2 Exhibit B – Conceptual Site Plan
4.3 Exhibit C – Building Grading
Afternoon Eric

In response to your e-mail, please refer to the attached updated layout and the following:

1. Solid Waste – A storage area has been shown on the layout. The trash cans will be accessible from the drive aisle. We anticipate providing a masonry structure with steel doors to screen the trash receptacles.
2. Mechanical – We are using a combination of mechanical systems, most of which will be located inside the building or in the ceiling space. The conference center will have RTU’s (Roof Top Units) and these will be shielded from view by a parapet or other similar screening device. At this time the pool is anticipated to have a heating/cooling system installed inside the building. If the design changes to require an outdoor unit it will be shielded in a similar manner to the conference center RTU’s.
3. The building exterior is planned to be a mixture of “hardi” plank siding, Corten metal sheeting and cedar colored fibre cement shakes. The plank and shakes will look like a wood product and the metal siding will provide a rusted metal looking finish. The main entrance area is planned to be a combination of cedar timbers and river rock to match the hotel name. (Unofficially, the name will be Cedar Creek Lodge and Conference Center) The roof will be asphalt shingles. Please feel free to share the color rendering that shows how these various materials to give the hotel its warm feeling.
4. It is very likely that the roof trusses and wood framing will all come from local suppliers (most likely WBC) and the owner plans to use as much local material and labor as possible.
5. Snow storage areas are shown on the updated layout. These snow storage areas will be grass and the islands and front of the hotel will be where the more intensive planting of bushes and shrubs will occur.

Thanks again for your help getting us through this.

Please call if you have any further questions.

Regards

Rory
On Solid waste, the site plan need to show where this is located, how it will be accessed by the truck, and how it will be screened.

Regarding the building materials, are these wood materials or some type of "hardi" board. The regs talk about natural materials but they do take more maintenance so I'm not pushing one of the other I just need to explain it in the report. Related to this are you sourcing any "local" materials – again strongly encouraged and would be nice to highlight but not the end of the world if you don't know yet.

Lastly for now, I need to know about snow storage and where it will go. Remember if it's all dumped on the landscaping islands, the landscaping will suffer, particularly small trees and shrubs.

Eric H. Mulcahy, AICP
Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901
Ph. (406) 755-6431
Fax (406) 755-6433
September 23, 2015

Re: Public hearing notice for a Planned Unit Development (PUD) for an 82 room Hotel.

Dear Adjacent Property Owner:

Our records indicate that you are the owner of property within 150-feet of the proposed project.

As the Planning Staff for the Columbia Falls Planning Jurisdiction, I am writing to provide you with a notice of a public hearing that involves a request by Ruis Holding LLC, to secure a PUD to allow a building greater than 10,000 square feet that complies with the City’s Large Building Ordinance as well as address deviations to the landscape buffer on the west property line adjacent to the City park, exceed the 45 foot height limit with a 47 foot building, and reduce the parking standards. The property is zoned CB-2 and hotels are permitted uses. The property is located on the vacant parcel of land just east of the City’s swimming pool and park. The project is described in more detail in the attached Legal Notice.

If you have question or comments concerning this matter, please call, visit or write me at City Hall. For written comment to be included in the Planning Board discussion, it needs to be presented prior to the meeting of October 13th. You are also invited to present verbal or written testimony during the public hearing on October 13th. The City Council will hold a subsequent hearing on October 19th and you are again invited to comment.

Sincerely,

[Signature]

Eric H. Mulcahy, City Planner
Legal Description
A TRACT OF LAND IN THE NORTHWEST ONE-QUARTER OF THE NORTHEAST
ONE-QUARTER OF SECTION 17, TOWNSHIP 30 NORTH, RANGE 20 WEST,
PRINCIPAL MERIDIAN, FLATHEAD COUNTY, MONTANA MORE PARTICULARLY
DESCRIBED AS FOLLOWS:
ALL OF BLOCK 67 OF FIRST ADDITION TO COLUMBIA FALLS ACCORDING TO
THE PLAT THEREOF ON FILE AND OF RECORD IN FLATHEAD COUNTY, STATE
OF MONTANA TOGETHER WITH THE ABANDONED PORTIONS OF THIRD
AVENUE WEST AND TENTH STREET IMMEDIATELY ADJACENT TO THE ABOVE
DESCRIBED PARCELS AND LOT 1, LOT 6, THE NORTH 15- FEET OF LOT 2, AND
THE NORTH 15- FEET OF LOT 7 OF BLOCK 70 OF FIRST ADDITION TO COLUMBIA
FALLS ACCORDING TO THE PLAT THEREOF ON FILE AND OF RECORD IN
FLATHEAD COUNTY, STATE OF MONTANA TOGETHER WITH THE ABANDONED
PORTIONS OF THIRD AVENUE WEST AND TENTH STREET IMMEDIATELY
ADJACENT TO THE ABOVE DESCRIBED PARCELS. TOGETHER WITH AND
SUBJECT TO ALL APPURTENANT SERVITUDES EXISTING OR OF RECORD.
CONTAINING 2.55 ACRES MORE-OR-LESS.
A report to the Columbia Falls City-County Planning Board and Zoning Commission and the Columbia Falls City Council regarding a request to revise and update the Columbia Falls Floodplain Hazard Management Regulations. The Federal Emergency Management Agency (FEMA) and the Montana Department on Natural Resources and Conservation (DNRC) completed a new model floodplain regulation and have required that political Subdivisions (Cities and Counties) adopt these new regulations or approved versions of the “model” to coincide with the revised Maps and Flood Insurance Study recently completed by the DNRC. The Floodplain Hazard Management Regulations are scheduled for a public hearing with the Planning Board on October 13, 2015 at 6:30 pm. The City Council meeting/hearing is scheduled for Monday, October 19, 2015, at 7:00 p.m.

A. **PETITIONERS**
City of Columbia Falls
130 6th Street West
Columbia Falls, MT 59912

B. **PETITIONER’S TECHNICAL ASSISTANCE**
Columbia Falls Planning Staff
130 6th Street West
Columbia Falls, MT 59901

D. **REQUEST**
The request is to amend the text in Chapter 15.28 of the Columbia Falls Municipal Code and specifically the Columbia Falls Floodplain Hazard Management Regulations. The updated regulations are proposed at the request of FEMA and the DNRC for continued participation in the National Flood Insurance Program (NFIP). The NIFP allows residents with the Columbia Falls Planning Jurisdiction to purchase federally backed flood insurance and allows the community eligibility for Federal disaster assistance in the event of a major flood. The update is coming forward now because the DNRC and FEMA recently completed the public review of updated floodplain maps for portions of Flathead County and the Three incorporated City of Flathead County.

For Columbia Falls the Floodplain Maps changed very little and no changes were made to the maps along the Flathead River. Changes were made based on better topographic information along the Trumbull Creek and Garnier Creek Drainages on the western side of the Columbia Falls Jurisdiction. The New Floodplain Regulations are very similar to the existing Floodplain Regulations with the addition of some definitions and updated terminology. There are a number of sections highlighted in the Floodplain Regulations which were recommended by the DNRC and are a higher standard than required by FEMA. I have left these in the revision for you review. I have looked these sections over and have determined that they appear sound land use policy and support the City’s goals of limiting development in the Floodway and Floodway fringe while still preserving a landowners property rights.
E. EVALUATION

As a Board, you may vote to amend or strike the following standards. All of the other standards in the proposed Flood Hazard Management Regulations are deemed necessary by FEMA and the DNRC and should not be altered or the City would risk losing participation in the NFIP. If you amend the one of the following standard you should also amend the appropriate finding. For the portions of the Regulations deemed a higher standard and recommended by the DNRC, the following findings are made:

Section 6.1.6 – Prohibits Cemeteries, mausoleums or any other burial grounds in the Floodway.

The Floodway is the portion of the floodplain most susceptible to flooding and is an area where disturbance may cause increase depths of flooding. As such it is a poor location for burying bodies which may be disturbed by flooding. As only a small portion of Columbia Falls in located within the Floodplain it makes a much better land use decision to locate these uses in areas of Columbia Falls that are not subject to flooding.

Section 6.2.3 – Prohibits the construction or storage of artificial obstructions subject to flotation or movement during flood level periods in the Floodway Fringe without a designated floodway.

This standard would prohibit temporary storage facilities that are not tied down to the ground and may float downstream to block culverts or tangle in bridges which may cause damage to said structure along with increase flooding if the floodwater are not allowed to move freely through or under these structures.

Section 6.2.4 - Prohibits Cemeteries, mausoleums or any other burial grounds in the Floodway Fringe without a designated floodway.

The Floodway Fringe without a Floodway is an approximated floodplain where the depths of flooding have not been determined by FEMA and the area most susceptible to alteration has not been fully identified. As a result these areas may be at a high level of risk to flooding and therefore certain land uses should be avoided.

Section 6.2.5 - Prohibits facilities, including building and associated structures that provide essential community care and emergency operation functions such as schools. Hospitals, nursing homes, fire stations, and police stations in the Floodway Fringe without a designated floodway.

The Floodway Fringe without a floodway is an approximated floodplain where the depths of flooding have not been determined by FEMA and the area most susceptible to alteration has not been fully identified. As a result these areas may be at a high level of risk to flooding and therefore certain land uses should be avoided. We do not want to risk people health and safety when there are plenty of areas outside of the floodplain for uses where the young, sick, and elderly can safely be located. We would not want our police and fire...
buildings located in areas at risk of flooding when a flood event is one of those times when we most need their assistance.

**Section 9.2.3.9 - Applicants must demonstrate safety to access property at times of flooding for ordinary emergency services for certain improvements located in the floodway.**

For certain improvements such as stream/river crossings or utility infrastructure the applicant must provide emergency service providers access to facilities by an elevated path/road will help prevent loss or damage to such facilities.

**Section 9.10.5 – Prohibit large-scale clearing of riparian vegetation within 50 feet of the mean annual high water mark where possible, except for boat ramps and fire mitigation.**

The section is added to prevent erosion of river banks by removing the vegetation that holds the banks in place. This is intended to lessen impact on neighboring property such as the loss of soil and increase in flood damage. Boat launches and thinning for wildland fuels management would be exempt from this provision.

**Section 9.11.10 - Prohibits clearing of riparian vegetation for certain uses within 50 feet of the mean annual high water mark where possible, except for boat ramps and fire mitigation.**

The section is added to prevent erosion of river banks by removing the vegetation that holds the banks in place. This is intended to lessen impact on neighboring property such as the loss of soil and increase in flood damage. Boat launches and thinning for wildland fuels management would be exempt from this provision.

**Section 10.2.8 – May require the applicant to demonstrate safety to access property at times of flooding for ordinary emergency services for certain improvements located in the floodway fringe or flood hazard area without a floodway.**

For certain improvements such as stream/river crossings, structures, or utility infrastructure the applicant may be required to provide emergency service providers access to facilities by an elevated path/road which will help prevent loss or damage to such facilities.

**Section 10.2.19 – May require the applicant to demonstrate safety to access property at times of flooding for ordinary emergency services for certain improvements located in the floodway fringe or flood hazard area without a floodway**

Basically repeats the provisions of 10.2.8 with the same finding.
F. RECOMMENDATION

Staff recommends that the Columbia Falls Planning Board adopt Columbia Falls Planning Office Staff Report #CFREGS-15-01 as findings of fact and recommend approval of the requested Columbia Falls Floodplain Hazard Management Regulations to the Columbia Falls City Council.
Planning Department

Adopted by Ordinance# ______
Chapter 15.28 Columbia Falls Municipal Code

FLOODPLAIN HAZARD MANAGEMENT REGULATIONS
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SECTION 1. TITLE, PURPOSE, AUTHORITY AND GENERAL PROVISIONS

1.1 FLOODPLAIN HAZARD MANAGEMENT REGULATIONS
These regulations are known and may be cited as the “Floodplain Hazard Management Regulations,” hereinafter referred to as “these regulations.”

1.2 STATUTORY AUTHORITY
1. Floodplain and Floodway Management is incorporated in Montana Code Annotated (MCA) Title 76, Chapter 5 and describes the authority, procedures and minimum standards for local regulations and is further described in Montana Administrative Rule (ARM) 36, Chapter 15.

2. The authority to regulate development in specifically identified flood hazard areas has been accepted pursuant to 76-5-301, MCA.

1.3 FINDINGS OF FACT
1. Flood hazard areas specifically adopted herein as Regulated Flood Hazard Areas have been delineated and designated by order or determination of the Department of Natural Resources and Conservation (DNRC) pursuant to MCA 76-5-201 et.seq.

2. These regulations have been reviewed by Montana Department of Natural Resources and Conservation and the Federal Emergency Management Agency. The Montana Department of Natural Resources and Conservation has found the regulations acceptable in meeting the Department minimum standards. The Federal Emergency Management Agency finds that these regulations are adequate and consistent with the comprehensive criteria for land management and use pursuant to the standards established in 44 CFR 60.3. (76-5-302, MCA, ARM 36.15.202, 44 CFR60.1(b), 42USC 4022)

1.4 PURPOSE
The purpose of these regulations is to promote public health, safety and general welfare of the residents and minimize public and private losses due to flood conditions in Regulated Flood Hazard Areas. These Regulations are intended to:

1. Protect human life and health;

2. Minimize expenditure of public money for costly flood control projects;

3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. Minimize prolonged business and public service interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;

6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood disruptions; and to

7. Ensure compliance with the minimum standards for the continued participation in the National Flood Insurance Program for the benefit of the residents.

1.5 METHODS TO REDUCE LOSSES

In accordance with 76-5-102, MCA, these regulations are intended to reduce flood losses through the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flooding or that may cause excessive increases in flood heights or velocities;

2. Require that uses of land vulnerable to floods, including public facilities, be developed or constructed to at least minimum standards or to otherwise minimize flood damage;

3. Regulate the alteration of natural floodplains, stream channels, and natural protective barriers which are needed to accommodate floodwaters;

4. Regulate filling, grading, dredging and other development which may increase flood damage;

5. Prevent or regulate the construction of flood barriers which will impact other land, flood water depth or velocity of floodwaters;

6. Distinguish between the land use regulations applied to the floodway within the Regulated Flood Hazard Area and those applied to that portion of the Regulated Flood Hazard Area not contained in the floodway;

7. Apply more restrictive land use regulations within the floodway of the Regulated Flood Hazard Area; and

8. Ensure that regulations and minimum standards balance the greatest public good with the least private injury.

1.6 REGULATED AREA

These regulations apply only to the flood hazard areas specifically adopted herein as Regulated Flood Hazard Areas which are more fully and specifically described in Section 4. Requirements and approvals for alterations to the Regulated Flood Hazard Area are specified in Section 4. The Regulated Flood Hazard Area includes areas specifically identified, labeled and illustrated on maps such as Floodplain, Floodway, or Flood Fringe that have differing uses allowed and minimum building standards that apply. The Regulated Flood Hazard Area is the geographic area inundated by the Flood of 100-year Frequency illustrated and depicted in the referenced studies and maps.

The Regulated Flood Hazard Area supporting study and maps illustrating the regulatory area are based on studies and maps that have been specifically adopted pursuant to 76-5-201et.seq. The maps and accompanying study become the Regulated Flood
Hazard Area only when formally adopted by DNRC and subsequently by the political subdivision by these regulations. The original source of studies and data may be from a Flood Insurance Study by FEMA, or other studies by Corps of Engineers, Soil Conservation, United States Geological Service or other federal or state agency.

1.7 FLOODPLAIN ADMINISTRATOR
A Floodplain Administrator is hereby officially appointed and is the responsibility of the office of Columbia Falls City Manager and/or Designee. The Floodplain Administrator’s duty is to administer and implement the provisions of these regulations. The Floodplain Administrator must serve to meet and maintain the commitments pursuant to 44 CFR 59.22(a) to FEMA to remain eligible for National Flood Insurance for individuals and business within the political subdivision. ((44 CFR 59.22(b)(1)) (ARM 36.15.204(2)(h))

1.8 COMPLIANCE Development, New Construction, Alteration or Substantial Improvement may not commence without full compliance with the provisions of these regulations.

1.9 ABROGATION AND GREATER RESPONSIBILITY
It is not intended by these regulations to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, zoning or other regulations in effect. However, where these regulations impose greater restrictions, the provision of these regulations must prevail. (44 CFR 60.1(d))

1.10 REGULATION INTERPRETATION
In the interpretation and application of these regulations, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes. (44 CFR 60.1)

1.11 WARNING AND DISCLAIMER OF LIABILITY
These regulations do not imply that land outside the Regulated Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

1.12 SEVERABILITY
If any section, clause, sentence, or phrase of these regulations is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding will in no way affect the validity of the remaining portions of these regulations.

1.13 DISCLOSURE PROVISION
All property owners or their agents in the Regulated Flood Hazard Areas shall notify potential buyers or their agents that such property, including any permitted uses transferred, is located within the Regulated Flood Hazard Area and is subject to
regulation and any permitted uses that are transferred. Information regarding
Regulated Flood Hazard Area and the repository for Floodplain maps is available in the
Floodplain Administrator’s office.
(ARM 36.15.204(2)(g))

1.14 AMENDMENT OF REGULATIONS
These regulations may be amended after notice and public hearing in regard to the
amendments to these regulations. The amendments must be found adequate and
acceptable by DNRC and FEMA to be effective and must be submitted for review at
least 30 days prior to official adoption.

1.15 PUBLIC RECORDS
Records, including permits and applications, elevation and flood proofing certificates,
certificates of compliance, fee receipts, and other matters relating to these regulations
must be maintained by the Floodplain Administrator and are public records and must be
made available for inspection and for copies upon reasonable request. A reasonable
copying cost for copying documents for members of the public may be charged and
may require payments of the costs before providing the copies. (44 CFR 60.3(b)(5)(iii) &
44 CFR 59.22 (a)(9)(iii))

1.16 SUBDIVISION REVIEW
Within the Regulated Flood Hazard Area, subdivisions including new or expansion of
existing manufactured home parks, must be designed to meet the following criteria:

1. The Base Flood Elevations and boundary of the Regulated Flood Hazard area
must be determined and considered during lot layout and building location
design;

2. Locations for future structures and development must be reasonably safe from
flooding; (44 CFR 60.3(a)(4))

3. Adequate surface water drainage must be provided to reduce exposure to flood
hazards; (44 CFR 60.3 (a)(4)(iii))

4. Public utilities and facilities such as sewer, gas, electrical and water systems
must be located and constructed to minimize or eliminate flood damage; and (44
CFR 60.3(a)(4)(ii))

5. Floodplain permits must be obtained according to these regulations before
development occurs that is within the Regulated Flood Hazard Area. (44 CFR
60.3(b))
1.17 DISASTER RECOVERY

In the event of a natural or man-made disaster, the Floodplain Administrator should participate in the coordination of assistance and provide information to structure owners concerning Hazard Mitigation and Recovery measures with the Federal Emergency Management Agency, Montana Disaster Emergency Services, Montana Department of Natural Resources and Conservation, and other state, local and private emergency service organizations.

Upon completion of cursory street view structure condition survey within the Regulated Flood Hazard Area, the Floodplain Administrator shall notify owners that a permit may be necessary for an alteration or substantial improvement before repair or reconstruction commences on damaged structures because of damages caused by natural or man-made disasters such as floods, fires or winds.

Owners should be advised that structures that have suffered substantial damage and will undergo substantial improvements require a floodplain application and permit and must be upgraded to meet the minimum building standards herein during repair or reconstruction. ((MCA 76-5-404(3)(b) (ARM 36.15.702) (44 CFR 60.3(c)(2 and 3))
SECTION 2. DEFINITIONS

FOR INFORMATIONAL PURPOSES ONLY
There is a large list of definitions of terms and nomenclature normally used in floodplain hazard management guidelines and explanations. Be aware the same word may mean something different when applied to flood insurance, minimum standards, or a regulatory requirement.

The definitions in 76-5-103, MCA and ARM 36.15.101 where applicable may be considered however several of those definitions are specifically for describing the role and responsibility of the DNRC in regard to development and adoption of flood hazard studies and map and other responsibilities.

FEMA definitions 44 CFR 59.1 may be considered. Definitions are used to describe the FEMA minimum standards for floodplain management if communities want to join the National Flood Insurance Program so individuals and businesses are eligible for flood insurance in that community. However, some definitions are specifically for insurance purposes under the National Flood Insurance Program.

Another source of information including definitions is the FEMA National Flood Insurance Manual.

Unless specifically defined below, words or phrases used in these regulations shall be interpreted as to give them the meaning they have in common usage and the most reasonable application. For the purpose of these regulations, the following definitions are adopted:

100-year Flood – One percent (1%) annual chance flood. See Base Flood

Alteration – Any change or addition to an artificial obstruction that either increases its external dimensions or increases its potential flood hazard. (ARM 36.15.101(2))

Appurtenant Structure – A structure in which the use is incidental or accessory to the use of a principal structure. (44 CFR 59.1)

Artificial Obstruction – Any obstruction which is not natural and includes any development, dam, diversion, wall, riprap, embankment, levee, dike, pile, abutment, projection, revetment, excavation, channel rectification, road, bridge, conduit, culvert, building, refuse, automobile body, fill or other analogous structure or matter in, along, across, or projecting into any Regulated Flood Hazard Area that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property. See also Development. (ARM 36.15.101(3) & MCA 76-5-103(1))
Base Flood (Flood of 100 Year Frequency) – A flood having a one percent (1%) chance of being equaled or exceeded in any given year (ARM 36.15.101(4) & (44 CFR 59.1)

Base Flood Elevation (BFE) – The elevation above sea level of the Base Flood in relation to the National Geodic Vertical Datum of 1929 or the North American Vertical Datum of 1988 or unless otherwise specified. (ARM 36.15.101(5))

Basement – Any area of a building, except a crawl space, as having its Lowest floor below ground level on all sides. (44 CFR 59.1) (NFIP Insurance Manual, Rev. May 2013)

Building – A walled and roofed structure, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. (44 CFR 59.1)

Channel – The geographical area within either the natural or artificial banks of a watercourse or drain way. (MCA 76-5-103(2))

Crawlspace – An enclosure that has its interior floor area no more than 5 feet below the top of the next highest floor. See Enclosure and Sub grade Crawlspace. (NFIP Insurance Manual, Rev. May 2013)

DNRC – Montana Department of Natural Resources and Conservation

Development – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. See also Artificial Obstruction. (44 CFR 59.1)

Elevated Building – A building that has no Basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns. A building on a crawlspace is considered an elevated building. (NFIP Insurance Manual, Rev. May 2013)

Enclosure – That portion below the lowest elevated floor of an elevated building that is either partially or fully shut in by rigid walls including a crawlspace, sub grade crawlspace, stairwell, elevator or a garage below or attached.

Encroachment – Activities or construction within the Regulated Flood Hazard Area including fill, new construction, substantial improvements, and other development.

Encroachment Analysis – A hydrologic and hydraulic analysis performed by an engineer to assess the effects of the proposed artificial obstruction or nonconforming use on Base Flood Elevation, flood flows and flood velocities.
Establish – To construct, place, insert, or excavate. (MCA 76-5-103(7) (ARM 36.15.101(9))

Existing Artificial Obstruction or Nonconforming Use – An artificial obstruction or nonconforming use that was established before land use regulations were adopted pursuant to Section 76-5-301(1), MCA. (MCA 76-5-404(3))

FEMA – Federal Emergency Management Agency

Flood Fringe – The identified portion of the Floodplain of the Regulated Flood Hazard Area outside the limits of the Floodway. (ARM 36.15.101(10))

Flood of 100 Year Frequency (Base Flood) – A flood magnitude expected to recur on the average of once every 100-years or a flood magnitude that has a 1% chance of occurring in any given year. (MCA 76-5-103(9)) (44 CFR 59.1)

Floodplain – The area of the Regulated Flood Hazard Area including and adjoining the watercourse or drainway that would be covered by the floodwater of a Base Flood. The area is partitioned into a Flood Fringe and Floodway where specifically designated. See Regulated Flood Hazard Area.

Floodway – The identified portion of the Floodplain of the Regulated Flood Hazard Area that is the channel and the area adjoining the channel that is reasonably required to carry the discharge of the Base Flood without cumulatively increasing the water surface by more than one half foot. (MCA 76-5-103(11)) (MCA 76-5-103(5))

Floodplain Administrator – Community official or representative appointed to administer and implement the provisions of this ordinance.

Flood Proofing – Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, electrical, plumbing, HVAC systems, structures and their contents. The term includes wet flood proofing, dry flood proofing and elevation of structures. (44 CFR 59.1)

Letter of Map Change (LOMC) – An official response from FEMA that amends or revises the FEMA Special Flood Hazard Area and FEMA Flood Insurance Study for flood insurance purposes and/or flood risk hazard. FEMA Letters of Map Change specific to an amendment or revision include:

Letter of Map Amendment (LOMA) – A letter of determination from FEMA issued in response to a request that a property or structure is not subject to the mandatory flood insurance requirement because it was inadvertently located in the effective FEMA Special Flood Hazard Area. The material submitted and response from FEMA may be considered by the Floodplain Administrator for
determining if a property or structure is within the Regulated Flood Hazard area and subject to these regulations.

**Letter of Map Revision Based on Fill (LOMR-F)** – A letter of approval from FEMA removing the mandatory requirement for flood insurance on property based on placement of fill or an addition. Placement of fill or an addition must be preceded by a permit pursuant to these regulations. Placement of fill does not remove the development from the Regulated Flood Hazard Area or these regulations.

**Letter of Map Revision (LOMR)** – An official FEMA amendment to the currently effective FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map based on a physical change to the floodplain of the Special Flood Hazard Area. It is issued by FEMA and changes flood zones, delineations, and elevations on the FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map and may amend the FEMA Flood Insurance Study. It must be preceded by an approved alteration of the designated floodplain from DNRC and subsequently an amendment to the Regulated Flood Hazard Area.

**Conditional Letter of Map Revision (CLOMR)** – A FEMA letter of approval for a proposed physical change that when completed would propose to change the flood zones, delineation or elevations on the FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map and may amend the FEMA Flood Insurance Study through a subsequent LOMR. The CLOMR may be considered in an evaluation by DNRC and the Floodplain Administrator during consideration of a proposed alteration to the Regulated Flood Hazard Area.

**Lowest Floor** – Any floor of a building including a basement used for living purposes, storage, or recreation. This includes any floor that could be converted to such a use. ((ARM 36.15.101(14)) (44 CFR 59.1))

**Manufactured Home Park or Subdivision** – Includes the construction of facilities for servicing the manufactured home lots and at a minimum includes the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads. (44 CFR 59.1)

**Manufactured or Mobile Home** – A building that may be residential or non-residential, is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities and includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. (ARM 36.15.101(15))

**New Construction** – Structures for which the commencement of clearing, grading, filling, or excavating to prepare a site for construction occurs on or after the effective date of these regulations and includes any subsequent improvements to such structures. (ARM 36.15.101(20)) (44 CFR 59.1)

**New Manufactured Home Park Or Subdivision** – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the
manufactured homes are to be affixed includes at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads and is completed on or after the effective date of floodplain management regulations adopted by a community. (44 CFR 59.1)

**Non-Residential**– Buildings including manufactured homes that are not residential including commercial, agricultural, industrial buildings and accessory buildings. See Residential.

**Owner** – Any person who has dominion over, control of, or title to an artificial obstruction. (MCA 76-5-103(13))

**Person** – Includes any individual, or group of individuals, corporation, partnership, association or any other entity, including State and local governments and agencies. (44 CFR 59.1)

**Recreational Vehicle** – A park trailer, travel trailer, or other similar vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a motorized vehicle; and (d) designed primarily for use as temporary living quarters for recreation, camping, travel, or seasonal use, not for use as a permanent dwelling. (44 CFR 59.1)

**Regulated Flood Hazard Area** – A Floodplain whose limits have been designated pursuant to Part 2, Chapter 5 of Title 76, MCA, and is determined to be the area adjoining the watercourse that would be covered by the floodwater of a Base Flood. The Regulated Flood Hazard Area consists of the Floodway and Flood Fringe where specifically designated. (MCA 76-5-103(4)), (MCA 76-5-103(10), (ARM 36.15.101(11))

**Residential Building** – A dwelling or building for living purposes or place of assembly or permanent use by human beings and including any mixed use of residential and non-residential use. All other buildings are non-residential.

**Riprap** – Stone, rocks, concrete blocks, or analogous materials that are placed along the bed or banks of a watercourse or drainway for the purpose of preventing or alleviating erosion. (ARM 36.15.101(18))

**Scour Depth** – The maximum depth of streambed scour caused by erosive forces of the Base Flood.

**Special Flood Hazard Area** – Land area which has been specifically identified by the Federal Emergency Management Agency as the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is useful for the purposes of identifying flood hazards by local subdivisions of government for regulatory purposes as well as use by the National Flood Insurance Program for establishing risk zones and flood insurance premium rates. The FEMA flood hazard area zone
designation or flood risk potential is as illustrated on FEMA’s Flood Hazard Boundary Map or Flood Insurance Rate Map.

**Structure** – Any Artificial Obstruction.

**Sub grade CrawlSpace** – A Crawlspace foundation enclosure that has its interior floor no more than 5 feet below the top of the next higher floor and no more than 2 feet below the lowest adjacent grade on all sides. A foundation exceeding either dimension is a Basement. (NFIP Insurance Manual, Rev. May 2013)

**Substantial Damage** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would exceed 50 percent of the market value of the structure before the damage occurred. (44 CFR 59.1)

**Substantial Improvement** – Any repair, reconstruction or improvement of a structure where the cost equals or exceeds fifty percent (50) of the market value of the structure either before the improvement or repair is started or if the structure has been damaged, and is being restored, before the damage occurred;

1. Substantial improvement is considered to occur when the first construction of any wall, ceiling, floor or other structural part of the building commences;

2. The term does not include:

   1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

   2. Any alteration of a structure listed on the national register of historic places or state inventory of historic places. (ARM 36.15.101(21)) (44 CFR 59.1))

**Suitable Fill** – Fill material which is stable, compacted, well graded, and pervious, not adversely affected by water and frost, devoid of trash or similar foreign matter, tree stumps or other organic material; and is fitting for the purpose of supporting the intended use and/or permanent structure. (ARM 36.15.101(22))

**Variance** – Means a grant or relief from the development requirements of these regulations which would permit construction in a manner that would be otherwise prohibited by these regulations by an approval pursuant Section 12. (ARM 36.15.101(23))

**Violation** – A finding and order pursuant to the regulations against the owner or responsible party of the failure of a structure or other development to be fully compliant with these regulations. (44 CFR 59.1)
SECTION 3. FORMS AND FEES

3.1 Forms  The following forms may be required by the Floodplain Administrator:

1. Floodplain Permit Application Form – The “Joint Application for Proposed Work in Montana’s Streams, Wetlands, Regulated Flood Hazard Areas, and Other Water Bodies”, or other designated application form. A completed FEMA MT-1 form may be required to accompany the application when required by the Floodplain Administrator.

2. Floodplain Permit Compliance Report – A report required to be submitted by the Applicant to the Floodplain Administrator once the permitted project in the Regulated Flood Hazard Area is completed or within the designated time stipulated on the Floodplain permit. A compliance report including an elevation and or flood proofing certificate may be required where specified for the purpose of documenting compliance with the requirements of the permit.

3. Floodplain Variance Application Form – An application submitted by the Applicant to the Floodplain Administrator to initiate a proposed variance from the requirements of these regulations as described in Section 12.

4. Floodplain Appeal Notice Form – A form submitted by the Applicant or an aggrieved party to initiate the appeal process described in Section 13.

5. Floodplain Emergency Notification Form – A written notification form required pursuant to Section 11 of these regulations.

6. Official Complaint Form – A form that may be used by any person to notify the Floodplain Administrator of an activity taking place that appears to be noncompliant with the requirements of these regulations.

3.2 Fees

See Columbia Falls Fee Schedule for applicable fees for various Floodplain Permit Reviews
SECTION 4. REGULATED FLOOD HAZARD AREA

4.1 REGULATED FLOOD HAZARD AREAS

1. The Regulated Flood Hazard Areas are the 100-year floodplains illustrated and referenced in the following specific studies and reports described as follows:

   November 4, 2015 FEMA Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) for the City Columbia Falls and unincorporated areas within one mile of the City Limits as determined by the City of Columbia Falls and Flathead County's Interlocal Agreement.

   FIRM Panels include all or portions of following Maps:

   30029C1115J Effective Date: November 4, 2015
   30029C1120G Effective Date: September 28, 2007
   30029C1410J Effective Date: November 4, 2015
   30029C1430J Effective Date: November 4, 2015
   30029C1435J Effective Date: November 4, 2015

2. The Regulated Flood Hazard Areas specifically described or illustrated in the above referenced studies and maps of the 100-year floodplain have been delineated, designated and established by order or determination by the DNRC pursuant to 76-5-201et.seq., MCA.

3. Use allowances, design and construction requirements specifically in Sections 5, 6, 9, and 10 in these regulations vary by the specific Floodplain areas including areas identified as Floodway and Flood Fringe within the Regulated Flood Hazard Area.

4.2 INTERPRETATION OF REGULATED FLOOD HAZARD AREA BOUNDARIES

1. The mapped boundaries of the Floodplain illustrated in the referenced studies and maps in this Section are a guide for determining whether property is within the Regulated Flood Hazard Area.

2. A determination of the outer limits and boundaries of the Regulated Flood Hazard Area or the Flood Fringe and Floodway within the Regulated Flood Hazard Area includes an evaluation of the maps as well as the particular study data referenced in this Section. Supporting study material for Base Flood Elevations takes precedence over any map illustrations if it exists.

3. The Regulated Flood Hazard Area boundary is delineated by the Base Flood Elevation. The physical field regulatory boundary of the Regulated Flood Hazard
Area is the actual intersection of the applicable study Base Flood Elevation with the existing adjacent terrain of the watercourse or drainway. (ARM 36.15.501(6))

4. The Floodway boundary where identified within the Floodplain is as illustrated on the referenced maps and studies. Since the Floodway boundary is a study feature, the location of the boundary may be physically located by referencing the study data to a ground feature. The Floodplain Administrator’s interpretation of the boundary and decision may be appealed as set forth in Section 13.

5. The Floodplain Administrator may request additional information described below to determine whether or not the proposed development is within the Regulated Flood Hazard Area:

1. Where Base Flood Elevations exist, the property owner may provide additional information which may include elevation information provided by an engineer or land surveyor in order to determine if the proposed development is subject to these regulations. (ARM 36.15.501(6))

2. Where Base Flood Elevations do not exist, the property owner may provide additional information to be considered to determine the location of the regulatory boundary or alternatively provide a computed Base Flood Elevation provided by an engineer.

3. The Floodplain Administrator’s interpretation of the boundaries and decision may be appealed as set forth in Section 13.

6. Any owner or lessee of property who believes his property has been inadvertently included in the Regulated Flood Hazard Area including the Floodway or Flood Fringe may submit scientific and/or technical information to the Floodplain Administrator for a determination if the property is appropriately located. Scientific or technical information submitted to FEMA by an owner to affect the insurance rating for insurance purposes may be considered by the Floodplain Administrator. A determination by the Floodplain Administrator is independent of any determination by FEMA for insurance purposes.

4.3 ALTERATION OF REGULATED FLOOD HAZARD AREA

1. Revisions or updates to the specific maps and data that alter the established Floodplains or Floodway of the Regulated Flood Hazard Area require DNRC approval pursuant to 75-5-203, MCA. An alteration of the Regulated Flood Hazard Area is a DNRC approved amendment to the DNRC order that originally delineated and designated the 100-year floodplain and is the basis of the Regulated Flood Hazard Area referenced in Section 4.1.2. A DNRC approved alteration consists of revisions or updates to the specific maps and data of the referenced studies in this Section and forms the basis for an
amendment to the Regulated Flood Hazard Area in these regulations; (ARM 36.15.505)

2. Any change to the Regulated Flood Hazard Area as a result of a DNRC alteration is effective upon amendment to the Regulated Flood Hazard Area described in Section 4.1.1;

3. Substantial natural physical change or new technical or scientific flood data showing that the Base Flood Elevation has or may be changed or was erroneously established shall be brought to the attention of DNRC and FEMA; (ARM 36.15.505(1)(a)) (44 CFR 65.3)

4. Any Floodplain permit application for a proposed development or artificial obstruction must be denied until a DNRC alteration pursuant to 76-5-203, MCA is approved if it causes an increase of 0.5 feet or more to the Base Flood Elevation of a Regulated Flood Hazard Area without a Floodway or an increase of more than 0.00 feet to the Base Flood Elevation of a Floodway.

5. To propose an alteration a petition must be submitted to DNRC and must include the following information:

   1. Certification that no buildings are located in the areas which would be impacted by the increased Base Flood Elevation; (44 CFR 65.12(a)(5)

   2. Evidence of notice to all property and land owners of the proposed impacts to their properties explaining the proposed impact on their property; (44 CFR 65.12(a)(3))

   3. Information that demonstrates that alternatives are not feasible; (44 CFR 65.12(2))

   4. Information that demonstrates that development is for a public use or benefit; and

   5. Any other supporting information and data as needed for approvals. ((ARM 36.15.505) (44 CFR 60.3(c)(10)) (44 CFR 60.3(d)(3)) (44 CFR 65.7(3)) (44 CFR 65.12))

6. The Floodplain Administrator may represent the permit authority for any necessary applications, approvals or endorsements such as the FEMA Community Acknowledgement Form to FEMA where affecting the FEMA Special Flood Hazard Area;

7. A determination by the Floodplain Administrator that land areas located within the Regulated Flood Hazard Area are above the Base Flood Elevation as proven by a certified elevation survey does not constitute or require an
alteration or an amendment of the Regulated Flood Hazard Area and may be maintained as a public record that more explicitly defines the Regulated Flood Hazard Area boundary; and

8. Elevating with suitable fill as permitted does not alter the Regulated Flood Hazard Area or remove the elevated area from the Regulated Flood Hazard Area. (ARM 36.15.505(2))

9. A floodplain permit implementing the physical change cannot be approved until a CLOMR has been issued by FEMA.
SECTION 5. USES ALLOWED WITHOUT A PERMIT WITHIN THE REGULATED FLOOD HAZARD AREA

5.1 - GENERAL Existing artificial obstructions or nonconforming uses established before land use regulations pursuant to Section 76-5-301, MCA were effective, are allowed without a permit. However, alteration or substantial improvement of an existing artificial obstruction or nonconforming use requires a floodplain permit. Maintenance of an existing artificial obstruction or nonconforming use does not require a floodplain permit if it does not cause an alteration or substantial improvement. (MCA 76-5-404(3))

5.2 OPEN SPACE USES The following open space uses shall be allowed without a permit in the Regulated Flood Hazard Area, provided that such uses are not prohibited by any other regulation or statute, do not require structures, and do not require fill, grading, excavation or storage of materials or equipment: ((ARM 36.15.601) (ARM 36.15.701)(1) (MCA 76-5-401) (MCA 76-5-404(3))

1. Agricultural uses, not including related structures, such as tilling, farming, irrigation, ranching, harvesting, grazing, etc; ((ARM 36.15.601(1)(a)) (MCA 76-5-401(1)))

2. Accessory uses, not including structures, such as loading and parking areas, or emergency landing strips associated with industrial or commercial facilities; ((ARM 36.15.601(1)(b)) (MCA 76-5-401(2),))

3. Forestry, including processing of forest products with portable equipment; ((ARM 36.15.601(1)(d)) (MCA 76-5-401(4)))

4. Recreational vehicle use provided that the vehicle is on the site for fewer than 180 consecutive days and the vehicle is fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system with wheels intact, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; (44 CFR 60.3(c)(14))

5. Residential uses such as lawns, gardens, parking areas, and play areas; ((ARM 36.15.601(1)(e)) (MCA 76-5-401(5)))

6. Maintenance of the existing state of an existing open space uses including preventive maintenance activities such as bridge deck rehabilitation and roadway pavement preservation activities. Maintenance cannot increase the external size or increase the hazard potential of the existing open space use; (MCA 76-5-404(3)(b))

7. Public or private recreational uses not requiring structures such as picnic grounds, swimming areas, boat ramps, parks, campgrounds, golf courses,
driving ranges, archery ranges, wildlife management and natural areas, alternative livestock ranches (game farms), fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails; (ARM 36.15.601(a)(c)) (MCA 76-5-401,))

8. Fences that have a low impact to the flow of water such as barbed wire fences and wood rail fences, and not including permanent fences crossing channels. Fences that have the potential to stop or impede flow or debris such as a chain link or privacy fence requires a floodplain permit and meet the requirements of Section 9.11; (ARM 36.15.601(2)(b)) (MCA 76-5-401))

9. Addition of highway guard rail, signing and utility poles that have a low impact to the flow of water along an existing roadway.

10. Irrigation and livestock supply wells, provided that they are located at least 500 feet from domestic water supply wells and with the top of casing 18” above the Base Flood Elevation. (ARM 36.15.601(2)(a)) (MCA 76-5-401) (ARM 36.21.647))
SECTION 6. PROHIBITED USES, ACTIVITIES AND STRUCTURES WITHIN THE REGULATED FLOOD HAZARD AREA

6.1 FLOODWAY The following artificial obstructions and nonconforming uses are prohibited in the Floodway of the Regulated Flood Hazard Area, except for those established before land use regulations pursuant to Section 76-5-301, MCA have been adopted: (MCA 76-5-404(3))

1. A building for residential or non-residential purposes; (MCA 76-5-403(1), (ARM 36.15.605)(1a)), (ARM 36.15.605(2b), (ARM 36.15.605(2)(a)).

2. A structure, fill, or excavation that would cause water to be diverted from the Floodway, cause erosion, obstruct the natural flow of waters or reduce the carrying capacity of the Floodway. Notwithstanding these requirements, excavation or fill may be allowed when it is a component to a permitted use allowed in these regulations; (MCA 76-5-403(2)).

3. The construction or storage of an object (artificial obstruction) subject to flotation or movement during flood level periods; (MCA 76-5-403(3) and ARM 36.15.605(1)(c))

4. Solid and hazardous waste disposal and individual and multiple family sewage disposal systems unless the systems meet the local health and sanitation regulations and when permitted pursuant to these regulations and are designed to minimize or eliminate infiltration of flood waters and avoid impairment or contamination; ((ARM 36-15-605(2c)) (44 CFR 60.3(a)(3))). Note: The Flathead City County Health Department prohibits new on-site sewage disposal systems (septic tanks and drainfields) within the Regulated Flood Hazard Area (100-year Floodplain).

5. Storage of toxic, flammable, hazardous or explosive materials; and (ARM 36.15.605(2d))

6. Cemeteries, mausoleums, or any other burial grounds.

6.2 FLOOD FRINGE OR REGULATED FLOOD HAZARD AREA WITHOUT A FLOODWAY The following artificial obstructions and nonconforming uses are prohibited in the Flood Fringe or Regulated Flood Hazard Area without a Floodway, except for those established before land use regulations have been adopted: (MCA 76-5-404(3))

1. Solid and hazardous waste disposal and individual and multiple family sewage disposal systems unless the systems meet the local health and sanitation regulations and when permitted pursuant to these regulations and are designed
to minimize or eliminate infiltration of flood waters and avoid impairment or contamination; (ARM 36-15-703(1)) (44 CFR 60.3(a)(3)). Note: The Flathead City County Health Department prohibits new on-site sewage disposal systems (septic tanks and drainfields) within the Flood Fringe (100-year Floodplain).

2. Storage of toxic, flammable, hazardous or explosive materials; (ARM 36-15-703(2))

3. The construction or storage of an artificial obstruction subject to flotation or movement during flood level periods;

4. Cemeteries, mausoleums, or any other burial grounds; and

5. Critical facilities, including buildings and associated structures that provide essential community care and emergency operation functions such as schools, hospitals, nursing home facilities, fire stations and police stations. (44 CFR 60.22(a)(2))
SECTION 7. FLOODPLAIN PERMIT APPLICATION REQUIREMENTS

7.1 GENERAL

1. A Floodplain permit is required for a person to establish, alter or substantially improve an artificial obstruction, nonconforming use or development within the Regulated Flood Hazard Area; ((44 CFR 60.1) (MCA 76-5-404) (ARM 36.15.204(2)(a)))

2. A Floodplain permit is required for artificial obstructions, developments and uses not specifically listed in Sections 9 and 10, except as allowed without a Floodplain permit in Section 5, or as prohibited as specified in Section 6, within the Regulated Flood Hazard Area;

3. Artificial obstructions and nonconforming uses in a Regulated Flood Hazard Area not exempt under Section 5 are public nuisances unless a Floodplain permit has been obtained; (MCA 76-5-404(1))

4. A Floodplain permit is required for an alteration of an existing artificial obstruction or nonconforming use that increases the external size or increases its potential flood hazard and not exempt under Section 5; ((MCA 76-5-404(3)(b)) (ARM 36.15.204(2)(a)))

5. A Floodplain permit is required to reconstruct or repair an existing artificial obstruction that has experienced substantial damage and will undergo substantial improvement; and

6. Maintenance of an existing artificial obstruction or use that is a substantial improvement or an alteration requires a Floodplain permit. (MCA 76-5-404(3)(b))

7.2 REQUIRED FLOODPLAIN PERMIT APPLICATION INFORMATION

1. A Floodplain permit application shall include, but is not limited to the following:
   
   1. A completed and signed Floodplain Permit Application;
   
   2. The required review fee;
   
   3. Plans in duplicate drawn to scale showing the location, dimensions, and elevation of the proposed project including landscape alterations, existing and proposed structures, and the location of the foregoing in relation to the
Regulated Flood Hazard Areas and if applicable the Floodway boundary; 
((MCA 76-5-405) (ARM 36.15.216))

4. A copy of other applicable permits or pending applications required by Federal or State law as submitted which may include but are not limited to a 310 permit, SPA 124 permit, Section 404 Permit, 318 Authorization, 401 Certification or a Navigable Rivers Land Use License or Easement for the proposed project; and the applicant must show that the Floodplain permit application is not in conflict with the relevant and applicable permits; and (44 CFR 60.3(a)(2))

5. Additional information related to the specific use or activity that demonstrates the design criteria and construction standards are met or exceeded as specified in Sections 9 and 10. ((MCA 76-5-405) (ARM 36.15.216))
SECTION 8. FLOODPLAIN PERMIT APPLICATION EVALUATION

8.1 FLOODPLAIN PERMIT APPLICATION REVIEW

1. The Floodplain Administrator shall review and evaluate the Floodplain permit application and shall approve, approve with conditions, or deny the application within (60 days) of receipt of a correct and complete application. (MCA 76-5-405(2))

2. The Floodplain Administrator shall determine whether the Floodplain permit application contains the applicable elements required in these regulations and shall notify the applicant of the Floodplain Administrator's determination.

3. If the Floodplain permit application is found to be missing the required elements and if the applicant corrects the identified deficiencies and resubmits the Floodplain application, the Floodplain Administrator shall notify the applicant whether the resubmitted Floodplain application contains all the elements required by these regulations, as applicable.

4. This process shall be repeated until the applicant submits a completed Floodplain permit application containing all the elements required by these regulations, or the application is withdrawn.

5. If after a reasonable effort the Floodplain Administrator determines that the Floodplain application remains incomplete, the Floodplain Administrator shall deny the Floodplain permit application and notify the applicant of missing elements. No further action shall be taken on the Floodplain permit application by the Floodplain Administrator until the Floodplain permit application is resubmitted.

6. A determination that a Floodplain permit application is correct and complete for review does not ensure that the Floodplain permit application will be approved or conditionally approved and does not limit the ability of the Floodplain Administrator to request additional information during the review process.

8.2 NOTICE REQUIREMENTS FOR FLOODPLAIN PERMIT APPLICATIONS:

1. Upon receipt of a complete application for a Floodplain permit, the Floodplain Administrator shall prepare a notice containing the facts pertinent to the Floodplain permit application and shall:

   1. Publish the notice at least once in a newspaper of general circulation in the area; (ARM 36.15.204(2)(c))
2. Serve notice by first-class mail upon adjacent property owners; (ARM 36.15.204(2)(c))

3. Serve notice to the State National Flood Insurance Program Coordinator located in DNRC by the most efficient method. Notice to other permitting agencies or other impacted property owners may be provided; and

4. Prior to any alteration or relocation of a watercourse in the Regulated Flood Hazard Area, additionally provide notice to FEMA and adjacent communities. (44 CFR 60.3 (b)(6))

2. The notice shall provide a reasonable period of time, not less than 15 days, for interested parties to submit comments on the proposed activity. (ARM 36.15.204(2)(c))

8.3 FLOODPLAIN PERMIT CRITERIA

1. Floodplain permit applications shall be approved provided the proposed new construction, substantial improvement, or alteration of an artificial obstruction meets the requirements of the minimum standards and criteria in Sections 9 and 10 and other requirements of these regulations. ((MCA 76-5-406) (44 CFR 60.3))

2. A Flood Plain permit application for a development that will cause an increase of more than 0.00 feet to the Base Flood Elevation of the Floodway or more than 0.50 feet to the Base Flood Elevation of the Regulated Flood Hazard Area without a Floodway shall not be approved until approval for an Alteration pursuant to Section 4.3 has been approved, the Regulated Flood Hazard Area is amended and a FEMA CLOMR where required is issued.

3. The Floodplain Administrator shall determine that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendment of 1972, 36 U.S.C. 1334. (44 CFR 60.3(a)(2))

8.4 DECISION

1. The Floodplain Administrator shall approve, conditionally approve, or deny the proposed Floodplain permit application. The Floodplain Administrator shall notify the applicant of his action and the reasons thereof within (60 days) of receipt of a correct and complete Floodplain permit application unless otherwise specified. A copy of the approved Floodplain permit must be provided to DNRC. ((MCA 76-5-405(2)) (ARM 36.15.204(2)(e))
2. The approval of a Floodplain permit application does not affect any other type of approval required by any other statute or ordinance of the state or any political subdivision or the United States, but is an added requirement. (MCA 76-5-108)

8.5 FLOODPLAIN PERMIT CONDITIONS AND REQUIREMENTS

1. Upon approval or conditional approval of the Floodplain permit application, the Floodplain Administrator shall provide the applicant with a Floodplain permit with applicable specific requirements and conditions including but not limited to the following:

1. The Floodplain permit will become valid when all other necessary permits required by Federal or State law are in place; (44 CFR 60.3(a)(2)

2. Completion of the development pursuant to the Floodplain permit shall be completed within one year from the date of Floodplain permit issuance or a time limit commensurate with the project construction time line for completion of the project or development. The applicant may request an extension for up to an additional year. The request must be made at least 30 days prior to the permitted completion deadline;

3. The applicant shall notify subsequent property owners and their agents and potential buyers of the Floodplain development permit issued on the property and that such property is located within a Regulated Flood Hazard Area and shall record the notice with the Floodplain Administrator; (ARM 36.15.204(2)(g))

4. The applicant shall maintain the artificial obstruction or use to comply with the conditions and specifications of the permit;

5. The applicant shall allow the Floodplain Administrator to perform on site inspections at select intervals during construction or completion;

6. The applicant shall provide periodic engineering oversight and/or interim reports during the construction period to be submitted to the Floodplain Administrator to confirm constructed elevations and other project elements;

7. The applicant shall submit a compliance report including certifications where required and applicable including flood proofing, elevation, surface drainage, proper enclosure openings and materials to the Floodplain Administrator within 30 days of completion or other time as specified;

8. The applicant shall submit an annual performance and maintenance report on bank stabilization or other projects utilizing maturing vegetative components to the Floodplain Administrator for a period of 5 years or a time specified in the permit; or
9. The applicant shall submit evidence of a submittal of a FEMA Letter of Map Revision (LOMR) to FEMA and applicable fees within 6 months of project completion and proceed with due diligence for acceptance of the document and necessary supporting materials by FEMA. (44 CFR 65.3)
SECTION 9. DEVELOPMENT REQUIREMENTS IN THE FLOODWAY

9.1 USES REQUIRING PERMITS  Artificial obstructions including alterations and substantial improvements specifically listed in Sections 9.3 to 9.15 may be allowed by permit within the Floodway, provided the General Requirements in Section 9.2 and the applicable requirements in Sections 9.3 to 9.15 are met.

9.2 GENERAL REQUIREMENTS  An application for a permit shall meet the following requirements:

1. All projects shall be designed and constructed to ensure that they do not adversely affect the flood hazard on other properties and are reasonably safe from flooding;

2. All projects shall assure that the carrying capacity of the Floodway is not reduced. All projects in the Floodway shall meet the following:

   1. Demonstrate that the project does not increase the Base Flood Elevation by conducting an encroachment analysis certified by an engineer. A minimal or qualitative encroachment analysis may be accepted when the project or development does not require a structure, alteration of the Floodway, involve fill, grading, excavation or storage of materials or equipment but is also certified by an engineer to not exceed the allowable encroachment to the Base Flood Elevation; and

   2. The allowable encroachment to the Base Flood Elevation is 0.00 feet, and no significant increase to the velocity or flow of the stream or water course unless approval of an alteration of the Regulated Flood Hazard Area pursuant to Section 4.3 and an approved FEMA Conditional Letter of Map Revision occurs before permit issuance; and

      ((ARM 36.15.604) (ARM 36.15.505) (ARM 36.15.605(b)) (44 CFR 60.3(a)(3 and 4)) (44CFR 65.12(a))

3. An application for a Floodplain permit must also demonstrate the following factors are considered and incorporated into the design of the use or artificial obstruction in the Floodway:

   1. The danger to life and property due to backwater or diverted flow caused by the obstruction or use; ((MCA 76-5-406(1)) (ARM 36.15.216(2)(a)))

   2. The danger that the obstruction or use may be swept downstream to the injury of others; ((MCA 76-5-406(2)) (ARM 36.15.216(2)(b)))

   3. The availability of alternative locations; ((MCA 76-5-406(3)) (ARM 36.15.216(2)(c)))
4. Construct or alter the obstruction or use in such manner as to lessen the flooding danger; ((MCA 76-5-406(4)) (ARM 36.15.216(2)(d)))

5. The permanence of the obstruction or use and is reasonably safe from flooding; ((MCA 76-5-406(5) (ARM 36.15.216(2e)))

6. The anticipated development in the foreseeable future of the area which may be affected by the obstruction or use; ((MCA 76-5-406(6)) (ARM 36.15.216(2f)))

7. Relevant and related permits for the project have been obtained; (44 CFR 60.3(a)(2))

8. Such other factors as are in harmony with the purposes of these regulations, the Montana Floodplain and Floodway Management Act, and the accompanying Administrative Rules of Montana; and ((MCA 76-5-406(7)) (ARM 36.15.216(2)(g)))

9. The safety of access to property in times of flooding for ordinary and emergency services. (44CFR 60.22 (c)(7))

9.3 MINING OF MATERIAL REQUIRING EXCAVATION FROM PITS OR POOLS provided, in addition to the requirements of Section 9.2, that:

1. A buffer strip of undisturbed land of sufficient width as determined by an engineer to prevent flood flows from channeling into the excavation is left between the edge of the channel and the edge of the excavation; (ARM 36.15.602(1)(a))

2. The excavation meets all applicable laws and regulations of other local and state agencies; and (ARM 36.15.602(1)(b))

3. Excavated material may be processed on site but is stockpiled outside the Floodway.(ARM 36.15.602(1)(c))

9.4 RAILROAD, HIGHWAY AND STREET STREAM CROSSINGS, including other transportation related crossings provided, in addition to the requirements of Section 9.2, that:

1. Crossings are designed to offer minimal obstructions to the flood flow; (ARM 36.15.602(2))

2. Where failure or interruption of public transportation facilities would result in danger to public health or safety and where practicable and in consideration of FHWA Federal-Aid Policy Guide 23CFR650A:
1. Bridge lower chords shall have freeboard to at least two (2) feet above the Base Flood Elevation to help pass ice flows, the base flood discharge and any debris associated with the discharge; and

2. Culverts shall be designed to pass the Base Flood discharge and maintain at least two (2) feet freeboard on the crossing surface;

3. Normal overflow channels, if possible are preserved to allow passage of sediments to prevent aggradations; and

4. Mid stream supports for bridges, if necessary, have footings buried below the maximum scour depth.

**9.5 LIMITED FILLING FOR ROAD AND RAILROAD EMBANKMENTS**, including other transportation related embankments not associated with stream crossings and bridges provided, in addition to the requirements of Section 9.2, that:

1. The fill is suitable fill;

2. Reasonable alternate transportation routes outside the floodway are not available; and (ARM 36.15.602(3))

3. The encroachment is located as far from the stream channel as possible. (ARM 36.15.602(3))

**9.6 BURIED OR SUSPENDED UTILITY TRANSMISSION LINES** provided, in addition to the requirements of Section 9.2, that:

1. Suspended utility transmission lines are designed such that the lowest point of the suspended line is at least six (6) feet higher than the Base Flood Elevation; (ARM 36.15.602(4))

2. Towers and other appurtenant structures are designed and placed to withstand and offer minimal obstruction to flood flows; (ARM 36.15.602(4))

3. Alternatives such as alternative routes, directional drilling, and aerial crossings are considered when technically feasible; and

4. Utility transmission lines carrying toxic or flammable materials are buried to a depth of at least twice the calculated maximum scour depth determined by an engineer for the Base Flood. (ARM 36.15.602(4))

**9.7 STORAGE OF MATERIALS AND EQUIPMENT** provided, in addition to the requirements of Section 9.2, that:
1. The material or equipment is not subject to major damage by flooding and is properly anchored to prevent flotation or downstream movement; or (ARM 36.15.602(5)(a))

2. The material or equipment is readily removable within the limited time available after flood warning. Storage of flammable, toxic or explosive materials shall not be permitted. (ARM 36.15.602(5)(b))

**9.8 DOMESTIC WATER SUPPLY WELLS** provided, in addition to the requirements of Section 9.2, that:

1. They are driven or drilled wells located on ground higher than surrounding ground to assure positive drainage from the well; (ARM 36.15.602(6))

2. They require no other structures (e.g. a well house); (ARM 36.15.602(6))

3. Well casings are water tight to a distance of at least twenty five (25) feet below the ground surface and the well casing height is a minimum of two (2) feet above the Base Flood Elevation or capped with a watertight seal and vented two (2) feet above the Base Flood Elevation; (ARM 36.15.602(6))

4. Water supply lines have a watertight seal where the lines enter the casing; (ARM 36.15.602(6))

5. All pumps and electrical lines and equipment are either of the submersible type or are adequately flood proofed; and (ARM 36.15.602(6))

6. Check valves are installed on main water lines at wells and at all building entry locations. ((44 CFR 60.3(a)(5)) (ARM 36.15.602(6)))

**9.9 BURIED AND SEALED VAULTS FOR SEWAGE DISPOSAL IN CAMPGROUNDS AND RECREATIONAL AREAS** provided, in addition to the requirements of Section 9.2, demonstrate approval by Montana Department of Environmental Quality and local health and sanitation permits or approvals. ((44 CFR 60.3(a)(6)) (ARM 36.15.602(7)))

**9.10 PUBLIC AND PRIVATE CAMPGROUNDS** provided, in addition to the requirements of Section 9.2, that:

1. Access roads require only limited fill and do not obstruct or divert flood waters; (ARM 36.15.602(8))

2. The project meets the accessory structures requirements in this Section;

3. No dwellings or permanent mobile homes are allowed; (ARM 36.15.602(8))
4. Recreational vehicles and travel trailers are ready for highway use with wheels intact, with only quick disconnect type utilities and securing devices, and have no permanently attached additions; and (44 CFR 60.3(c)(14))

5. There is no large-scale clearing of riparian vegetation within 50 feet of the mean annual high water mark where possible, except for boat ramps and fire mitigation.

9.11 STRUCTURES ACCESSORY OR APPURTSNANT to permitted uses such as boat docks, loading and parking areas, marinas, sheds, emergency airstrips, permanent fences crossing channels that may impede or stop flows or debris, picnic shelters and tables and lavatories, that are incidental to a principal structure or use, provided in addition to the requirements of Section 9.2, that:

1. The structures are not intended for human habitation or supportive of human habitation; (ARM 36.15.602(9))

2. The structures will have low flood damage potential; (ARM 36.15.602(9))

3. The structures will, insofar as possible, be located on ground higher than the surrounding ground and as far from the channel as possible; (ARM 36.15.602(9))

4. The structures will be constructed and placed so as to offer a minimal obstruction to flood flows; (ARM 36.15.602(9))

5. Only those wastewater disposal systems that are approved under health and sanitation regulations are allowed;

6. Service facilities within these structures such as electrical, heating and plumbing are flood proofed according to the requirements in Section 10; (ARM 36.15.602(9))

7. The structures are firmly anchored to prevent flotation; (ARM 36.15.602(9))

8. The structures do not require fill and/or substantial excavation;

9. The structures or use cannot be changed or altered without permit approval; and

10. There is no clearing of riparian vegetation within 50 feet of the mean annual high water mark, except for boat ramps and fire mitigation.

9.12 CONSTRUCTION OF OR MODIFICATIONS TO SURFACE WATER DIVERSIONS provided, in addition to the requirements of Section 9.2, that the design is reviewed and approved by an engineer and includes:

1. Measures to minimize potential erosion from a Base Flood; and (ARM 36.15.603(3)(b))
2. Designs and plans that demonstrate any permanent structure in the stream is designed to safely withstand up to the Base Flood considering the forces associated with hydrodynamic and hydrostatic pressures including flood depths, velocities, impact, ice buoyancy, and uplift forces associated with the Base Flood. ((ARM 36.15.603(3)(c) (CFR 60.3(a)(3) (CFR 60.3(d)(3)))

9.13 FLOOD CONTROL AND STREAM BANK STABILIZATION MEASURES provided, in addition to the requirements of Section 9.2, that the design is reviewed and approved by an engineer and constructed to substantially resist or withstand the forces associated with hydrodynamic and hydrostatic pressures, including flood depths, velocities, impact, ice, buoyancy, and uplift associated with the Base Flood. The design must also show compliance with the following applicable criteria: ((CFR 60.3(a)(3) (CFR 60.3(d)(3)) (ARM 36.15.606))

1. LEVEE AND FLOODWALL construction or alteration:
   1. Must be designed and constructed with suitable fill and be designed to safely convey a Base Flood; (ARM 36.15.606(1)(a))
   2. Must be constructed at least 3 feet higher than the elevation of the Base Flood unless the levee or floodwall protects agricultural land only; (ARM 36.15.606(2)(a))
   3. Must meet state and federal levee engineering and construction standards and be publically owned and maintained if it protects structures of more than one landowner; and (ARM 36.15.505(1)(c)(ii)and (iii))
   4. For any increase in the elevation of the Base Flood, an alteration of the Regulated Flood Hazard Area requires approvals pursuant to Section 4.3.

2. STREAM BANK STABILIZATION, PIER AND ABUTMENT PROTECTION projects:
   1. Must be designed and constructed using methods and materials that are the least environmentally damaging yet practicable, and should be designed to withstand a Base Flood once the project’s vegetative components are mature within a period of up to 5 years or other time as required by the Floodplain Administrator. Once vegetation is mature and established it should not require substantial yearly maintenance after the initial period;
   2. Materials for the project may be designed to erode over time but not fail catastrophically and impact others. Erosion, sedimentation, and transport of the materials may be designed to be at least similar in amount and rate of existing stable natural stream banks during the Base Flood;
3. Must not increase erosion upstream, downstream, across from or adjacent to the site in excess of the existing stable natural stream bank during the Base Flood; and (ARM 36.15.606(1)(b))

4. Materials for the project may include but are not limited to riprap, root wads, brush mattresses, willow wattles, natural woody debris or combinations of analogous materials.

3. CHANNELIZATION PROJECTS where the excavation and/or construction of an channel is for the purpose of diverting the entire or a portion of the flow of a stream from its established course, the project must:

1. Not increase the magnitude, velocity, or elevation of the Base Flood; and

2. Meet the requirements of Section 9.13.2. (ARM 36.15.101(7)) (ARM 36.15.606(1)(c))

4. DAMS:
   1. The design and construction shall be in accordance with the Montana Dam Safety Act and applicable safety standards; and

   2. The project shall not increase flood hazards downstream either through operational procedures or improper hydrologic/hydraulic design. (ARM 36.15.606(1)(d))

9.14 STREAM AND BANK RESTORATION projects intended to reestablish the terrestrial and aquatic attributes of a natural stream and not for protection of a structure or development provided, in addition to the requirements of Section 9.2, that:

1. The project will not increase velocity or erosion upstream, downstream, across from or adjacent to the site; (ARM 36.15.606(1)(b))

2. Materials may include but are not limited to boulders, rock cobble, gravel, native stream bed materials, root wads, brush mattresses, willow wattles, natural woody debris or combinations of analogous materials and that reasonably replicates the bed and bank of the natural stream;

3. Erosion, sedimentation, and transport of the materials are not more than the amount and rate of existing natural stream banks during the Base Flood; and

4. The project may be designed to allow vegetative materials to mature within a period up to 5 years or other time as required by the Floodplain Administrator. Once vegetation is mature and established it should not require substantial yearly maintenance after the initial period.
9.15 **EXISTING RESIDENTIAL AND NON-RESIDENTIAL BUILDINGS IN THE FLOODWAY** any alteration or substantial improvement to an existing building must meet the requirements of Section 9.2 and the applicable requirements in Section 10 for residential or non-residential buildings. (MCA76-5-404(3)(b))
SECTION 10. DEVELOPMENT REQUIREMENTS IN THE FLOOD FRINGE OR REGULATED FLOOD HAZARD AREA WITH NO FLOODWAY

10.1 USES REQUIRING PERMITS – All uses allowed by permit in the Floodway shall also be allowed by permit within the Flood Fringe or Regulated Flood Hazard Area with no Floodway. Such uses are subject to the requirements in Section 9, with the exception of the encroachment limit of Section 9.2.2. Instead, such uses are subject to the encroachment limits of this Section 10.2.9.

Except for prohibited artificial obstructions in Section 6.2, all other artificial obstructions including new construction, substantial improvements, alterations to residential, and nonresidential structures including manufactured homes, and related suitable fill or excavation shall be allowed by permit and are subject to the requirements in this Section and General Requirements of Section 9.2, with the exception of the encroachment limit of Section 9.2.2.

(ARM 36.15.701(2))

10.2 GENERAL REQUIREMENTS An application for a Floodplain permit must demonstrate or meet the following applicable requirements:

1. Base Flood Elevation Where necessary to meet the appropriate elevation requirement in these regulations, the Base Flood Elevation(s) must be determined by an engineer and utilized in the design and layout of the project demonstrating the design and construction criteria herein are met. For Regulated Flood Hazard Areas that do not have computed and published Base Flood Elevations in the adopted flood hazard study referenced in Section 4, a Base Flood Elevation must be determined or obtained from a reliable source, utilizing appropriate engineering methods and analyses;

2. Flood Damage Structures must be constructed by methods and practices that minimize flood damage and structures must be reasonably safe from flooding; ((44 CFR 60.3(a)) (44 CFR 60.3(a)(3)(iii)))

3. Surface Drainage Adequate surface drainage must be provided around structures;

4. Materials Structures must be constructed with materials resistant to flood damage; ((44 CFR 60.3(a)) (44 CFR 60.3(a)(3)(ii))

5. Artificial Obstructions Structures, excavation or fill must not be prohibited by any other statute, regulation, ordinance, or resolution; and must be compatible with subdivision, zoning and any other land use regulations, if any; (ARM 36.15.701(3)(a)) ((ARM 36.15.701(3)(b)))
6. **Anchoring**  All construction and substantial improvements must be designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; (44 CFR 60.3(a)(3))

7. **Certification**  Certification by an engineer, architect, land surveyor, or other qualified person must accompany the application where required including for an encroachment analysis, adequacy of structural elevations, Base Flood Elevation determinations, flood-proofing, enclosure flood openings and design and construction to withstand the hydrodynamic forces and hydrostatic pressures of flood depths, velocities, impact, buoyancy, uplift forces associated with the Base Flood and surface drainage. A certification is not intended to constitute a warranty or guarantee of performance, expressed or implied; ((ARM 36.15.606(1) (ARM 36.15.702(2)(c)) (ARM 36.15.801(3)(b)) (44 CFR 60.3(c)(3 & 4)) (44 CFR 60.3 (d)(3)))

8. **Access**  Structures may be required to have safe access during times of flooding up to the Base Flood for ordinary and emergency services provided there are no reasonable alternate locations for structures;

9. **Encroachment Analysis**

   1. All applications in the Regulated Flood Hazard Area without a Floodway must be supported by an encroachment analysis of the proposed use, a thorough hydrologic and hydraulic analysis except as provided in following paragraph 4, Section 10.2.9.4, prepared by an engineer to demonstrate the effect of the structure on flood flows, velocities and the Base Flood Elevation; ((ARM 36.15.604) (44 CFR 60.3(a)(3))

   2. The maximum allowable encroachment is certified to be at or less than 0.5 feet increase to the Base Flood Elevation unless approval of an alteration of the Regulated Flood Hazard Area pursuant to Section 4 and an approved FEMA Conditional Letter of Map Revision occurs before permit issuance; ((ARM 36.15.604) (ARM 36.15.505) (44 CFR 60.3(c)(13)))

   3. An encroachment analysis is not required for any development in the Flood Fringe where an accompanying Floodway has been designated within the Regulated Flood Hazard Area; and

   4. Although all other development standards herein apply, a minimal or qualitative encroachment analysis may be accepted when the project or development does not require a structure, alteration of the Floodplain, involve fill, grading, excavation or storage of materials or equipment and also is certified by an engineer to not exceed the allowable encroachment.
10. **Electrical Systems Flood Proofing**  All electrical service materials, equipment and installation for uses in a Regulated Flood Hazard Area must be certified to meet the following requirements:

1. All incoming power service equipment including all metering equipment, control centers, transformers, distribution and lighting panels and all other stationary equipment must be located at least two feet above the Base Flood Elevation; (ARM 36.15.901(1)(a))

2. Portable and movable electrical equipment may be placed below the Base Flood Elevation, provided that the equipment can be disconnected by a single plug and socket assembly of the submersible type; (ARM 36.15.901(1)(b))

3. The main power service lines must have automatically operated electrical disconnect equipment or manually operated electrical disconnect equipment located at an accessible remote location outside the Regulated Flood Hazard Area or two feet above the Base Flood Elevation; and (ARM 36.15.901(1)(c))

4. All electrical wiring systems installed below the Base Flood Elevation must be suitable for continuous submersion and may not contain fibrous components. (ARM 36.15.901(1)(d))

11. **Heating and Cooling Systems Flood Proofing**  Heating and cooling systems for uses in a Regulated Flood Hazard Area must be certified to meet the following requirements:

1. Float operated automatic control valves must be installed so that fuel supply is automatically shut off when flood waters reach the floor level where the heating and cooling systems are located; (ARM36.15.902(1)(a))

2. Manually operated gate valves must be installed in gas supply lines. The gate valves must be operable from a location above the Base Flood Elevation; (ARM36.15.902(1)(b))

3. Electrical Systems flood proofing must be met; and (ARM36.15.902(1)(c))

4. Furnaces and cooling units must be installed at least two (2) feet above the Base Flood Elevation and the ductwork installed above the Base Flood Elevation.

12. **Plumbing Systems Flood Proofing**  Plumbing systems for uses in the Regulated Flood Hazard Area must be certified to meet the following requirements:
1. Sewer lines, except those to a buried and sealed vault, must have check valves installed to prevent sewage backup into permitted structures; and (ARM 36.15.903(1)(a))

2. All toilets, stools, sinks, urinals, vaults, and drains must be located so the lowest point of possible flood water entry is at least two (2) feet above the Base Flood Elevation. (ARM 36.15.903(1)(b))

13. **Structural Fill Flood Proofing** Fill used to elevate structures, including but not limited to residential and non-residential buildings must be certified to meet the following requirements:

1. The filled area must be at or above the Base Flood Elevation and extend at least fifteen (15) feet beyond the structure in all directions;

2. Fill material must be suitable fill, that is stable, compacted, well graded, and pervious, not adversely affected by water and frost, devoid of trash or similar foreign matter, tree stumps or other organic material; and is fitting for the purpose of supporting the intended use and/or permanent structure. (ARM 36.15.101(22))

3. The fill must be compacted to minimize settlement and compacted to 95 percent of the maximum density. Compaction of earthen fill must be certified by an engineer;

4. No portion of the fill is allowed within the floodway;

5. The fill slope must not be steeper than 1 ½ horizontal to 1 vertical unless substantiating data justifying a steeper slope is provided and adequate erosion protection is provided for fill slopes exposed to floodwaters; and

14. **Wet Flood Proofing** Building designs with an enclosure below the lowest floor must be certified to meet the following:

1. Materials used for walls and floors are resistant to flooding to an elevation two (2) feet or more above the Base Flood Elevation; (ARM 36.15.702(2)(a))

2. The enclosure must be designed to equalize hydrostatic forces on walls by allowing for entry and exit of floodwaters. Opening designs must either be certified by an engineer or architect or meet or exceed the following:

   1. Automatically allow entry and exit of floodwaters through screens, louvers, valves, and other coverings or devices;

   2. Have two (2) or more openings with a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area below the
Lowest Floor, except if the enclosure is partially subgrade, a minimum of 2 openings may be provided on a single wall; and

3. Have the bottom of all openings no higher than one (1) foot above the higher of the exterior or interior adjacent grade or floor immediately below the openings.

(44 CFR 60.3(c)(5)) (NFIP Insurance Manual, Rev. May 2013)

15. **Dry Flood Proofing** Building designs that do not allow internal flooding must be certified according to these regulations to meet the following:

1. Building use must be for non-residential use only and does not include mixed residential and non-residential use;

2. Be Flood Proofed to an elevation no lower than two (2) feet above the Base Flood Elevation;

3. Be constructed of impermeable membranes or materials for floors and walls and have water tight enclosures for all windows, doors and other openings; and

4. Be designed to withstand the hydrostatic pressures and hydrodynamic forces resulting from the Base Flood and the effects of buoyancy.

((ARM 36.15.702(2)(b)) (44 CFR 60.3(c)(3))

16. **Elevation of the Lowest Floor** Elevating the lowest floor may be by either suitable fill, foundation wall enclosure, stem walls, pilings, posts, piers, columns or other acceptable means; ((MCA 76-5-402(2)(b)) (44 CFR 60.3(b)(8)) (44 CFR 60.3(c)(6))

17. **Crawl Spaces** Crawl space foundation enclosures including sub grade crawlspace enclosures below the lowest floor must meet the wet flood proofing requirements and be designed so that the crawl space floor is at or above the Base Flood Elevation. Crawl space foundations must have an inside dimension of not more than five (5) feet from the ground to the top of the living floor level and a sub grade crawlspace must also have the interior ground surface no more than two (2) feet below the exterior lowest adjacent ground surface on all sides. A sub grade foundation exceeding either dimension is a basement;

18. **Manufactured Home Anchors** For new placement, substantial improvement or replacement of manufactured homes for residential or nonresidential use including additions, the chassis must be secure and must resist flotation, collapse or lateral movement by anchoring with anchoring components capable of carrying a force of 4,800 pounds and as follows:
1. For manufactured homes less than fifty (50) feet long, over-the-top ties to ground anchors are required at each of the four (4) corners of the home, with two additional ties per side at intermediate locations; or

2. For manufactured homes more than fifty (50) feet long, frame ties to ground anchors are required at each corner of the home with five (5) additional ties per side at intermediate points; and

((CFR 60.3(b)(8)) CFR 60.3(c)(6)))

19. Access Access for emergency vehicles may be required.

10.3 RESIDENTIAL BUILDING, EXCEPTIONS OR ADDITIONAL REQUIREMENTS
New construction, alterations, and substantial improvements of residential dwellings, manufactured homes, including replacement of manufactured homes, must be constructed such that:

1. Elevation of the Lowest Floor The Lowest Floor of the building including an attached garage or basement must be two (2) feet or more above the Base Flood Elevation; (ARM 36.15.701(3))

2. Enclosure Enclosures of elevated buildings cannot be dry flood proofed. Use for an enclosure is limited to facilitating building component access. The enclosure including a crawlspace must be wet flood proofed and the enclosure floor must be at or above the Base Flood Elevation. An attached garage floor must be two (2) or more feet above the Base Flood Elevation; and

3. Recreation Vehicles Recreational vehicles on site for more than 180 days or not ready for highway use must meet the requirements for manufactured homes for residential use.

10.4 NON-RESIDENTIAL BUILDING, EXCEPTIONS OR ADDITIONAL REQUIREMENTS New construction, alterations, and substantial improvements of non-residential including agricultural, commercial and industrial buildings and residential and non-residential accessory buildings must be constructed such that:

1. Elevation of the Lowest Floor The Lowest Floor of the building must be elevated two (2) feet above the Base Flood Elevation or adequately dry flood proofed according to this Section. The Lowest Floor may be wet proofed provided the use is limited to only parking, loading and storage of equipment or materials not appreciably affected by floodwater; ((ARM 36.15.702(2) (44 CFR 60.3(c)(3)(ii) (44 CFR 60.3(c)(3) & (4)))

2. Enclosure Enclosures below the Lowest Floor on elevated buildings must be wet flood proofed and the use must be limited to parking, access or storage or must be adequately dry flood proofed according to this Section;
3. **Manufactured homes** Manufactured homes proposed for use as non-residential buildings cannot be dry flood proofed; and

4. **Agricultural structures** Agricultural structures not intended to be insurable, used solely for agricultural purposes, having low flood damage potential, used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities including raising of livestock, and not intended for human habitation are exempt from the elevation requirement, dry or wet flood proofing, but shall:

1. Be located on higher ground and as far from the channel as possible;
2. Offer minimal obstruction to flood flows;
3. Be adequately anchored to prevent flotation or collapse;
4. Where electrical, heating and plumbing systems are installed, meet the flood proofing requirements in Sections 10.2.10, 10.2.11, and 10.2.12; and
5. Meet the elevation or dry flood proofing requirements if the structure is an animal confinement facility.

((ARM 36.15.602(9) (ARM 36.15.701(3)(e)) (ARM 36.15.702(2))
SECTION 11. EMERGENCIES

11.1 General

1. Emergency repair and replacement of severely damaged artificial obstructions and development in the Regulated Flood Hazard Area, including public transportation facilities, public water and sewer facilities, flood control works, and private projects are subject to the permitting requirements of these regulations. (ARM 36.15.217)

2. The provisions of these regulations are not intended to affect other actions that are necessary to safeguard life or structures during periods of emergency.

11.2 Emergency Notification and Application Requirements

1. The property owner and or the person responsible for taking emergency action must notify the Floodplain Administrator prior to initiating any emergency action in a Regulated Flood Hazard Area normally requiring a Floodplain permit. An Emergency Notification Form must be submitted to the Floodplain Administrator within five (5) days of the action taken as a result of an emergency.

2. Unless otherwise specified by the Floodplain Administrator, within 30 days of initiating the emergency action, a person who has undertaken an emergency action must submit a Floodplain Permit Application that describes what action has taken place during the emergency and describe any additional work that may be required to bring the project in compliance with these regulations.

3. A person who has undertaken an emergency action may be required to modify or remove the project in order to meet the permit requirements.
SECTION 12. VARIANCES

12.1 GENERAL - A variance from the minimum development standards of these regulations may be allowed. An approved variance would permit construction in a manner otherwise as required or prohibited by these regulations. ((44 CFR 59.1) (ARM 36.15.218))

12.2 VARIANCE APPLICATION REQUIREMENTS:

1. Prior to any consideration of a variance from any development standard in these regulations, a completed Floodplain Permit application and required supporting material must be submitted.

2. Additionally, supporting materials in a Variance application specific to the variance request including facts and information addressing the criteria in this Section must be submitted.

3. If the Floodplain permit application and Variance application is deemed not correct and complete, the Floodplain Administrator shall notify the applicant of deficiencies within a reasonable time not to exceed 30 days. Under no circumstances should it be assumed that the variance is automatically granted.

12.3 NOTICE REQUIREMENTS FOR FLOODPLAIN VARIANCE APPLICATION

Public Notice of the Floodplain permit application and Variance application shall be given pursuant to Section 8.2.

12.4 EVALUATION OF VARIANCE APPLICATION

1. A Floodplain permit and Variance shall only be issued upon a determination that the variance is the minimum allowance necessary, considering the flood hazard, to afford relief from these regulations and provided all of the following criteria are met:

   1. There is a good and sufficient cause. Financial hardship is not a good and sufficient cause; (44 CFR 60.6(a)(3))

   2. Failure to grant the variance would result in exceptional hardship to the applicant; (44 CFR 60.3(a)(3)) & ARM 36.15.218(b))

   3. Residential and nonresidential buildings are not in the Floodway except for alterations or substantial improvement to existing buildings, Residential dwellings including basements and attached garages do not have the lowest floor elevation below the Base Flood Elevation;
4. Any enclosure including a crawl space must meet the requirements of Section 10.2.14, Wet Flood Proofing if the enclosure interior grade is at or below the Base Flood Elevation;

5. Granting of a variance will not result in increased flood heights to existing buildings, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances; (44 CFR 60.6 (a)(3) & (ARM 36.15.218(a))

6. The proposed use is adequately flood proofed; (ARM 36.15.218(c))

7. The variance is the minimum necessary, considering the flood hazard, to afford relief; (44 CFR 60.6(a)(4))

8. Reasonable alternative locations are not available; (MCA 76-5-406(3) & ARM 36.15.218(d))

9. An encroachment does not cause an increase to the Base Flood Elevation that is beyond that allowed in these regulations; and (44 CFR 60.6(a)(1))

10. All other criteria for a Floodplain permit besides the specific development standard requested by variance are met.

2. An exception to the variance criteria may be allowed as follows:

1. For either new construction of a structure outside of the Floodway only or for substantial improvements or an alteration of a structure, on a lot of one-half acres or less that is contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation; or (44 CFR 60.6(a)).

2. For Historic Structures – variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum relief necessary to preserve the historic character and design of the structure. The historic nature of the building must be designated as a preliminary or historic structure by U.S. Secretary of Interior or an approved state or local government historic preservation program. (44 CFR 60.6(a))

12.5 DECISION

1. The Board of Adjustment, shall:

1. Evaluate the Floodplain permit application and Variance application using
the criteria in Section 12.4, and the application requirements and minimum development standards in Section 9 and 10;

2. Make findings, and approve, conditionally approve or deny a Floodplain permit and variance within 60 days of a complete application.

3. If approved, attach conditions to the approval of Floodplain permit and Variance including a project completion date and inspections during and after construction.

4. Notify the applicant that the issuance of a Floodplain permit and Variance to construct a structure not meeting the minimum building requirements in these regulations may result in increased premium rates for flood insurance and that flood insurance premiums are determined by actuarial risk and will not be modified by the granting of a variance. (44CFR 60.6(a))

5. Submit to the Floodplain Administrator a record of all actions involving a Floodplain permit and variance, including the findings and decision and send a copy of each variance granted to DNRC.(44 CFR 60.6(a)(6) & MCA 76-5-405)

12.6 JUDICIAL REVIEW
Any person or persons aggrieved by the Floodplain permit and variance decision may appeal such decision in a court of competent jurisdiction.
SECTION 13. ADMINISTRATIVE APPEALS

13.1 GENERAL An administrative appeal may be brought before the Board of Adjustment for review of the Floodplain Administrator’s order, decision to grant, condition or deny a floodplain permit or interpretation of the Regulated Flood Hazard Area boundary.

13.2 APPEALS REQUIREMENTS The following provisions apply to administrative appeals:

1. An appeal shall include the basis of the appeal and supporting information including specific findings and conclusions of the Floodplain Administrator’s decision being appealed;

2. An appeal may be submitted by an applicant and/or anyone who may be aggrieved by the Floodplain Administrator’s decision or order;

3. Appeals must be received within 30 days of the date of the decision or order of the Floodplain Administrator; and

4. Additional information specific to the appeal request may be requested by the review panel.

13.3 NOTICE AND HEARING

1. Notice of the pending appeal and hearing shall be provided pursuant to Section 8.2. The Floodplain Administrator may notify DNRC and FEMA of pending appeals.

2. A public hearing on the appeal must be held within 30 days of the Notice unless set otherwise.

13.4 DECISION A judgment on an appeal shall be made within 30 days of the hearing unless set otherwise. The decision may affirm, modify, or overturn the Floodplain Administrator’s decision. A decision on an appeal of a permit cannot grant or issue a variance. A decision may support, reverse or remand an order or determination of a boundary of the Regulated Flood Hazard Area by the Floodplain Administrator.

13.5 JUDICIAL REVIEW Any person or persons aggrieved by the decision on an administrative appeal may appeal such decision in a court of competent jurisdiction.
SECTION 14. ENFORCEMENT

14.1 INVESTIGATION REQUEST  An investigation to determine compliance with these regulations for an artificial obstruction or nonconforming use within the Regulated Flood Hazard Area may be made either on the initiative of the Floodplain Administrator or on the written request of three titleholders of land which may be affected by the activity. The names and addresses of the persons requesting the investigation shall be released if requested. (MCA 76-5-105)(2)

14.2 NOTICE TO ENTER AND INVESTIGATE LANDS OR WATERS  The Floodplain Administrator may make reasonable entry upon any lands and waters for the purpose of making an investigation, inspection or survey to verify compliance with these regulations. (MCA 76-5-105(1))

1. The Floodplain Administrator shall provide notice of entry by mail, electronic mail, phone call, or personal delivery to the owner, owner’s agent, lessee, or lessee’s agent whose lands will be entered.

2. If none of these persons can be found, the Floodplain Administrator shall affix a copy of the notice to one or more conspicuous places on the property.

3. If the owners do not respond, cannot be located or refuse entry to the Floodplain Administrator, the Floodplain Administrator may initiate a Search Warrant.

14.3 NOTICE TO RESPOND AND ORDER TO TAKE CORRECTIVE ACTION  When the Floodplain Administrator determines that a violation may have occurred, the Floodplain Administrator may issue written notice to the owner or an agent of the owner, either personally or by certified mail. Such notice shall cite the regulatory offense and include an order to take corrective action within a reasonable time or to respond by requesting an administrative review by the Floodplain Administrator.

14.4 ADMINISTRATIVE REVIEW  The order to take corrective action is final, unless within five (5) working days or any granted extension, after the order is received, the owner submits a written request for an administrative review by the Floodplain Administrator. A request for an administrative review does not stay the order.

14.5 APPEAL OF ADMINISTRATIVE DECISION  Within ten (10) working days or any granted extension of receipt of the Floodplain Administrator’s decision concluding the administrative review, the property owner or owner’s agent may appeal the decision pursuant to Section 13.

14.6 FAILURE TO COMPLY WITH ORDER TO TAKE CORRECTIVE ACTION  If the owner fails to comply with the order for corrective action, remedies may include administrative or legal actions, or penalties through court.
14.7 OTHER REMEDIES  This section does not prevent efforts to obtain voluntary compliance through warning, conference, or any other appropriate means. Action under this part shall not bar enforcement of these regulations by injunction or other appropriate remedy.
SECTION 15. PENALTIES

15.1 MISDEMEANOR Violation of the provisions of these regulations or failure to comply with any of the requirements, including failure to obtain permit approval prior to development in the Regulated Flood Hazard Area except for an emergency, shall constitute a misdemeanor and may be treated as a public nuisance.

Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100 or imprisoned for not more than 10 days or both. Each day’s continuance of a violation shall be deemed a separate and distinct offense. (MCA 76-5-110)

15.2 DECLARATION TO THE FEDERAL FLOOD INSURANCE ADMINISTRATOR

Upon finding of a violation and failure of the owner to take corrective action as ordered, the Floodplain Administrator may submit notice and request a 1316 Violation Declaration to the Federal Insurance Administrator. The Federal Insurance Administrator has the authority to deny new and renewal flood insurance for a structure upon finding a valid violation declaration. (44 CFR 73.3)

The Floodplain Administrator shall provide the Federal Insurance Administrator the following:

1. The name(s) of the property owner(s) and address or legal description of the property sufficient to confirm its identity and location;

2. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance;

3. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

5. A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.
MEMORANDUM OF AGREEMENT

for

CONTINUING TRANSPORTATION PLANNING

in the

COLUMBIA FALLS URBAN AREA

This memorandum of Agreement is entered into this __________ day of __________ 2015, by and between the State of Montana, Department of Transportation (MDT), hereinafter called the State, the City of Columbia Falls, hereinafter called the City, and Flathead County, hereinafter called the County.

WITNESSETH:

WHEREAS, it is the desire of the signatory agencies to have future transportation projects for the Columbia Falls Urban Area be based on a continuing, comprehensive transportation planning process carried on cooperatively by the State and Local Community; and

WHEREAS, the parties to this Agreement desire to cooperate in transportation planning now in progress and in the comprehensive planning program of the Columbia Falls area and further desire to ensure that transportation planning is an integral part of continuing comprehensive planning; and

WHEREAS, the Columbia Falls City-County Planning Board is a legally constituted agency and is authorized to carry on comprehensive planning programs; and

WHEREAS, the State, City, and County recognize the aforementioned Planning Organizations as the officially designated agency for comprehensive planning in the Columbia Falls area.

NOW, THEREFORE, BE IT RESOLVED that the parties hereto do mutually agree as follows:

I. Establishment of Transportation Coordinating Committee – A Transportation Coordinating Committee is hereby established to guide the development of transportation plans and programs in the Columbia Falls area. The Transportation Coordinating Committee shall consist of the following officials:

Representative – Columbia Falls City Commission Mayor
Representative – Board of County Commissioners
Representative – City-County Planning Board
President – Flathead County Planning Board
City Manager – City of Columbia Falls
Division Administrator – Federal Highway Administration (non-voting)
City Planner – Columbia Falls Planning Department
Director – Flathead County Planning Office
Director – Columbia Falls Department of Public Works
Roads Superintendent – Flathead County
Citizen Member – City of Columbia Falls Resident (2-year term)
Citizen Member – Flathead County Resident (2-year term)
Supervisor – Statewide and Urban Planning Section, MDT
District Administrator – Missoula, MDT
District Engineering Service Engineer – Missoula, MDT
Maintenance Chief – Missoula, MDT (non-voting)

Additional members of this committee may be appointed by a majority of the membership if the need arises.

II. Planning Area – As a minimum, continuing, comprehensive transportation planning will be conducted in that portion of the Columbia Falls area that is expected to become urban in character during a twenty year period. The type of transportation planning that will be conducted outside the urban area will be determined and approved by the Transportation Coordinating Committee.

III. Scope of Services – The transportation planning process shall be:

A. Cooperative in that the State, Planning Board, County Planning Board, the City and the County shall cooperatively accomplish the transportation planning process.
B. Comprehensive in that all elements affecting regional development and transportation shall be considered. Those elements are described in various documents published by the Federal Highway Administration and Federal Transit Administration.
C. Continuing in that the planning process is intended to continue indefinitely and shall be maintained as long as this Agreement is in force. The operational scope of the transportation planning process will involve performing the following functions:

1. Collection, maintenance, analysis and dissemination of basic planning and engineering data.

2. Service to public and private sectors, especially by provisions of current information concerning plans, program recommendations; design data and their implementation.

3. Preparation, updating and revision of long- and short-range plans for the physical and social development of the region and translation of these plans into program recommendations for implementation.

4. Production and distribution of reports, maps, etc., for documentation and information purposes, participating in meetings, seminars, etc., necessary to coordinate the planning and planning implementation activities at the various levels of government; and conducting public information programs.

5. Research and development of estimating, forecasting and other planning procedures.

In addition, such other transportation planning services shall be carried out as consistent with the stated purpose of the Transportation Coordinating Committee in its bylaws.

IV. Citizen Participation – The Transportation Coordinating Committee will provide for public involvement and input in the local transportation planning process by inviting comments from local citizens’ groups on major transportation planning issues, programs and projects. In addition, the Committee will cooperate with these groups to conduct special public information and participation programs as necessary in dealing with transportation planning.

V. Changes in Agreement – Any alteration, extension or supplement to the terms of this Agreement, as detailed herein, shall be agreed to in writing by the signatory parties.

VI. Termination of Agreement – A signatory party may terminate its interest and obligations under this Agreement by giving at least sixty (60) days notice, in writing, to other parties.

VII. Nondiscrimination - The LOCAL GOVERNING AUTHORITIES will require during the performance of any work arising out of this agreement, that the agreement, for itself, its assignees and successors shall comply with all the nondiscrimination regulations shown
on Exhibit “A”. All agreement entered into by MDT must contain a Title VI clause and the attachment, Exhibit “A” (see attached).

VIII. **Governing Law** - This agreement shall be governed by laws of the State of Montana. Venue for any litigation will be in Lewis and Clark County, State of Montana. In case of conflict between the obligation imposed by the agreement and Montana law, then Montana law will control.

IN WITNESS whereof, the parties hereto have set their hands and affixed their seals.

DATED THIS _______ DAY OF ______________, 2013

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**APPROVED FOR CITY OF COLUMBIA FALLS:**

By: __________________________

**ATTEST FOR CITY OF COLUMBIA FALLS:**

By: __________________________

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**APPROVED FOR FLATHEAD COUNTY:**

By: __________________________
Chairman Board of County Commissioners

**ATTEST FOR FLATHEAD COUNTY:**

By: __________________________
APPROVED FOR CITY OF COLUMBIA FALLS PLANNING BOARD:

By: ____________________________  
   President

ATTEST FOR CITY OF COLUMBIA FALLS PLANNING BOARD:

By: ____________________________

APPROVED FOR FLATHEAD COUNTY PLANNING BOARD:

By: ____________________________

ATTEST FOR FLATHEAD COUNTY PLANNING BOARD:

By: ____________________________

APPROVED FOR STATE OF MONTANA DEPARTMENT OF TRANSPORTATION:

By: ____________________________  
   Director

Formatted: Strikethrough
APPROVED:

By: __________________________
    Administrator, Legal Division
Exhibit A
NON-DISCRIMINATION NOTICE

During the performance of this Agreement, Columbia Falls CITY (hereafter in this Section "the Party"), for itself, its assignees and successors in interest, agrees as follows:

A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS

(1) Compliance with Regulations: The Party shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations (CFR), Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.

(2) Nondiscrimination: The Party, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Party shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Sec. 21.5.

(3) Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the Party for work to be performed under a subcontract, including procurement of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the Party of the Party's obligations under this Agreement and the Regulations relative to nondiscrimination.

(4) Information and Reports: The Party will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by State or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the Party is in the exclusive possession of another who fails or refuses to furnish this information, the Party shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Party's noncompliance with the nondiscrimination provisions of this Agreement, State may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,

(a) Withholding payments to the Party under the Agreement until the Party complies, and/or

(b) Cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: The Party will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and
leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Party will take such action with respect to any subcontract or procurement as the State or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event the Party is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the Party may request the State to enter into the litigation to protect the interests of the State, and, in addition, the Party or the State may request the United States to enter into such litigation to protect the interests of the United States.

B) COMPLIANCE WITH THE MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, SEC. 49-3-207, MCA

In accordance with Section 49-3-207, MCA, the Party agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

1. The Party will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.

2. The Party will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: "The Party will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the Party. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the Party."

3. All video recordings produced and created under contract and/or agreement will be closed-captioned.

D) COMPLIANCE WITH PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS, 49 CFR PART 26

Each Agreement the Department signs with a Party (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The Party, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Party shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Party to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.
Columbia Falls

Urban Highway Construction Program Summary
Estimated Annual Allocation – STPU - $159,213

Estimated Balances

- Project Priorities
  - No Project Priority Has Been Established

- Estimated Annual Allocations are subject to MDT Transportation Commission approval
- Funding projections are based on best available information and are subject to change given current funding uncertainties and unknown impacts of future congressional or other federal actions. Federal program funding availability may impact the scheduling of projects

09/22/2015
Hi Susan,

Thank you for meeting with MDT last week. I want to follow up with you regarding the establishment of Columbia Fall's Committee – I have learned that MDT typically coordinates the Memorandum of Understanding (MOU). With that said, attached is a draft MOU for your review and comment.

There are no requirements for content. The local governments establish this committee and the make-up of the committee. The list of committee membership is just an example and should be revised to fit the appropriate City and County positions selected to represent Columbia Falls and Flathead County. The attached excel file shows the membership makeup of some of the other urban areas committees. There is no requirement of who has to be on the committee but the planning process needs to be cooperative with equal representation from the governing/jurisdictional agencies (city/county/MDT).

Please coordinate with Flathead County to determine committee members and edit the draft MOU via track changes. Once we have a draft of the changes we will run it through our legal department for review. Next step is to secure signatures; MDT will sign once all other parties have signed.

If you have any questions, please let me or Vicki know.
Thanks,
Sheila