

**FOR IMMEDIATE RELEASE**  
**by Flathead Lake Protection Association**  
**October 13, 2009**

**Controversial subdivision approval revoked**

This morning the Board of County Commissioners of Flathead County unanimously revoked its previous approval of the preliminary plat for the Eagle's Crest Subdivision Phases 5-9 (Subdivision). The Flathead Lake Protection Association (FLPA) brought a lawsuit challenging the November 6, 2007 approval by the Commissioners.

As approved, on a 2-1 vote, the Subdivision was an enormous gated golf course community, allowing for the construction of over 900 primary units on small lots, additional guest houses, and commercial development on 1,353 acres or 2.1 square miles. The proposed Subdivision was to be located on steep slopes on the west side of U.S. Highway 93, approximately one mile south of the community of Lakeside. It is less than one-half mile upgradient from Flathead Lake, and most of the area proposed for the Subdivision is in a high fire hazard area. In addition, numerous species of wildlife utilize the area, which consists almost entirely of winter range for elk, white-tailed deer and mule deer. These and other concerns were documented in comments submitted by Montana Fish, Wildlife & Parks, the Flathead Lake Biological Station and other organizations and individuals.

In its lawsuit, the FLPA pointed out that despite the magnitude of the proposal and the significance of the impacts, in approving the preliminary plat the Commissioners lacked essential information, did not follow required procedures, and violated a number of provisions of the Montana Subdivision and Platting Act and the Flathead County Subdivision Regulations. Included among the numerous concerns addressed by the FLPA were failures by the developer to provide required information regarding potential impacts to surface water, groundwater, wildlife, sewage treatment, and traffic safety.

On July 17, 2009, FLPA filed their Motion for Summary Judgment. Pursuant to a scheduling order issued by the District Court, on September 25, 2009, the County Attorneys' office on behalf of the Commissioners filed its response to Plaintiffs' Motion for Summary Judgment. In that response, the Commissioners took the position that:

In light of the recent decision of the Montana Supreme Court in *Citizens for Responsible Development v. The Board of County Commissioners of Sanders County*, 2009 MT 182, 351 Mont. 40, 208 P.3d 876 (2009), concerning the required contents of an application for preliminary approval of a subdivision and the accompanying Environmental Assessment, and the manner in which information was provided in proceedings involved in this

case, Defendant Board of Commissioners is not prepared to oppose the Plaintiffs' Motion for Summary Judgment.

In light of the Commissioners' Court filing, together with the other grounds for summary judgment set forth in Plaintiffs' brief in support of their motion for summary judgment, Plaintiffs informed the Court that it would proceed to judgment against the Commissioners.

In the meanwhile, on September 14, 2009, Strategic Land Company, LLC, the developer who had intervened in the lawsuit, and its counsel of record, Kalvig & LeDuc, PC, filed a Notice of Withdrawal of Counsel. To date, no new attorney has appeared in the lawsuit on behalf of Strategic Land Company. On the basis of the Commissioners' revocation of their prior approval of the preliminary plat for the Subdivision, the County Attorney has filed a Notice of Mootness with the District Court.

Fran Ruby of Somers, Secretary of the FLPA, stated, "While we are pleased with the result that has been achieved, we just wish that the developer and the Commissioners would have listened to the concerns expressed by the public in the first go-around." Ruby also indicated that the FLPA intended to remain involved in the review of any future proposals, and looked forward to working with both the developer and the County to achieve a result that respects the environmental constraints of the land and its proximity to Flathead Lake, preserves the quality of life for the Lakeside community, and is financially viable for the developer.

For further information, contact Fran Ruby, Secretary of FLPA, 857-3801; Bruce Young, President FLPA, 844-3540; Roger Sullivan, Attorney FLPA, 250-1472.