



Sanders County Land Services Department Subdivision Administration

STAFF REPORT MOE MINOR SUBDIVISION PRELIMINARY PLAT APPLICATION REPORT DATE: JULY 8, 2025

GENERAL INFORMATION

REVIEWER/

SUBDIVISION ADMINISTRATOR: Chris McComas, County Planner

REVIEW DEADLINE: August 6, 2025

COMMISSIONERS' MEETING: Tuesday, July 15, 2025, at 11:00 a.m. in the Commissioner's Conference Room at the Sanders County Annex Building

LANDOWNER:
Gary Moe
5 Country Club Ln.
Thompson Falls, MT 59873

SUBDIVIDER:
Dennis Grip
73 Dry Creek Road
Thompson Falls, MT 59873

REPRESENTATIVE:
Tim Hagedorn, PLS
Mountain Plains, LLC
200 Prince St. Suite B
Missoula, MT 59801

LOCATION OF SUBDIVISION: \pm 1.4 miles south of Thompson Falls

LEGAL DESCRIPTION: Tract 1 of COS 455, located in the SW 1/4 of Section 17, Township 21 North, Range 29 West, P.M.M., Sanders County, Montana

ACREAGE: \pm 5.00 acres

CURRENT LAND USE: Residential

LOTS UNDER REVIEW: Two lots, ranging in size from 1.5 acres to 3.45 acres, for single-family residential

VARIANCES REQUESTED: 1. Sanders County Subdivision Regulations, Section VII-E(e), utility easements located between adjoining lots must be centered on lot lines. For water line and shared well.

2. Sanders County Subdivision Regulations, Section VII-E(e), utility easements located between adjoining lots must be centered on lot lines. For septic line and drainfield.

2. Sanders County Subdivision Regulations, Section VII-Q(h)(ii)(b): In lieu of providing a water source and upon approval of the firefighting agency, the county commissioners will consider a \$500 per lot contribution deposited into a revenue account established for each fire district to be used for the provision of water sources for initial fire suppression.

PARKLAND: Not required

SURROUNDING USES: Agricultural and Rural Residential

APPLICATION INFORMATION: The preliminary plat application for the subdivision was received on March 26, 2025, and deemed sufficient for review on June 17, 2025, under the Sanders County Subdivision Regulations (SCSR) amended June 10, 2020. Legal notices are not required by the SCSR or Montana law for minor subdivisions.

Reviewer Recommendation: Submitted to the Sanders County Board of Commissioners with a recommendation to adopt the findings of fact and conclusions and grant preliminary approval subject to 22 conditions.

Submitted by:



Chris McComas, County Planner

July 8, 2025

Date

INTRODUCTION:

Dennis Grip and Gary Moe have submitted a preliminary plat application for this 2-lot minor subdivision located approximately 1.48 miles south of Thompson Falls, MT. The two lots are proposed as single-family residential and will be accessed by individual driveways from Dry Creek Road, a paved county-maintained road. The lots within the proposed subdivision would range in size from 1.5 acres to 3.45 acres and are proposed for single-family residential use to be served by a shared well and individual wastewater treatment systems.

The subdivision proposal constitutes a first minor subdivision as defined by the Sanders County Subdivision Regulations (SCSR) and Montana law. The allotted time for the preliminary plat review of a minor subdivision is 35 working days. The Board of County Commissioners is required to take final action on or before the review deadline of August 6, 2025.

This report presents proposed findings of fact and recommendations for the subdivision. It is organized into two main sections:

- I. Findings of Fact, which includes descriptions of various elements of the project and Reviewer-recommended findings of fact based on the subdivision review criteria, and
- II. Reviewer Recommendation, which includes recommended conditions of approval, which have been made according to the findings of fact and the 2020 SCSR.

I. RECOMMENDED FINDINGS OF FACT

The recommended findings and conclusions of the Reviewer are stated below and are based on the subdivision application materials and preliminary plat provided by the subdivider and in accordance with the 2020 SCSR.

A. Project Summary

- 1. Type of Project:** 2-lot minor subdivision
- 2. Proposed Lot Sizes:** Lot 1: 1.50 acres
Lot 2: 3.45 acres
- 3. Zoning:** None
- 4. Utilities & Services:** Water: Shared Well
Wastewater: Individual wastewater systems
Solid Waste: Thompson Falls Transfer Site
Electricity: Northwestern Energy
Telephone: Blackfoot Telecommunications
Fire District: Thompson Falls Rural Fire District
Law Enforcement: Sanders County Sheriff's Office
Ambulance: Thompson Falls Ambulance
Medical: Clark Fork Valley Hospital in Plains, and other area hospitals and clinics
Schools: Thompson Falls Public Schools

B. Comments Received:

Agency Comments: Mike Cassidy, with Northwestern Energy, commented that Northwestern Energy intends to reserve all easement rights on this property.

Lynsay Maykuth, from Montana Fish Wildlife and Parks (FWP), offered suggestions to help mitigate wildlife impacts and reduce conflicts between wildlife and humans.

Thompson Falls Rural Fire District requested \$500 for each new lot created with this subdivision.

Public Comments: None received to date

C. Findings based on the Prerequisites to Approval (Section III-A-4(a) SCSR) in the Review and Approval Procedures for Minor Subdivisions

The governing body may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:

1. Provides easements for the location and installation of any planned utilities.

All utilities have been installed on the subject property, as both lots were developed before the subdivision proposal. Both lots abut county right-of-ways from either Dry Creek Road or Country Club Lane that provide public utility easement. Additionally, Lot 1 will continue to provide utility easement along the north edge of the property. Utility easement is proposed on the face of the plat for the waterline from the shared well located on Lot 2 to Lot 1. Easement for the benefit of Lot 1 over Lot 2 for septic line and drainfield that serves Lot 1 is also shown on the face of the plat. All existing and proposed easements must be shown on the final plat. Any planned easements must identify the purpose, dimensions, and recipients of the dedication in compliance with Section VII-L SCSR.

Conclusion 1: The proposal will use existing utility easements and will add additional easements for water lines, septic lines, and drainfield area. All easements must be shown on the final plat, and any new easements must identify the purpose, dimensions, and recipients of the dedication.

2. Provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel.

All lots will have legal and physical access from Dry Creek Road, a paved county-maintained road. Currently, Dry Creek Road has a 40-foot right-of-way width adjacent to this property. SCSR Section VII-G Table 1 (1)(b) outlines the subdivision road standard for right-of-way as 60 feet. It is unreasonable to require that this property

dedicate the remaining 20 feet of easement needed to meet this standard; however, it is reasonable to require that half of that width (10 feet) be dedicated to Sanders County for public road and utility purposes. Both lots are proposed with individual driveways intersecting Dry Creek Road.

Currently, the driveways to Lot 1 and Lot 2 exist. The application includes a driveway encroachment permit application for a new driveway and rural address application for Lot 2. Currently, Lot 2 has a loop driveway from Country Club Lane that connects to Dry Creek Road. The address for the home on Lot 2 is 5 Country Club Lane. Lot 2 is considered a corner lot and Lot 1 is considered an interior lot according to SCSR definitions. SCSR Section VII-E(d) requires that corner lots must have driveway access to the same street or road as interior lots. As the residence on lot one has an approved driveway permit and rural address from Dry Creek Road and also providing access to Country Club Road for Lot 1 is not feasible and the lack of a variance request to SCSR Section VII-E(d), legal and physical access would need to come from Dry Creek Road for Lot 2. With the submission of the driveway encroachment permit and rural address application in the subdivision application, it appears to be the intent of the subdivider to have legal and physical access to Lot 2 via Dry Creek Road. A recommended condition of approval would require the removal of the driveway onto County Club Road, approval of the driveway encroachment permit, and approval of a new rural address for Lot 2 prior to final plat to provide for legal and physical access in accordance with SCSR.

Conclusion 2: The lots would have legal and physical access as proposed and per the recommended conditions of approval.

3. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by section II-B-4 of these regulations;

Based on the recommended conditions of approval, the physical improvements that would be required to be installed prior to final plat approval include:

1. Have permitted and installed the proposed driveway approach to Lot 2.
2. Have permitted and installed paved approaches for both driveways for Lot 1 and Lot 2 for the first 25 feet from the edge of the Dry Creek Road.
3. Removal of physical access to Country Club Road from Lot 2.
4. Install assigned address numbers at the intersection of Dry Creek Road and Lot 1 and Lot 2 driveways.

According to Section II-B-4 SCSR, the County Commissioners may require up to 100% completion of improvements related to public health and safety to be installed prior to final plat approval before agreeing to the use of a subdivision improvements agreement. Because the driveway and multiple approaches are related to public safety, it is reasonable to require the improvements to be 100% completed prior to final plat approval, and not guaranteed with a subdivision improvements agreement.

Conclusion 3: The physical improvements that would be required to be installed prior to final plat approval include driveway improvements and approach removal. The recommended conditions of approval would require the improvements to be 100% completed prior to final plat approval.

4. Assures that the requirements of 76-3-504(1)(j) MCA, regarding the disclosure and disposition of water rights as set forth in Section VII-N have been considered and will be accomplished before the final plat is submitted.

The application did not include water rights information for this property. Through research and inquiry, the reviewer did not discover any water rights associated with this property. As there are no water rights associated with this property, there appears to be no disposition that would need to take place to meet this requirement. Additionally, the subdivision application proposes a shared well for the two lots. Assuming that each new lot would be allowed 1 AF/year in accordance with DNRC standards, the combined appropriation would total 2 AF/year, which is below the maximum combined appropriation limit of 10 AF/year.

With the proposal of a shared well, ARM 17.36.122 requires that a user agreement be submitted for review. This application did not include this draft user agreement. This agreement would outline the rights and responsibilities of each water user. A recommended condition of approval would require that the user agreement be filed with the final plat.

Conclusion 4: With the recommended conditions of approval being adhered to, the disposition of future water rights for the shared well would be addressed.

5. Assures that the requirements of 76-3-504(1)(k) MCA regarding watercourse and irrigation easements as set forth in Section VII-M have been considered and will be accomplished before the final plat is submitted.

The application submitted indicates that there are no irrigation systems that exist within the boundaries of the subject property. The Reviewer has concluded through inquiry

and research there does not appear to be irrigation infrastructure on the property, such as irrigation project canals, ditches, headgates, or turnouts that would require easements to be maintained or operated. Therefore, it does not appear there are water courses, project irrigation ditches, sprinkler systems, or other irrigation infrastructure that would necessitate irrigation easements for the delivery of irrigation water to other land. Section VII-M SCSR and 76-3-504(1)(k), MCA, therefore, do not appear to apply, so irrigation and water course easements are not necessary.

Conclusion 5: Section VII-M SCSR and 76-3-504(1)(k), MCA regarding watercourse and irrigation easements do not apply to the subdivision due to the lack of watercourses and irrigation infrastructure on the subject property that would necessitate irrigation easements for delivery of irrigation water to other land.

D. Findings based on Consideration-Standards (Sections III-A-4(b) SCSR)

In approving, conditionally approving, or denying a minor subdivision application, the governing body shall consider subsection (a) above and whether the proposed subdivision complies with:

1. The subdivision regulations, including, but not limited to, the standards set forth in Section VII.

The Reviewer has reviewed the subdivision for conformance with Section VII of the SCSR. The following are findings based on a review of the subdivision in light of the applicable design and improvement standards of Section VII SCSR.

Variance Requests to SCSR Section VII:

A. Section VII-L(e) requires that utility easements located between adjoining lots must be centered on lot lines. The proposed well access and maintenance easement encumbering Lot 2 for the benefit of Lot 1 is not centered on the lot line between Lot 1 and Lot 2. Pursuant to Section XI-A the governing body may grant variances to Section VII, Design and Improvement Standards, of these regulations when, due to the characteristics of land proposed for subdivision, strict compliance with these standards would result in undue hardship and would not be essential to the public welfare. A variance will not be granted if it would have the effect of nullifying the intent and purpose of these regulations. The governing body will not approve a variance unless it finds that:

1. Granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.

a. The reviewer has determined that the variance would not be detrimental to public health, safety, or general welfare. Adherence to the standard, in this case, is to ensure that utilities are located along the property

boundaries to reduce conflicts between utility maintenance and installation and development on proposed subdivision lots. The application included the easement on the preliminary plat. Any impact is contained within the property boundaries.

2. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed.
 - a. The undue hardship is based on the physical shape and sizes of the lots. Additionally, to meet setbacks required by MDEQ, the location of the well and water lines are such to meet these setbacks. There is no alternative location to meet the requirements of SCSR Section VII-L(e) and simultaneously meet MDEQ setback requirements.
3. The variance will not cause a substantial increase in public costs.
 - a. There are no expected increases to public cost at this time if this variance is granted.
4. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.
 - a. There are no adopted zoning regulations within the unincorporated areas of Sanders County.

The reviewer recommends that the variance to SCSR Section VII-L(e) **be granted** for the waterline easement location as proposed, as the the location of the well is being driven by setback standards from MDEQ to mitigate impacts to public health.

- B. Section VII-L(e) requires that utility easements located between adjoining lots must be centered on lot lines. The septic lines and drainfield easements incumbering Lot 2 for the benefit of Lot 1 do not meet this standard. Pursuant to Section XI-A the governing body may grant variances to Section VII, Design and Improvement Standards, of these regulations when, due to the characteristics of land proposed for subdivision, strict compliance with these standards would result in undue hardship and would not be essential to the public welfare. A variance will not be granted if it would have the effect of nullifying the intent and purpose of these regulations. The governing body will not approve a variance unless it finds that:
 1. Granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
 - a. The reviewer has determined that the variance would not be detrimental to public health, safety, or general welfare. Adherence to the standard, in this case, is to ensure that utilities are located along the property boundaries to reduce conflicts between utility maintenance and installation and development on proposed subdivision lots. The application included the easement on the preliminary plat. Any impact is contained within the property boundaries.

2. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed.
 - a. The undue hardship is based on the physical shape and sizes of the lots to meet MDEQ standards. As the system location is previously approved, and the septic lines and drainfield have been installed, this requirement cannot be met without changing the location septic lines and drainfield. The process of changing these locations would create hardship as there is no need to move the existing infrastructure other than to meet this standard.
3. The variance will not cause a substantial increase in public costs.
 - a. There are no expected increases to public cost at this time if this variance is granted.
4. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.
 - a. There are no adopted zoning regulations within the unincorporated areas of Sanders County.

The reviewer recommends that the variance to SCSR Section VII-L(e) **be granted** for the septic line and drainfield easement location as proposed, as the system is existing and approved in the current locations.

C. Section VII-Q(h)(ii)(b) requires that in lieu of providing a water source and upon approval of the firefighting agency, the county commission will consider a \$500 per lot contribution deposited into a revenue account established for each fire district to be used for the provision of water sources for initial fire suppression. Sanders County policy dated 7-11-06 states that any newly created lot with an existing structure may be exempted from the fee upon submitting a variance request application to the commission.. Pursuant to Section XI-A the governing body may grant variances to Section VII, Design and Improvement Standards, of these regulations when, due to the characteristics of land proposed for subdivision, strict compliance with these standards would result in undue hardship and would not be essential to the public welfare. A variance will not be granted if it would have the effect of nullifying the intent and purpose of these regulations. The governing body will not approve a variance unless it finds that:

1. Granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
 - a. This \$500 per lot contribution is in lieu of providing a fire fighting water source on site. The contribution is a monetary mitigation to the public safety impact for not providing this on site water source. As the current property owner has paid more than \$500 in taxes payments to the Thompson Falls Rural Fire District, some of the impact here has already

been mitigated. \$500 for the creation of Lot 2 would mitigate the impact to the fire department and subsequently to public safety to the extent possible.

2. Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship on the owner. Undue hardship does not include personal or financial hardship, or any hardship that is self-imposed.
 - a. While this is financially based hardship, the fire policy allows for this variance request to be considered. Therefore, this hardship would be financial and is allowed to be such by the current fire policy dated 7-11-06.
3. The variance will not cause a substantial increase in public costs.
 - a. There will not be substantial public cost associated with granting this variance. There will be \$500 less directly contributed to the Thompson Falls Rural Fire District with this division, but additional tax revenue from the new lot will quickly recoup this cost as both lots are fully developed.
4. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.
 - a. There are no adopted zoning regulations within the unincorporated areas of Sanders County.

The reviewer recommends that the variance to SCSR Section VII-Q(h)(ii)(b) **be granted** as the current county policy allows for this variance to be considered, there is no detrimental impact to public health that cannot be overcome, and there will still be \$500 contributed to the Thompson Falls Rural Fire District with the creation of Lot 2.

Compliance with SCSR Section VII:

Section VII-G outlines the improvement standards for streets and roads. The lots are fronted by and will have individual or shared access to Dry Creek Road, a paved county-maintained road. Lot 2 has frontage along Country Club Lane, a county-maintained road. Country Club Lane meets the subdivision road standards. Dry Creek Road meets some of the subdivision roads standards. Currently, there appears to be a 40-foot right-of-way for Dry Creek Road adjacent to this property. SCSR Section VII-G Table 1 (1)(b) requires a minimum right-of-way width of 60 feet for local roads in hilly terrain. As this road standard is not met for Dry Creek Road, a recommended condition of approval will require that 10 feet of easement be dedicated to Sanders County along the frontage of Dry Creek Road.

SCSR Section VII-G(b)(iv) requires that lot access driveways intersecting a paved county or state road shall have a paved approach for a minimum of 25 feet from the edge of the pavement. While both of these driveways currently exist, this standard for paving would apply to these driveway approaches. With the recommended condition of approval for both driveway approaches to be paved for a minimum of 25 feet from the edge of Dry Creek Road, the subdivision would be in compliance with these requirements.

Section VII-R SCSR (Noxious Weeds) requires that *“A weed control plan shall be developed and implemented for every new subdivision. An agreement with the Sanders County Commissioners shall be signed and implemented by the subdivider, and the Weed Plan must be recorded with the final plat.”* The recommended conditions of approval would require the weed control plan in compliance with these requirements.

Section VII-H (Drainage Facilities) outlines the requirements for surface water run-off affecting the subdivision. As all lots are less than 20 acres, DEQ approval is required prior to final plat approval. The recommended conditions of approval will require this.

Section VII-I (Water Supply Systems) outlines the requirements for water supply systems that apply to the proposed subdivision. As all lots are less than 20 acres, DEQ approval is required prior to final plat approval. County permitting is required for the shared well proposed for this subdivision. Shared wells are required to have a shared user agreement in accordance with ARM 17.36.122.

Section VII-J (Sewage Treatment Systems) outlines the requirements for disposing sewage from each lot in the subdivision. As all lots are less than 20 acres, DEQ approval is required prior to final plat approval. Currently both septic systems are installed and will be required to be approved by DEQ.

Section VII-L SCSR (Utilities) outlines requirements for utilities that apply to the proposed subdivision, including:

- Utilities must be placed underground, wherever practical.
- Utility facilities must be designed by utility firms in cooperation with the subdivider. These facilities are subject to all applicable laws, rules, and regulations of the appropriate regulatory authorities.
- If easements for utilities are shown on the final plat, they shall be shown with dashed lines, and in addition to showing the location of utility easements, the service provider's right-to-access statement must appear on the final plat.

The recommended conditions of approval would require compliance with the above applicable provisions of Section VII-L SCSR.

Section VII-P SCSR (Fire Protection) outlines requirements for minimizing fire risk and permits the effective and efficient suppression of fires to protect persons, property, and forest land. The overall fire risk rating is rated as low and was reviewed and verified by the Thompson Falls Rural Fire District. SCSR Section VII-P(e) requires the treatment of vegetation that poses a significant risk of wildfire ignition and spread. The risk rating for vegetation is considered low, and the fuels present are light. Therefore, treatment of the vegetation would not be necessary. The existing structures are placed in areas that minimize the potential for flame spread and permit adequate access for firefighting equipment. Both existing structure are located within 200 feet of county maintained roads with adequate turnaround areas in the driveways. Sanders County Policy dated 7-11-06 allows the developer to propose \$500 per lot in lieu of providing a water source and with the approval of the firefighting agency responsible. Thompson Falls Rural Fire District has requested \$500 per lot cash in lieu of a fire-fighting water source. The developer must contribute \$500 to the Thompson Falls Rural Fire District if a variance is granted or \$1000 if a variance is not granted. With the recommended conditions of approval, the fire protection improvement requirements would be met.

See the following sections of this report for findings regarding compliance with other requirements of the subdivision regulations:

- Section I-C-1 of this report for findings regarding compliance with requirements for easements for utilities outlined in Section VII-L SCSR (Utilities);
- Section I-C-4 for findings regarding compliance with Section VII-N SCSR (Disposition of Water Rights); and
- Section I-C-5 for findings regarding compliance with Section VII-M SCSR (Water Course and Irrigation Easements).

The final subdivision plat will be required to be reviewed by an examining land surveyor for errors and omissions in calculations or drafting and final plat review and approval by Sanders County will be required per Section II-B SCSR. The final plat review process and conditions of approval will ensure compliance with Section VII SCSR.

Conclusion 6: As proposed and with the recommended conditions of approval, the subdivision complies with the design and improvement standards of Section VII SCSR, except for compliance with Section VII-L(e) and Section VII-Q(h)(ii)(b) as requested through three variances.

2. Other applicable regulations.

Other applicable regulations include the Sanders County Well Regulations. The following are summaries of the subdivision's compliance with those regulations:

- a. Well Regulations: Future wells will require permitting and compliance with the Well Regulations.

Conclusion 7: As proposed and with the recommended conditions of approval, it is intended to ensure the subdivision complies with other applicable regulations.

3. The MSPA, including but not limited to the following impacts:

Per 76-3-608(3), MCA, a subdivision proposal must undergo review for the following primary criteria (except when an exemption has been established): the specific, documentable, and clearly defined impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety, excluding any consideration of whether the proposed subdivision will result in a loss of agricultural soils.

a. Impact on Agriculture:

The size of the subject property is only five (5) acres, which is not of a size to be considered significant agricultural or timber land. The soil information within the application indicates that only a tiny portion of the property contains soils classified as prime farmland if irrigated. Otherwise, soils on this property are not of local or statewide importance for farmland.

Conflicts with agricultural operations when they exist nearby are always possible. Noise, dust, and slow-moving and large vehicles used for logging operations can be expected on public roads in this area. Additionally, moving livestock through this area could cause some conflict during those times. These impacts currently exist with surrounding agricultural/logging operations and residential properties. This subdivision is expected to have little increased impact related to conflicts.

The requirement to implement a Sanders County Noxious Weed Management Plan will mitigate the potential spread of noxious weeds and weed seeds to area agricultural properties that may result when weeds propagate as a result of disturbances involved with development activities.

Considering the above, the subdivision will have some but minimal impact on agriculture.

Conclusion 8: The subdivision's impacts on agriculture are expected to be minimal, as the property is currently developed, and if the recommended conditions of approval are adhered to for noxious weed management.

b. Impact on Agricultural Water User Facilities:

As discussed in Section I-C-5 of this report, there are no known water course or irrigation facilities on the subject property or adjacent to the subject property that are apparent or of record.

Conclusion 9: There are no anticipated impacts on agricultural water user facilities based on the lack of those types of facilities on or immediately adjacent to the subdivision property.

c. Impact on Local Services:

This subdivision would create one additional residential lot. The Thompson Falls School District will serve future residents. Although solicited, no comments were received from the school district, and it can therefore be assumed that the subdivision will have minimal impact on the school district. Any effect on the school district would be mitigated through increased tax revenue.

This location is currently served by public water from the Woodside Park Public Water Supply. The property owner has been denied continued services with this subdivision. Individual on-site wastewater treatment systems will provide sewer service, and water will be provided via a shared well. Lot owners are responsible for installing and maintaining water supplies and wastewater treatment systems, resulting in no impacts on local water and sewer service providers. Shared water supplies proposed are required to provide water user agreements that identify the rights and responsibilities of each user in accordance with ARM 17.36.122. The application did not include a draft user agreement. However, the Montana DEQ review will require this agreement. To ensure clear responsibilities and rights with the shared well, a recommended condition of approval will require that a shared well user agreement be filed with the final plat that meets the standards outlined in ARM 17.36.122. This agreement would further ensure that Sanders County does not share in the responsibility for maintaining or installing infrastructure for this shared private well.

Medical services are available nearby at the Thompson Falls Family Medicine, with emergency room service at Clark Fork Valley Hospital in Plains as well as other

area hospitals and clinics. The Thompson Falls Ambulance serves this location. As the ambulance service is staffed and operated by volunteers, this service may not have the same availability and response time as a paid urban service. Though solicited, no comments were received from the Thompson Falls Ambulance. Typical requests from ambulance services in Sanders County have been for adequate ingress/egress to each dwelling, utility shutoffs, year-round access, and a minimum 12-foot-wide road. As proposed, the subdivision appears to have minimal impact on the medical and ambulance services.

This property is part of the Thompson Falls Rural Fire District. As this is also a volunteer agency, and response times vary, there may be limited structural fire protection available for dwelling units constructed in this area.

The Fire District was solicited for comments on the proposed subdivision. The Thompson Falls Rural Fire District requested \$500 per lot in lieu of a fire protection water source. In line with fire chiefs' requests and with the variance request, the Reviewer is recommending that prior to final plat approval, the Subdividers shall provide the County evidence of donating mitigation funds of \$500 to the Thompson Falls Rural Fire District.

The cumulative impact of these projects on volunteer services is the most critical aspect. The demand for these services is increasing, and no adequate technique exists in Sanders County to provide direct expansion or funding. There are currently no established means to mitigate the personnel impacts on volunteer agencies other than a per-lot donation described above. Funding relies on annual tax assessments, and having sufficient personnel relies on volunteers.

Additional tax dollars for fire and ambulance services will be generated as the lots are developed for residential use, though this does not address the need for volunteers. This is an issue throughout Sanders County, as all ambulances and fire departments are staffed with volunteers.

No extension of public roads will be needed at this time. Access is from Dry Creek Road, a paved county-maintained road. Over time, maintenance and improvement of this road may be required. This subdivision would contribute an expected additional 20 average trips per day. As this property currently has two living units, this impact is already present. With the division of the property, tax revenue is expected to increase to help cover some of the cost of increased maintenance impacts on Dry Creek Road. The reviewer has recommended a condition of approval that will require a signed waiver of the right to protest the creation of a

rural improvement district for the maintenance and improvement of Dry Creek Road. Additionally, to reduce the impacts on Dry Creek Road and Country Club Lane from multiple individual approaches, a 1-foot no-access easement, for the benefit of Sanders County, is recommended to be placed on the face of the final plat. This will ensure that no more than two approaches onto Dry Creek Road will be permitted within this subdivision.

Solid waste disposal service is provided by private contractors, or the landowners can transport waste to the Thompson Falls transfer site, which is located within ± 7.6 road miles from the subdivision. The solid waste service is paid for by collecting a fee for each residential and commercial unit with annual taxes. However, as with all public services, there is a concern for the cumulative impacts, the amount of land required, and additional equipment needed to continue to meet increased demands. Currently, Sanders County transports all garbage to the regional landfill located in Missoula County, which does have a limited lifespan.

The Sheriff's Office is currently staffed at the level supported by the tax base of the county's existing population. Sheriff's Office staffing is determined by taxes generated by all County landowners. The Sheriff's Office was solicited for comment, but no comments were received.

Conclusion 10: If the recommended conditions of approval are adhered to, the subdivision will have minimal impacts on local services.

d. Impact on the Natural Environment:

The Summary of Probable Impacts states there are no known possible historic, paleontological, archaeological, or cultural sites, structures, or objects to be affected by this proposal. The potential to discover historical, paleontological, archaeological, or cultural sites, structures, or objects exists during the construction of new homes or driveways. The recommended conditions of approval address this with a requirement that a statement be incorporated into the final subdivision documents so that prospective and future lot owners are aware of the requirements to stop work and notify the Montana Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate.

No geologic hazards, such as slumping, landslides, rockfall, shallow bedrock, steep slopes, etc., are expected with this subdivision. Northwestern Montana is subject to seismic activity. No special building requirements are required by the County, and no mitigation for residential uses for seismic or geologic conditions is required.

This area is subject to the potential for high winds, wildfires, and heavy snowfall, as all areas within Western Montana are.

No adverse direct impact on air quality is anticipated with this number of residential lots. With the paving of the driveway approaches, dust in the air from vehicular operations on unpaved surfaces can be expected to be reduced to the extent possible.

The plans for water supplies and wastewater treatment systems for both lots in this subdivision will need to be reviewed and approved by the Montana Department of Environmental Quality (DEQ) and permitted by the Sanders County Environmental Health Office. A permitted wastewater treatment system for the existing homes currently exists. The application proposes one additional shared well for this subdivision. The applicable requirements are in place to protect surface water and groundwater. Dry Creek Creek is the nearest surface water located in the vicinity of this subdivision. The creek is located over 500 feet from the property boundaries and is not listed as an impaired body of water. The well logs from the wells serving the Woodside Park Public Water System appear to give the best description of the aquifer that the subject property would potentially use and have the most significant impact on. The wells indicate that the average static water level in the area is between 95 and 114 feet below the ground surface. These wells are tested annually, and those results do not indicate signs of contamination. The yields of these wells indicate 30 to 35 gallons per minute. All of this information indicates there is sufficient water quantity and quality to support this subdivision as proposed. With the well log data and these standards in place, adding one shared well and the continued use of permitted wastewater treatment systems, this subdivision will have minimal impacts on surface water and groundwater.

The subdivision's impacts on the natural environment will be minimal if the recommended conditions of approval are required and adhered to.

Conclusion 11: The subdivision's impacts on the natural environment will be minimal if the recommended conditions of approval are required and adhered to.

e. Impact on Wildlife:

Residential development inherently impacts wildlife through human/wildlife conflict, disruption of migration routes and habitat, pet activity, wildlife attractants, etc. The extent of the impact to wildlife from this subdivision is currently occurring as the property is already developed with two living units. To reduce this impact,

landowners should be provided with Fish & Wildlife ways to reduce human/wildlife conflict, as submitted in comments from Montana Fish, Wildlife, & Parks. The conditions of approval will ensure this mitigation is carried out by providing information to current and future landowners. A recommended condition of approval will require this either on the face of the final plat or in the conditions of approval sheets to be filed with the final plat.

Conclusion 12: The subdivision's impact on wildlife will be minimal if lot purchasers are made aware of the FWP information on ways to reduce human/wildlife conflicts with a condition of approval requiring FWP guidelines for avoiding human/wildlife conflicts to be adhered to.

f. Impact on Wildlife Habitat:

The impact of wildlife habitat is currently occurring on this property, as two living units currently exist. There are no major nesting areas or wetlands within immediate proximity of this subdivision. This area, like most developed areas in Sanders County, is considered a big game winter range. However, the larger tracts of land within this subdivision and surrounding this subdivision provide room for these big game animals and cumulatively have some but minimal impact. The addition of one home will have little impact on the wildlife habitat in the area. The conditions of approval will require that future owners of the residential lots be provided with information about living with wildlife. The education of future lot owners will help mitigate the impacts on wildlife habitats.

Conclusion 13: The subdivision's impact on wildlife habitat will be minimal if the proposed conditions of approval for the avoidance of human/wildlife conflict are required and adhered to.

g. Impact on Public Health and Safety:

Adjacent land uses are consistent with single-family residential, with large undeveloped tracts across Dry Creek Road from this subdivision. Any impact this development would have on adjacent land use is already occurring, as the lots are fully developed, and therefore, the subdivision should not impact these uses.

Compliance with applicable sanitation requirements should ensure no impacts on public health will be created by the subdivision beyond allowable tolerances. Montana DEQ review and approval of both lots will be required prior to final plat approval. Additional information was included above related to the potential

impacts on groundwater and surface waters. The application indicates there is adequate water available to support an additional shared well, and a lack of water in this area does not appear to be of concern.

Some seasonal increase in traffic along Dry Creek Road is to be expected, as this road provides access to public land to the south. To reduce the public safety issues associated with traffic turning conflicts from multiple approaches onto Dry Creek Road and Country Club Lane, the reviewer recommends that Sanders County be granted a 1-foot no-access easement along the subdivision's frontages outside of the two permitted and approved approach locations onto Dry Creek Road. This will prevent additional approaches beyond the approved approaches from accessing county roads along the subdivision.

Public safety can be impacted by reduced response times from responding emergency services. Emergency responders at times within Sanders County have difficulty locating addresses when address number designations are not clear. To reduce potential impacts to public safety, the designated address numbers should be displayed conspicuously at the driveway intersection with Dry Creek Road. Both lots currently have addresses. With this subdivision, both lots will be required to have legal access onto Dry Creek Road and addresses that correspond to driveway access onto Dry Creek Road. Ensuring the address number is clearly displayed will aid emergency responders when responding to emergencies. A recommended condition of approval will require this prior to final plat approval.

Wildfire is a threat throughout the county, and the majority of private land in Sanders County is considered to be located in the Wildland Urban Interface. A Fire Risk Rating was completed and verified by the Thompson Falls Rural Fire District. The overall risk rating is Low. As the property does not have heavy vegetation, the only mitigation proposed would be to provide the Homeowners' Code of Responsibility or comparable information to current and future lot owners.

Conclusion 14: The subdivision's potential impacts on public health and safety appear minimal. If conditions of approval are adhered to, future residents are properly informed, and sanitation requirements are met as required by the recommended conditions of approval, the impacts on public health and safety can be mitigated to the extent possible.

4. Proposed mitigation:

Mitigation measures that appear to be proposed in the application include the following:

- \$500 in lieu of a fire-fighting water source
- The application material as a whole.

Mitigation measures proposed by this report include:

- Statement on the face of the plat related to notice requirements for cultural finds during construction.
- The first 25 feet from the edge of Dry Creek Road be paved for driveway approaches to both lots.
- 1-foot no-access easement along the county road frontages to the subdivision lots.
- Homeowners' Code of Responsibility or comparable information filed with the final plat to educate future lot owners.
- FWP recommendations on ways to reduce human/wildlife conflicts filed with the final plat to educate future lot owners.
- Address numbers are displayed clearly for each assigned address for emergency responders.
- The staff report as a whole.

Conclusion 15: The proposed mitigation measures in the application and this report should be implemented as required by the recommended conditions of approval to mitigate impacts on the subdivision review criteria.

5. Findings based on Consideration-Evidence (Section III-A-4(c) SCSR)

In making its decision to approve, conditionally approve, or deny a proposed subdivision, the governing body may consider and weigh the following, as applicable:

1. The subdivision application and preliminary plat.

The subdivision application and preliminary plat have been reviewed by the Subdivision Administrator and have been considered with the recommendation to grant preliminary conditional approval. The subdivision application and preliminary plat should be reviewed by the Commissioners and considered as evidence in the governing body's decision.

Conclusion 16: The subdivision application and preliminary plat shall be reviewed by the Commissioners and considered as evidence in the governing body's decision.

2. The summary of probable impacts and proposed mitigation.

The summary of probable impacts and mitigation measures described above have been reviewed by the Subdivision Administrator and have been considered with the recommendation to grant preliminary conditional approval. The summary of probable impacts and mitigation measures should be reviewed by the Commissioners and considered as evidence in the governing body's decision.

Conclusion 17: The summary of probable impacts and mitigation measures should be reviewed by the Commissioners and considered as evidence in the governing body's decision.

3. Subdivision administrator's staff report and recommendations.

This staff report and associated recommendations will be discussed at the Commissioners' meeting and/or prior to the Commissioners' final action on the subdivision application.

Conclusion 18: Relevant comments, evidence, and discussions at the Commissioners' meeting will be addressed at the Commissioners' meeting and/or prior to the Commissioners' final action on the subdivision application. The findings and this conclusion will be modified as appropriate based on what occurs at the meeting.

4. Any additional information authorized by law.

During the subdivision review, the reviewer identified a recorded Notice of Purchaser's Interest document referenced in the Subdivision Guarantee, which includes covenants stating that no further division of the tract is allowed. While this restriction is noted, Sanders County policy is that the County is not a party to, nor does it enforce, private covenants or agreements. The validity and enforceability of these covenants remain unclear to the reviewer. As such, Sanders County is not in a position to restrict the proposed subdivision based on these covenants. However, to ensure that current and future property owners are aware of the covenants and the potential for third-party interpretation or enforcement, a recommended condition of approval would require a note on the face of the final plat acknowledging the existence of these covenants.

The Board of County Commissioners has the authority to consider and weigh any additional information authorized by law when making its decision to approve, conditionally approve, or deny a proposed subdivision.

Conclusion 19: The Board of County Commissioners has the authority to consider and weigh any additional information authorized by law when making its decision to approve, conditionally approve, or deny a proposed subdivision. If additional information is found and considered, these findings and this conclusion will be modified as appropriate based on what occurs at the Commissioners' meeting.

II. REVIEWER RECOMMENDATION:

Based on compliance with applicable laws, rules, and regulations and the recommended conditions of approval to ensure compliance, the Reviewer recommends approval of the preliminary plat application for the Moe Minor Subdivision, a minor subdivision subject to the imposition of the conditions stated below. After each condition in parentheses are the regulations and statutes that were used as a basis for the imposition of the conditions. All conditions are based on the findings and conclusions identified in this report and are recommended according to the Sanders County Subdivision Regulations and/or in order to reasonably minimize adverse impacts according to 76-3-608, MCA.

RECOMMENDED CONDITIONS OF APPROVAL:

1. The approved plans shall be adhered to. Any modifications in design or plans must be submitted for review to Sanders County. (*This condition will ensure that the adopted standards will be followed. Amendments may require review under Section II-B-5, SCSR, Amending Approved Preliminary Plats Before Final Plat Approval; Section II-B-8, Amending Final Plats; and Section III-A-5, First Minor Subdivisions – Amended Applications.*)
2. The Subdivider shall comply with all other standards and procedures of the Sanders County Subdivision Regulations, which are applicable to this subdivision prior to receiving final plat approval, as well as all conditions and mitigations offered through the application which were not altered or amended during the review process. The Subdividers are hereby informed that any unmet regulations, procedures, offered conditions and mitigations, or provisions that are not specifically listed as conditions of approval, do not, in any way, create a waiver, variance, or other relaxation of the lawful requirements of the Sanders County Subdivision Regulations or State law. (*This condition will ensure compliance with SCSR and MCA*)
3. The applicant shall submit an application for final plat review subject to review and approval by the governing body (*Section II-B SCSR, and 76-3-611, MCA*).
4. The final plat application shall include a final plat subject to the survey and platting requirements for subdivided lands of the MSPA, 76-3-402, MCA, and the final plat must comply with the Uniform Standards for Final Subdivision Plats as outlined by ARM 24.183.1107. The final plat will require review by the Sanders County Examining Land Surveyor SCSR and recorded at the Sanders County Clerk & Recorder's Office. (*Sections II-B-2(b)(iii) & II-B-7 SCSR, 76-3-611(2)(a) MCA, and ARM 24.183.1107*)
5. The final plat or supplemental map shall show any road easement the subdivision relies upon for access. The existence of easements must be noted on the face of the final plat and on any

deeds or other instruments conveying lots within the subdivision. (*Section VII-G(b)(v) SCSR and ARM 24.183.1107*)

6. The governing body shall approve the final plat only if it conforms to the conditions of approval set forth on the preliminary plat application and to the terms of the MSPA and SCSR; and if the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid. (*76-3-611(1), MCA*)
7. The Subdivider shall submit with the final plat a subdivision guarantee issued by an authorized title insurer or its title insurance producer showing the names of the owners of record of the land to be subdivided and the names of lienholders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lienholders or claimants of record against the land. (*Section II-B-2 SCSR and 76-3-612, MCA*)
8. The Subdivider or designated agents shall obtain from the Land Services Department copies of all public comments regarding the proposed water supply, sewage disposal systems, and stormwater plans, and submit these comments to the Montana Department of Environmental Quality (DEQ). (*76-3-604(7), MCA*)
9. The plans for water supplies, wastewater treatment systems, stormwater drainage, and solid waste disposal plans shall be reviewed and approved by the Montana Department of Environmental Quality (DEQ). The DEQ Certificate of Subdivision Approval(s) shall be filed with the Sanders County Clerk & Recorder's Office with the final plat. (*Staff Report Section I-D-3(d), SCSR Sections VII-H, VII-I, VII-J, & VII-K and 76-4 MCA*)
10. A shared well user agreement or similar document shall be filed with the final plat that addresses the maintenance, repair, and shared use of the shared well. This agreement must be in a form acceptable to the Montana Department of Environmental Quality (DEQ). (*Staff Report I-C-4, I-D-1, I-D-3(c), and ARM 17.36.122*)
11. A driveway permit for each approach onto Dry Creek Road shall be applied for, and be permitted, and the improvements installed according to the approved permit and Sanders County Rural Addressing requirements. The approaches shall be paved for a minimum of 25 feet from the edge of the pavement. The individual driveways shall be inspected and approved by the District Road Foreman prior to final plat approval. (*Staff Report Sections I-C-2, I-D-1, and SCSR Section VII-G*)
12. Prior to final plat approval, the developer will apply for and be given a rural address for Lot 2 from the Rural Addressing Department. Additionally, the developer will provide address identification numbers at the entrance to each driveway that clearly identify the address. The numbers will be reflective and clearly visible to emergency responders. The improvement in

the address numbers will be inspected and approved by the subdivision administrator. (*Staff Report Sections I-C-3, I-D-3(g) and MCA 76-3-608(4)*)

13. The final plat application shall include a signed waiver of the right to protest the creation of a rural improvement district for the maintenance and improvement of Dry Creek Road and Country Club Lane, which will be in effect for 20 years after the date that the final subdivision plat is recorded. The waiver shall be filed with the final plat. (*Staff Report Section I-D-3(c) and SCSR Section VII-G*)
14. The final plat shall depict an additional 10-foot public road and public utility easement dedicated to Sanders County along Dry Creek Road frontage along the entirety of the county right-of-way easement. (*Staff Report Sections I-C-2 and SCSR Section VII-G*)
15. The final plat shall depict a 1-foot no-access easement to Sanders County along Dry Creek Road and Country Club Lane frontages along the entirety of the county right-of-way easement outside the approved approach location for the individual driveways. (*Staff Report Sections I-D-3(c) and I-D-3(g)*)
16. The “Homeowners Code of Responsibility” or comparable information shall be filed with the final plat to educate new landowners so that they understand the risks and responsibilities of living in the Wildland Urban Interface. (*Staff Report I-D-3(g) and MCA 76-3-608(4) and Section VII-P, SCSR*)
17. A Noxious Weed Management Plan for the subdivision shall be approved by Sanders County, implemented, and the weeds shall be treated and all areas disturbed during construction of the shared and individual driveways shall be revegetated with a weed-free seed and fertilizer mix approved by the Sanders County Weed Department, prior to final approval; the approved Weed Plan shall be recorded with the final plat. (*Staff Report Section I-D-3(a) & I-D-3(d) and Section VII-R & Section VII-G SCSR*)
18. Prior to final plat approval, the Subdividers shall provide the County evidence of donating mitigation funds of \$500 per lot (\$500) to the Thompson Falls Rural Fire District. (*Staff Report Section I-D-1 & I-D-3(c)*)
19. The landowners shall be given FWP information on ways to reduce human/wildlife conflicts and list FWP recommendations on the final plat or in attached conditions of approval sheets (see ARM 24.183.1107 for ‘Conditions of Approval sheets’) (*Staff Report Sections I-D-3(e), I-D-3(f), I-D-4 and MCA 76-3-608(3)(a) and ARM 24.183.1107*)
20. Utilities must be placed underground, wherever practical. Utility facilities must be designed by utility firms in cooperation with the subdivider. These facilities are subject to all applicable laws, rules, and regulations of the appropriate regulatory authorities. If easements for utilities are shown on the final plat, they shall be shown with dashed lines, and in addition to

showing the location of utility easements, the following statement must appear on the final plat:

"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."

(Staff Report Sections I-C-1 & I-D-1 and Section VII-L SCSR)

21. The following statement shall be stated on the final plat or in attached conditions of approval sheets (see ARM 24.183.1107 for 'Conditions of Approval sheets'):

"Sanders County is aware the proposed subdivision may violate recorded private Covenants and Restrictions, but it has no authority to interpret said conditions and restrictions, which are part of a private contract; nor does Sanders County have the ability to enforce the private conditions and restrictions. The subdivider and any prospective purchasers should be aware a lawsuit may be filed to interpret and enforce the terms of the private conditions and restrictions."

(Staff Report Section I-D-5(4) and ARM 24.183.1107)

22. The following statement shall be stated on the final plat or in attached conditions of approval sheets (see ARM 24.183.1107 for 'Conditions of Approval sheets'):

"If any historical, paleontological, archaeological or cultural sites are discovered during construction or ground disturbance, all work will cease and the owner will contact the the Montana Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate."

(Staff Report Sections I-D-3(d) & I-D-4 and ARM 24.183.1107)

This recommendation for preliminary plat approval is for the creation of two (2) lots approved for single-family residential use, contingent upon compliance with the conditions of approval. Any other uses require additional review and approval by Sanders County.

Preliminary, conditional approval will expire three (3) years from the date of preliminary approval unless the subdivider and Board of Sanders County Commissioners agree to an extension in accordance with Section III-A-4(f) of the Sanders County Subdivision Regulations and 76-3-610, MCA.

**This preliminary plat application was reviewed under the regulations and statutes in effect on the date the application was determined to be sufficient on June 17, 2025.*

***The authorities for preliminary approval, denial, or conditional approval rest with the Sanders County Commissioners. This report and the conditions noted above are recommendations to the Sanders County Commissioners. The conditions are subject to modification or deletion by the Commission or additional conditions may be required by the Commission.*

****The Subdividers and agents are strongly encouraged to attend the Commissioners' meeting to discuss the recommendations and mitigations.*

*****The governing body decision may be appealed by following the process provided in the state statute, MCA 76-3-625, Violations—actions against governing body.*