



Sanders County Land Service Department/Subdivision Administration
PO Box 519 Thompson Falls, MT 59873-0519 406-827-6965

STAFF REPORT FOR MCMILLAN POST RV PARK SUBDIVISION

SUBDIVISION ADMINISTRATORS: Chris McComas, County Planner, and Joel Nelson, Contract Planner (after sufficiency review)
Katherine Maudrone, former County Planner (until sufficiency review)

DATE OF STAFF REPORT: 2/14/2024

DATE OF SUFFICIENCY: 12/08/2023

PUBLIC HEARING: 2/20/2024 at 2:30pm

SUBDIVIDER(S): Kathleen & Mark French
8682 MT Hwy 200
Plains, MT 59859

REPRESENTATIVE: Kathleen (Katy) French

LOCATION OF REQUEST: 2.6 miles southeast of Paradise at the southeast corner of the intersection of MT Highway 200 & MT Highway 135

SIZE OF PROPERTY: Total acres: 7.08

LEGAL DESCRIPTION: Parcel "B" of the Minor Subdivision Plat recorded as Certificate of Survey (COS) No. 1507 MS, located in Section 3 of Township 18 North, Range 25 West, P.M.M. Portions of the RV Park's private road network will be located on the subdivider's adjacent Parcel "A" COS 1507 MS.

APPLICATION INFORMATION: This subdivision was received 11/30/2023, and deemed sufficient for review on 12/08/2023 under Sanders County Subdivision Regulations (SCSR) amended June 10, 2020.

VARIANCES REQUESTED: Sanders County Subdivision Regulations, Section VIII-D-1(b): driving surface width of 15 feet for one-way roads serving Mobile Home and Recreational Vehicle Parks; variance would allow reduced driving surface widths of 12 feet

SURROUNDING AREA: North: MT Hwy 200 and agricultural beyond
East: Rural Residential
South: Rural Residential
West: MT Hwy 135 and agricultural beyond

UTILITIES AND SERVICES: Water: public water supply with on-site well
Wastewater: holding tank dump station

Solid Waste: Plains Transfer Site (Sanders County Solid Waste)
Electricity: Northwestern Energy
Telephone: Blackfoot Telephone Coop.
Fire District: Plains/Paradise Rural Fire
Police: Sanders County Sheriff's Department
Ambulance: Plains Ambulance
Medical: Clark Fork Valley Family Clinic, Clark Fork Valley Hospital

AGENCY COMMENT RECEIVED:	Plains/Paradise Rural Fire District, submitted with application, and with follow-up comments as requested by reviewers Montana Department of Transportation (MDT), requested by reviewers <i>-these additional correspondences are attached to this report</i>
LEGAL NOTIFICATION:	2/1/2024 (Sanders County Ledger) 1/25/2024 (certified mail to landowners, subdividers, and adjacent landowners)
PUBLIC COMMENT RECEIVED:	As of the date of this report (2/15 at 11:45am), the following public comments have been received, and are attached to this report: <ul style="list-style-type: none">• From Ben & Shanna Miller.• From Robin K. Ha'o.• From Alfred J. Aschenbrener.• From Karval Pickering.• From Sharon Johnson.
PARKLAND DEDICATION:	No dedicated parkland is proposed, but recreational areas/amenities are proposed; see further discussion below

INTRODUCTION:

Katy French has proposed a 16 space RV Park. Twelve will have water and electric and four will have electric only. There will be a bath house and drinking water source. The proposed roads would be one way gravel roads, entering from MT Hwy 135 and exiting onto MT Hwy 200. A portion of the property has received a LOMA-F from FEMA as fill was placed to bring the elevation to just above the Base Flood Elevation. Currently sewer hookups at RV spaces are not proposed to be provided, but a dump station will be on site.

REVIEWER FINDINGS: The reviewers recommend the Board of County Commissioners consider adopting the following findings of fact and conclusions:

1. Will the proposed plat impose any adverse effects on the public health, safety and welfare, local services, agriculture, agricultural water users' facilities, natural environment, wildlife or wildlife habitat?

Agriculture:

This parcel has historically been used for minimal production of agricultural commodities. Approximately four of the seven acres have been utilized for forage/hay production. There are surrounding agricultural land uses, which are not expected to be impacted by operation of a recreational vehicle park.

Conclusion: The RV Park, as proposed, will have no adverse effects on agriculture.

Agricultural Water Users Facilities:

2004 report "Aquifer Test Results of the Mandich/French Well, confluence of Flathead and Clark Fork Rivers tested wells from neighboring properties and expected water usage for the recreational development was shown to have no negative impact on the adjacent agricultural properties.

Conclusion: As stated above there will be no negative impacts on agricultural water users facilities.

Local Services:

This subdivision will be served by Plains Schools. As this is a seasonal RV Park there will not be any impact to the school system.

Medical services are available nearby at Clark Fork Valley Hospital, and Plains Family Clinic.

Wildland fire protection in the area is provided by Forest Service and Montana Department of Natural Resources depending upon the respective jurisdiction.

The application indicates the Subdivider is currently seeking Department of Environmental Quality (DEQ) re-review for a Transient Non-Community Public Water Supply System, approved by DEQ in 2005, and a Public Subsurface Sewage Disposal System also approved in 2005. The water system would serve 12 of the RV sites, as well as the bathhouse and store. The public sewage disposal system would not serve the RV sites; the RVs are proposed to be served by a wastewater dump station with a holding tank to be periodically pumped and wastewater hauled off site.

Because the application material indicates past DEQ approvals are under re-review by DEQ at this time, and because the past approvals constitute the primary information submitted to meet the water and sanitation information submittal requirements of 76-3-622, MCA, the reviewers obtained information regarding the current DEQ re-reviews, and found discrepancies between the preliminary plat application and what is under review by DEQ. However, this review is based on the plans submitted with the preliminary plat application, and the reviewers are recommending conditions outlining the plans that the preliminary plat approval would be based on, if approved. The recommended conditions will provide for changes to the plans to require additional review by Sanders County, particularly if DEQ-approved plans differ from the plans submitted for preliminary plat review.

Emergency services are provided by Plains Ambulance and Plains/Paradise Rural Fire District. The application included a Fire Prevention Plan and comments from the local Fire Chief. This included a letter from James

Russell, Fire Chief requesting a combined single 3" outlet to benefit from the full potential of the Community Public Water system. Chief Russell requested a condition of final approval by the District's Board of Trustees, which is addressed by reviewer-recommended conditions of approval.

The submitted Fire Prevention Plan explains plans to use on-site water systems, including the public water supply, to provide for fire suppression. These plans and the information provided by the Subdivider are what the Fire Chief's initial comments were based on, including use of the proposed public water supply. During review of the recent information under review by DEQ, the reviewers also found discrepancies between the fire-related information in the preliminary plat application and what is under review by DEQ, which indicates the public water supply system would not provide water for fire suppression needs. In conversation between the reviewers and Subdivider, the Subdivider has clarified that the other wells and future infrastructure would be used to provide for fire suppression use by the Fire District, and not the public water supply.

Conditions of approval are recommended to address the Fire Chief's comments and the Sanders County Fire Protection provisions of the subdivision regulations, and to require Fire District approval of the plans and installation of all infrastructure prior to final plat approval.

The cumulative impact of these projects is the most critical aspect. The demand on these services is increasing with no adequate technique in Sanders County to provide direct expansion or funding. There currently is no established means to mitigate the personnel impacts to volunteer agencies. Funding relies on annual tax assessments and having sufficient personnel relies on volunteers.

Solid waste disposal service is provided by private contractors or the landowner can transport waste to the Sanders County collection site which is located at the Plains Roll-Off site. The solid waste service is paid for by the collection of a fee for each individual residential and commercial unit.

The Sheriff's office is currently staffed at the level supported for by the tax base of the existing population of the county.

The RV Park will be serviced by private roads accessing off state highways.

Conclusion: If the reviewer-recommended conditions of approval are required and adhered to, impacts on local services will be minimized and mitigated.

Natural Environment:

There are no known geologic hazards such as slumping, land slide, rockfall, shallow bedrock etc. All areas of Sanders County have minimal seismic activity.

With a condition addressing dust abatement, no adverse direct impact on air quality is anticipated.

As a portion of the property was located within the regulatory floodplain a permit was obtained from Sanders County to place fill. This was followed by getting a LOMR-F for FEMA.

There are no special climatic hazards other than those normally identified with rural residential life in western Montana, including but not limited to high winds, heavy snowfall and drought.

This property has historically been used for agriculture, producing commodities and hay.

A Noxious Weed Management Plan has been developed and submitted, but not yet approved. Approval and implementation of the weed plan is addressed by the recommended conditions of approval.

All of western Montana has possibility of seismic activity. Sanders County has no adopted building codes and refers to the State of Montana for standards, when applicable.

Stormwater management and waste water treatment plans will be reviewed by Montana Department of Environmental Quality preventing contamination to groundwater and surrounding properties.

Conclusion: This RV Park should not result in substantial or measurable impacts on the natural environment if the recommended conditions of approval are required and adhered to.

Wildlife:

Whitetail deer, coyote and bear may move through the area. It is essential to have bear proof garbage dumpsters, grills to be cleaned or stored inside, and requiring all food to be contained within the RV's.

Conclusion: Being adjacent to two highways has already impacted wildlife movement in this area. Impacts on wildlife will be mitigated if wildlife attractants are minimized per the recommended conditions of approval.

Wildlife Habitat:

This small acreage has been used for hay production and no longer native vegetation.

Conclusion: The site is not identified as important wildlife habitat. Impacts on habitat will be mitigated if wildlife attractants are minimized per the recommended conditions of approval.

Public Health and Safety:

There are no known natural hazards such as snow slides or rockslides, or manmade hazards such as high-pressure gas lines industrial/mining or traffic volumes exceeding the current capacities of the roads.

Wildfire is a threat throughout the county and the majority of private land in Sanders County is considered located in the Wildland Urban Interface. Vegetation is sparse on the site and the Fire Risk Rating Form submitted with the application indicates a low risk rating.

The water systems would provide water for fire suppression activities.

A variance is requested to the SCSR's driving surface width of 15 feet for one-way roads serving RV Parks; the variance would allow reduced driving surface widths of 12 feet. The reduced driving surface width proposed

by variance may impact public safety. Please see further discussion and analysis on the variance request near the end of this report.

Conclusion: Natural hazards are not found in this area. Wildland fire is a threat throughout the county and this location has minimal vegetation and minimal fuel to carry wildfire. The proposed on-site water systems and infrastructure to be required and approved per the recommended conditions of approval would mitigate these impacts. Reduced road driving surface widths may result in impacts on public health and safety, which is addressed by the recommended variance findings and conditions of approval.

2. Was an environmental assessment required? If yes, what, if any, significant adverse impacts were identified?

Yes, and no significant adverse impacts were identified. This is not identified as an environmentally sensitive area. As noted a permit was obtained to place fill in the regulatory floodplain. There are no wetlands or surface water, no ecological, historical or visual concerns. DEQ review of wastewater and water systems ensures compliance with regulatory standards.

3. Does the proposed plat conform to the Montana Subdivision and Platting Act, surveying requirements and to the local Subdivision Regulations?

No. A preliminary plat was not included with the application; only various forms of maps that serve as preliminary site plans were included. Upon review of the file, the current reviewers presume the former subdivision administrator who reviewed the application up until determining the application was sufficient for review was under the understanding that plats are not required for RV Parks and other subdivisions created by rent or lease, as evidenced by an incomplete staff report in the file, and through review of other RV Park files.

Prior to the 2013 Legislature, subdivisions created by rent or lease were exempt from the surveying and filing requirements of the Montana Subdivision and Platting Act (MSPA). The exemption was found in 76-3-208, MCA, which stated the following from 1977 until 2013:

76-3-208 (REPEALED 2013). Subdivisions exempted from surveying and filing requirements but subject to review provisions. Subdivisions created by rent or lease are exempt from the surveying and filing requirements of this chapter but must be submitted for review and approved by the governing body before portions thereof may be rented or leased.

In 2013, along with adoption of Buildings for Lease or Rent (BLR) legislation found in Title 76, Chapter 8, MCA, the legislative changes repealed 76-3-208, MCA and the exemption from surveying and filing requirements for subdivisions created by rent or lease. By repealing that exemption, subdivisions created by rent or lease became subject to survey and platting requirements for subdivided lands of the MSPA as follows:

76-3-402. Survey and platting requirements for subdivided lands.

- (1) Every subdivision of land after June 30, 1973, must be surveyed and platted in conformance with this chapter, including the requirements of 76-3-406, by or under the supervision of a registered land surveyor.
- (2) Subdivision plats must be prepared and filed in accordance with this chapter and regulations adopted pursuant to this chapter.

(3) All division of sections into aliquot parts and retracement of lines must conform to United States bureau of land management instructions, and all public land survey corners must be filed in accordance with Corner Recordation Act of Montana (Title 70, chapter 22, part 1). Engineering plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body must be prepared and filed by a registered engineer or a registered land surveyor, as their respective licensing laws allow, in accordance with this chapter and regulations adopted pursuant to this chapter.

Section VIII-B SCSR addresses preliminary plats and site plans as follows, with the reviewers' notes regarding compliance in *italics*:

- Subdivisions which will create multiple recreational vehicle or mobile home spaces for lease or rent must meet the requirements of the MSPA, requiring both a plat if the recreational vehicle/mobile home park does not occupy the entire parent tract/parcel and a plan. They must be submitted for review and approved by the governing body before spaces may be rented or leased. (Section VIII-B SCSR)
-The RV Park occupies the entire tract, suggesting a "plat" is not required, contrary to the MSPA, which will require a final plat. A preliminary plat was not submitted, but the existing minor subdivision COS of record was submitted. A site plan is required and was submitted.
- A preliminary plat or survey of the tract/parcel is to be submitted (with the preliminary plat application). (Section VIII-B(a)(ii) SCSR)
-The existing minor subdivision COS of record was submitted.
- RV parks shall submit a preliminary site plan, drawn to scale showing various facilities listed in the subdivision regulations. (Section VIII-B(a)(iii) SCSR)
-A site plan was submitted that shows the facilities proposed for the RV Park.
- For final review, the applicant shall submit an application for final plat review showing the perimeter of the proposed park if there is a remainder portion of the parent tract/parcel or if any additional lots are being created. If the proposed park consists of an entire existing tract/parcel that survey may suffice. (Section VIII-B(c)(i) SCSR)
-There would not be a "remainder portion" and additional lots are not being created, suggesting a final plat and application are not required, contrary to the MSPA, which will require a final plat subject to the survey and platting requirements for subdivided lands per 76-3-402, MCA.
- The applicant shall submit a final site plan, showing the following (Section VIII-B(c)(ii) SCSR):
 - A layout of all spaces, buildings or structures proposed;
 - location and dimension of internal roads;
 - location of storage areas, garbage collection areas, and parking areas;
 - location of common areas and facilities;
 - location of parks and/or recreation areas if required; and
 - any additional information required by the governing body or to meet conditions of preliminary approval.

-The final plat application will require a final site plan showing the above features. If the final plat submitted for conformance with the survey and platting requirements for subdivided lands also depicts the above, that would suffice and eliminate the need for filing both a final plat and final site plan.

In summary, the application included a preliminary site plan, but not a preliminary plat because the subdivision regulations indicate a preliminary plat is not required. A final plat will be required to be submitted and approved according to the MSPA and 76-3-402, MCA. If the final plat also depicts what the subdivision regulations require of final site plans, the final plat would serve as a final site plan.

Final plat approval must be applied for by the Subdivider following approval or conditional approval of preliminary plat by the governing body.

Compliance with the Sanders County Subdivision Regulations has been assessed in other sections of this report. The preliminary plat application does not address the potential park land dedication, cash-in-lieu or waiver provisions of Section VII-O SCSR and 76-3-621, MCA. It appears to the reviewers that parkland provisions have been overlooked in past RV Park subdivision reviews and in the pre-application review of this subdivision. However, parkland provisions do apply to RV Parks, as follows:

- 76-3-621, MCA: "(3) A park dedication may not be required for: ... (c) a subdivision in which parcels are not created, except when that subdivision provides permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums..."
- Section VII-O SCSR(b): "A park dedication is not required for: ... (iv) subdivisions in which parcels of land will not be created, other than subdivisions that will provide permanent multiple spaces for recreational camping vehicles, mobile homes, or condominiums..."

There are waiver provisions that may apply if cash dedication or land dedication to the county is not desirable and on-site land is set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the development. The Preliminary Application Overview, Section 15.0 states, "Internally, the RV park will provide up to a ½ mile walking trail loop, frisbee golf, and an enclosed dog park", which may warrant consideration of a waiver of parkland and/or cash-in-lieu requirements. The reviewers are recommending a condition of approval that the final plat application shall include a proposal to meet the park land dedication, cash-in-lieu or waiver provisions of Section VII-O SCSR and 76-3-621, MCA, which will be subject to approval by the governing body. The recommended condition will ensure compliance with potential parkland provisions of the SCSR and MSPA.

4. Does the proposed plat conform to all sanitary requirements?

A Transient Non-Community Public Water System designed by Territorial Landworks, Inc, was approved by DEQ in 2005. It is currently going through re-review as it did not meet requirement to be installed within 3 years of approval and did not include approval of an RV Park. The water system will be served by an approved on-site well.

RV wastewater will be collected in a holding tank dump station which will be pumped and transported off site.

A Public Subsurface Sewage Disposal System, designed by Territorial Landworks, Inc, was approved in 2005 for the site. It is also undergoing a rereview with DEQ. This will be used for the bath house and not for the RV Park.

VIII-C SCSR requires that if a subdivision that will provide multiple spaces for recreational camping vehicles or mobile homes is also a “trailer court”, ‘work camp”, “youth camp”, or “campground” as those terms are defined in section 50-52-102 MCA, the governing body will not grant final approval of the subdivision until the subdivider obtains a license for the facility from the Montana Department of Public Health and Human Services under Title 50, Chapter 52, MCA.

Conclusion: The Subdivider will need to comply with Montana Department of Environmental Quality and licensing with Montana Department of Health and Human Services.

5. Does the proposed plat provide easements for the location and installation of planned utilities?

Utilities will need to be placed within easements as required by electrical and telecommunications service providers and the SCSR. Utilities are available within the adjacent highway rights-of-ways.

6. Does the proposed plat provide for legal and physical access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the plat?

No. Legal and physical access to the tract containing the RV Park will be from the adjacent state highways and private road(s) and easement(s), and conditions of approval will be required to provide legal and physical access.

Approaches have already been permitted with Montana Department of Transportation for access. MDT has stated the approach permits were finalized in October 2021

The Administrative Rules of Montana (ARM) Uniform Standards For Final Subdivision Plats, requires the following regarding approach permits to highways: “*(5) If applicable, the following documents as specified by local government shall accompany the approved final plat and shall be recorded or filed with the plat as specified by the clerk and recorder, and the recording or filing number(s) for each document may be written on the plat by the clerk and recorder:... (g) if a street, alley, avenue, road, or highway created by the plat will intersect with a state or federal right-of-way, a copy of the access or encroachment permit...*” . The reviewers are therefore recommending a condition of approval requiring the MDT approach permits to be recorded or filed with the plat as specified by the Clerk and Recorder. [Note: in the adopted supplements to the SCSR, Supplement 5 includes outdated Uniform Standards; the requirement is 24.183.1107: “*(3) The following documents must appear on the face of or accompany the approved final plat when it is presented to the county clerk and recorder for filing:... If a street created by the plat will intersect with a state highway, a copy of the state highway access or encroachment permit...*”]

Internal one-way roads will be built to accommodate recreational vehicles to provide physical access to the RV spaces. Given the rent/lease nature of the RV Park, easements within the subdivision for tenants are not required, and legal access is through the state highways, any easements for off-site access (further discussed below) and the owners’ permission to access the sites. This is reflected by Section VIII-D-1(a) SCSR, which

states, “*dedicated road right-of-ways or easements are not required within Mobile Home and Recreational Vehicle Parks.*”

Portions of the proposed private access road network, consisting of existing, private Wild Rose Lane and new private extensions to the internal road network in the subdivision, would traverse the subdividers’ adjacent tract, with the western-most portion of the north-south segment of Wild Rose Lane being located within an existing, 30’ wide access easement depicted on COS 588 and COS 1507MS. To ensure legal access is provided via the proposed road network that would serve the subdivision, the reviewers are recommending a condition requiring the Subdivider to demonstrate with the final plat application that all roads serving the subdivision outside the perimeter boundaries of the RV Park tract are located within adequate easements and improved to county standards per the standards contained in the SCSR, including those for local roads as authorized by the following on Page 49 of the SCSR:

“OFF-SITE ROAD STANDARDS: Where primary access to the subdivision is to be provided by a road or roads not contained within the boundaries of the subdivision, access to the nearest publicly maintained road shall meet the following standards.

(1) Right-of-way standards shall meet the standards of Section VI-G, Streets & Roads of these regulations.

(2) Total improvements shall meet the standards of Section VI-G, Streets & Roads of these regulations.”

Additionally, per Section VII-G (b)(v) SCSR, the final plat shall comply with the following: “*The location of any road easement must be shown on the plat or on a supplemental map. 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.*”

Reviewer-recommended conditions of approval are intended to ensure legal and physical access is provided to the subdivision.

7. Other relevant findings?

Sanders County does not at this time have a Planning Board or an adopted County Growth Policy. Without a Growth Policy or any other adopted planning management tools, it is difficult to establish limits of allowable impacts that are acceptable to the entire community.

The only regulatory tool for managing growth in the county at this time is the Sanders County Subdivision Regulations. Subdivision regulations are designed primarily to manage land division, not land uses or densities.

VARIANCE REQUEST:

A variance has apparently been verbally or otherwise requested to allow 12 feet wide one-way roads within the RV Park. Sanders County standards call for a minimum driving surface width of 15 feet for such roads, per VIII-D-1(b) SCSR.

REVIEWER FINDINGS (VARIANCE):

Per Sanders County Subdivision Regulations, Section X-A-1, the governing body may grant variances from Chapter VII, Design and Improvement Standards, of the regulations when, due to the characteristics of land proposed for subdivision, strict compliance with the 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 the regulations.

The County Commissioners will conduct a public hearing on any variance request for all major subdivisions prior to taking action on the preliminary plat application.

Such variances must not have the effect of nullifying the intent and purpose of the regulations. The governing body will not approve a variance unless it finds that:

- a. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;
- b. 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;
- c. The variance will not cause a substantial increase in public costs; and
- d. The variance will not place the subdivision in nonconformance with any adopted zoning regulations.

Per Section XI-A-3 SCSR, the Subdivider is required to provide a written statement describing and justifying the requested variance and the facts of hardship upon which the request is based. The intent is for the Subdivider to provide information to prove that the criteria below will not be impacted by the variance requested. The application did not include a written variance request from the Subdivider. However, the application was deemed sufficient for review with knowledge the variance would be required as proposed, with 12' wide one-way roads.

The following is the reviewers' analysis of the proposed variance, with questions pertaining to the criteria and the reviewers' analysis and findings following each, in ***bold italics***.

- a. Will granting the variance be detrimental to public health, safety or general welfare, or be damaging to other adjoining properties?

Granting this variance is not expected to be damaging to other adjoining properties. The impacts are contained within the RV Park and relative to ingress and egress to the highways as well as emergency services provision.

The Fire Chief reviewed the plans provided by the Subdivider, provided comments, and addressed the proposal in general and specifically regarding fire suppression and insurance ratings. Among other comments, the Fire Chief stated the following:

"Although an RV park has its own inherent fire risks, there are no foreseen complications that would fall outside of the typical subdivision review process. I reviewed the initial plan and fire risk rating form. I do not find any reason to delay further processing of the application with the condition of final approval by the PPRFD Board of Trustees."

It appears to the reviewers that when providing comments, the Fire Chief was relying on the subdivision review process and that there will be a condition of final approval by the District's Board of Trustees. It does not appear that the material submitted to the Fire Chief for review mentioned the variance request or substandard road widths proposed. For these reasons, the reviewers obtained clarification from the Fire Chief; his additional comments are attached. Regarding the variance, the Fire Chief stated the following: "The road width variance request for a 12' road may be adequate for a single traffic flow with only RV's. The concern we have is during a fire or medical emergency, we only have access on a 12' road if there are no other vehicles blocking our ingress or egress. If there is a fire and an RV is just pulling into the park, can we get around them? We may be able to go in the egress, prevailing wind direction; this would not be viable during a fire."

It should also be noted that the approaches to the state highways are subject to MDT standards as outlined in the approved approach permits, including 24' wide approaches and 25' curb radii at the approaches' intersections to the highways. This would alleviate some concerns with large vehicles entering from the highway and exiting to the highway from substandard roads. However, MDT has stated the approach permits (which are valid for a limited time when construction must be completed) were finalized in October 2021, and the reviewers have noted the recently-improved approaches do not appear to be built to the standards outlined by the approach permits.

Many users of the proposed road network will be travelling and transient guests not familiar with the area, operating large vehicles as they navigate the highways to enter the RV Park and other facilities at the site, such as a store. These are not optimal conditions for reduced road widths.

As proposed, the reviewers expect the variance being considered to allow reduced road widths, if approved, is very likely to be detrimental to public safety and general welfare.

b. Is there undue hardship imposed on the owner due to the physical surrounding, shape, or topographical conditions of the property involved? Will the strict compliance with the regulations impose an undue hardship on the owner which does not include personal or financial hardship that would be self-imposed?

There is no undue hardship imposed by requiring strict compliance with the 15' road width standard. Any such hardship is personal and/or financial, and not the result of the physical surroundings, shape, or topographical conditions of the property involved.

c. Will the variance cause substantial increase to public costs?

There will be no increase to public costs.

d. Will the variance place the subdivision in nonconformance with any adopted zoning regulations?

There are no zoning regulations within unincorporated areas of Sanders County for the variance to be in nonconformance with.

Variance Conclusion/Recommendation:

Due to: (1) the lack of a written variance request being submitted that addresses the variance criteria, (2) the likelihood that granting the variance will be detrimental to public safety and general welfare, and (3) the lack of an undue hardship imposed by requiring strict compliance with the 15' road width standard, the reviewers recommend the variance being considered be denied.

THE REVIEWERS RECOMMEND THE BOARD OF COUNTY COMMISSIONERS CONSIDERS GRANTING CONDITIONAL, PRELIMINARY APPROVAL OF THE PRELIMINARY PLAT APPLICATION, SUBJECT TO THE FOLLOWING CONDITIONS AND OTHERS THE BOARD FINDS REASONABLE TO MITIGATE IMPACTS, ENSURE COMPLIANCE WITH APPLICABLE REGULATIONS, AND ADDRESS PUBLIC COMMENTS:

1. The approved plans shall be adhered to. Any modifications in design must be submitted for review to the 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, and Sections II-B-5, SCSR, and Section II-B-8, Amending Final Plats. And as authorized by MCA 76-3-103(16), that RV Parks are subdivisions; "subdivision" means areas that will provide multiple spaces for recreational camping vehicles; Sanders County Subdivision Regulations, Areas That will Provide Multiple Spaces for Recreational Camping Vehicles VII-B.)*
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 *(Sections II-B, VIII-A-2(d), and VIII-B(c)(ii) SCSR; 76-3-611, MCA).*
4. The final plat application will require a final site plan showing the following features as required by Section VIII-B(c)(ii) SCSR:
 - A. A layout of all RV spaces, buildings and structures proposed;
 - B. location and dimension of internal roads;
 - C. location of storage areas, garbage collection areas, and parking areas;
 - D. location of common areas and facilities;
 - E. location of parks and/or recreation areas if required; and
 - F. any additional information required by the governing body or to meet conditions of preliminary approval.*(Sections II-B, VIII-A-2(d), and VIII-B(c)(ii) SCSR; 76-3-611, MCA)*
5. 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) and II-B-7 SCSR, 76-3-611(2)(a) MCA, and ARM 24.183.1107*)

6. If the final plat submitted for conformance with the survey and platting requirements for subdivided lands also depicts the above requirements per Condition 4, that shall suffice and eliminate the need for filing both a final plat and final site plan. (*as described in the staff report, applying 76-3-402, MCA, Section VIII SCSR, and ARM 24.183.1107*)
7. 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*)
8. 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*)
9. 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. (*76-3-612, MCA*)
10. That copies of the approved approach permits obtained from Montana Department of Transportation approving the accesses off MT Hwy 200 and MT Hwy 135 shall be recorded or filed (as specified by the Clerk & Recorder) at the Sanders County Clerk & Recorder's Office with the final plat. (*ARM 24.183.1107(5)*)
11. To ensure legal and physical access is provided via the proposed road network that would serve the subdivision, the Subdivider shall demonstrate with the final plat application that all roads serving the subdivision outside the perimeter boundaries of the RV Park tract are located within adequate easements and improved to the standards contained in the SCSR, including those for local roads as authorized by the SCSR, except as outlined for RV Parks with one-way roads. Where primary access to the subdivision is to be provided by a road or roads not contained within the boundaries of the subdivision, access to the nearest publicly maintained road shall meet the following standards: (1) Right-of-way standards shall meet the standards of Section VI-G, Streets & Roads, SCSR. (2) Total improvements shall meet the standards of Section VI-G, Streets & Roads. (*Section VI-G SCSR*)
12. The Subdividers shall construct spaces in compliance with Sanders County RV Park standards, with RV spaces numbered and numbers displayed at each space, clearly visible and illuminated. (*This will allow for*

identification and location of individual spaces by emergency services. Sections VIII-D-2(e) and VIII-F-2(a) SCSR)

13. Lighting shall be installed to reasonably illuminate RV space number signs, parking areas, and road driving surfaces. All lighting used to illuminate signs, parking areas and driving surfaces shall be arranged as to confine the direct light beams to the lighted property or driving surface by appropriate directional hooding. *(For safety and general welfare and per Sections VIII-D-2(e) and VIII-F-2(a) SCSR)*
14. Recreational vehicles must be separated from each other and from other structures by at least 15 feet. Any accessory structures such as attached awnings must, for purposes of this separation requirement, be considered part of the recreational vehicle. All recreational vehicle spaces must be located at least 25 feet from highway rights-of-way. *(Section VIII-F-2 SCSR)*
15. The Subdivider shall provide for the safe flow of traffic for patrons of the RV sites with roads built to county standards as applicable to RV Parks. One-way roads must have a minimum driving surface of at least 15 feet* and two-way roads serving the site must have a driving surface of at least 24 feet, with approved material. A private road construction permit will be required prior to beginning any work. *(Sections VIII-D-1 and VI-G SCSR)*
****Unless a variance is granted to allow 12 feet wide one-way roads***
16. Appropriate speed and directional signs shall be installed to ensure safe and efficient traffic flow to, from and within the one-way road network of the RV Park. *(This will allow safe traffic flow throughout the development as authorized by MCA 76-3-608(3)(a) Criteria for local government review, including impacts on public safety; Section VIII-D-1(c) SCSR)*
17. All road names approved by Sanders County Rural Addressing shall be labeled on the final plat and site plan and approved road name signs shall be installed prior to final approval. Non-flammable street or road signs and traffic control devices of the size, shape and height as approved by the governing body must be placed at all intersections. Traffic control devices must conform to the standards contained in the Manual on Uniform Control Devices available from the Montana Department of Transportation. *(This will ensure accurate physical locating. Authorized by MCA 76-3-608(3)(a) Criteria for local government review, including impacts on public safety; and Sections VII-G(a)(xi)(E), VII-G(a)(xiv), and VII-G (b)(x) SCSR)*
18. The RV Park owners/operator shall provide regular maintenance of the roads and driving/parking areas including dust abatement treatment to gravel areas as needed. *(This will reduce dust to lessen impact to the natural environment, and addressed by Section (c) of the Community Impact Report: "Dust suppression will be addressed with irrigation activities, if warranted.". Authorized by Section VII-G (b)(xii) SCSR: "All subdivision roads must have surfacing and maintenance programs in place that will eliminate or substantially reduce the potential for dust pollution"; Authorized by MCA 76-3-608(3)(a) Criteria for local government review including impacts on public safety and the natural environment.)*

19. A Noxious Weed Management Plan for the subdivision shall be approved by Sanders County, implemented, and the weeds be treated prior to final approval; the approved Weed Plan shall be recorded with the final plat and plans. (*VII-R, Noxious Weeds, SCSR*)
20. The final plat application shall include a proposal to meet the park land dedication, cash-in-lieu, or waiver provisions of Section VII-O SCSR and 76-3-621, MCA, which will be subject to approval by the governing body. (*Section VII-O SCSR and 76-3-621, MCA, as explained in the staff report*)
21. An area shall be provided for parking of boats and other recreation vehicles that do not fit within the defined RV spaces. (*This condition will provide for safety and general welfare; Section VIII-B(c)(ii) SCSR*)
22. The Subdividers shall provide and use bear resistant dumpsters and garbage cans. All food must be stored within the RVs or otherwise indoors. Cooking grills and similar attractants shall be cleaned or stored inside. These requirements shall be incorporated into the RV Park rules. (*Authorized by MCA 76-3-608(3)(a) Criteria for local government review, including impacts on wildlife and wildlife habitat; Sanders County Subdivision Regulations, Governing Body Decision and Documentation/ Consideration of Impact to wildlife & wildlife habitat, Section IV-A-6(b)(iii)(E) & (F), SCSR.*)
23. Quiet hours be established from 9:00 PM to 8:00 AM as described in the Preliminary Application Overview, Section 15.0 and be posted and incorporated into the RV Park rules. Quiet hours shall include no running of generators during this time. (*This will mitigate impact to adjacent landowners and mitigate impacts on the natural environment and public health and safety, as authorized by 76-3-608(3)(a) & (4), MCA, mitigation of potential adverse impacts; Sanders County Subdivision Regulations, Governing Body Decision and Documentation/ consideration of impacts to the natural environment and public health and safety, Section IV-A-6(b)(iii)(D) & (G), SCSR; and Section IV-A-6(b)(iv), proposed mitigation*)
24. The RV Park shall comply with the Sanders County Subdivision Regulations for Fire Protection. The Subdivider shall clearly identify the water source available for initial structural fire suppression and meet the recommendations of the Plains-Paradise Rural Fire District. Approval of the subdivision's Fire Prevention Plan and Fire Response Plan by the Fire District shall be submitted with the final plat application. All related infrastructure shall be installed and completed prior to final plat approval, and approval by the Fire District shall be submitted with the final plat application. (*This condition will provide for efficient initial fire suppression and mitigate impact to public safety as authorized by 76-3-608(3)(a) & (4), impacts on public health and safety and mitigation of potential adverse impacts, and; Sections VII-P, Fire Protection, and Sections VIII-D-2(f), SCSR*)
25. The subdivider must provide adequate and appropriate easements for the construction and maintenance of utilities within the subdivision. 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. In addition to showing the location of utility easements on the plat with dashed lines, 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."

(Section VII-L SCSR)

26. The Subdivider shall install all required improvements before renting or leasing any portion of the subdivision and prior to final plat approval. The governing body will inspect all required improvements in order to assure conformance with the approved construction plans and specifications. *(Section VIII-B(c)(iii) SCSR; Section II-B-4 SCSR, which state the County Commissioners may require up to 100% completion of improvements related to public health and safety.)*
27. 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). *(MSPA, 76-3-604(7), MCA)*
28. This preliminary approval is based on the proposed plans for the RV Park to be served by a wastewater dump station with a holding tank at the location depicted on the site plan. The dump station facilities shall be serviced and periodically pumped by a licensed septic tank pumper and hauled off-site to be disposed of at an approved facility. The final plat application shall include DEQ approval of these plans and will-serve letter(s) from a licensed septic tank pumper and the operators of the sewage disposal facility where wastewater will be accepted. No wastewater from the RVs may be disposed of in the on-site wastewater treatment system or in other locations on site. *(This condition is based on the preliminary plans and to comply with ARM 17.36.916(5)(c)(iii))*
29. This preliminary approval is based on the proposed water supply plans for 12 of the RV sites to be served by an on-site public water system and bathhouse facilities to be approved by DEQ. The final plat application shall include DEQ approval of these plans. *(This condition is based on the preliminary plans submitted for review)*
30. The Subdivider shall comply with all requirements of Montana Department of Environmental Quality for water and wastewater. *(This condition ensures compliance with Montana Department of Environmental Quality. Authorized by ARM 17.36.327; Section VII-I SCSR, Water Supply Systems, and VII-J SCSR, Sewage Treatment Systems)*
31. Storm water management plans shall be reviewed as required by Montana Department of Environmental Quality. *(This condition ensures compliance with Montana Department of Environmental Quality. Section VII-H SCSR, Drainage Facilities)*

32. Licensing shall be obtained from Montana Department of Health and Human Services as required. (*This condition ensures compliance with Montana Department of Health and Human Services; Section VIII-C, SCSR*)
33. The Subdivider shall adhere to Sanders County Regulations, Montana Department of Environmental Quality, Montana Department of health and Human Services, the laws and administrative rules of the State of Montana. (*This condition is intended to note that all requirements of the subdivision and state statutes and rules apply as well as the items specifically noted in the report.*)

**This project was reviewed under county subdivision regulations and state statute effective on December 8, 2023.*

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

****The Subdivider is strongly encouraged to attend the Commission meeting.*

*****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.*

******Preliminary approval is valid for three years and can be extended by request thirty days before expiring, Section IV-A-6(f) SCSR.*

Respectfully submitted,

Chris McComas
Chris McComas
County Planner