

FINDINGS OF FACT

The City-County Planning Division staff prepared the Findings of Fact for Shop House Acres Subdivision. These findings are based on the preliminary plat application and supplemental documents addressing the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Yellowstone County Subdivision Regulations (YCSR).

A. What are the effects on agriculture, local services, the natural environment, wildlife and wildlife habitat and public health and safety (76-3-608 (3) (a) MCA) (Section 3.2 (H) (2) YCSR)

1. Effect on agriculture and agricultural water users' facilities

The subject property has been used for grazing purposes. No water rights or shares will be transferred to individual lot owners. Irrigation ditches that exist on the perimeter of this development are for the benefit of other properties. Perimeter ditches and drains shall remain in place and shall not be altered by the subdivider or subsequent owners. There will be no effect on the water users downstream from this property.

2. Effect on local services

a. **Water** – The proposed subdivision is not located within any public water district. Each lot within the Shop House Acres Subdivision will be served by an individual cistern system, which will be supplied by a licensed local water service provider. The operation and maintenance of the water system will be the responsibility of individual lot owners. Water systems will be installed meeting the requirements outlined in Section 4.9 of the Yellowstone County Subdivision Regulations and the MDEQ. **(Condition #1)**

b. **Septic** - The proposed subdivision is not located within any public sewer district. Wastewater treatment for the subdivision will be managed through individual septic systems installed on each lot. The wastewater disposal systems will be submitted to and approved by Montana Department of Environmental Quality. These systems shall be located and installed as approved by Montana Department of Environmental Quality, or its designee. Septic systems will be installed meeting the requirements outlined in Section 4.8 of the Yellowstone County Subdivision Regulations and the MDEQ. **(Condition #1)** The operation and maintenance of the septic system will be the responsibility of individual lot owners.

All private utilities, power, telephone, gas and cable television will be installed in the public and private right of way or easements identified on the plat.

c. **Streets and roads** – Access to the Subdivision shall be from proposed approaches from South 80th Street West. A portion of the north entry will be public and will accommodate the 30,000-gallon dry hydrant system. It will also accommodate the Central Box Units (CBU) from the USPS with enough space for safe mail delivery and retrieval. A portion of the south entry road into the subdivision will also be public. The requirement for electronic gates on private roads will require a section of the entry roads

to be public and long enough to get vehicles off of South 80th Street West to avoid traffic problems.

Roads within the subdivision will be private roads and will be built to the County standard paved surface road. Both the public and private roads will be in a 60-foot-wide rights of way. Both will be built with a 24-foot paved surface and 2-foot gravel shoulders on each side. An RSID will be created to maintain the public road portion. The HOA will be responsible for the private road system inside the subdivision. **(Condition #2)**

County Public Works requested additional analysis of the site distance for the entries to the proposed subdivision because of the hill on the southern side of the development. Site distances are a concern for safety getting into and out of the subdivision. County Public Works is asking for information from a professional engineer, referencing AASHTO standards to provide analysis of site distances and access locations to the subdivision. **(Condition #3)**

Traffic Study - The net new trips identified in this report are subject to examination under Yellowstone County’s cost participation program to the extent that they would travel through studied intersections. Cost participation, according to the TIS submitted, is not required because the impacts from the subdivision will have very minimal effect on existing studied intersections. Table 9, below, shows the warrants for intersection improvements.

Table 9: Signal Warrant Analysis Summary

Traffic Signal Warrants			Warrant 1, Eight-Hour Vehicular Volume	Warrant 2, Four-Hour Vehicular Volume	Warrant 3, Peak Hour	Warrant 4, Pedestrian Volume	Warrant 5, School Crossing	Warrant 6, Coordinated Signal System	Warrant 7, Crash History	Warrant 8, Roadway Network	Warrant 9, Intersection Near a Grade Crossing
2026	Intersection 1	King Avenue West & South 80 th St. West	No	No	No	No	No	No	No	No	No
2031			No	No	No	No	No	No	No	No	No
2026	Intersection 2	Hesper Road & South 80 th St. West	No	No	No	No	No	No	No	No	No
2031			No	No	No	No	No	No	No	No	No

Traffic Study Conclusion

Analysis of the existing traffic volumes, lane configurations, and the impacts due to the projected traffic growth and proposed development result in the following general conclusions:

- The preceding analysis demonstrates that the Shop House Acres development will not generate significant nor impactful volume of new trips at the intersections studied.
- The studied existing intersections and proposed access locations will operate at or above an LOS of “B”, exceeding any minimum requirement of an LOS specified in the Appendix E of the Road Design Manual produced by the Montana Department of Transportation.
- No auxiliary turn lanes are warranted for the intersections and access locations discussed in this report.

- Vertical sight obstruction is present for traffic performing left-turn movements onto South 80th Street West from the North Access location of the development.
- The existing intersections do not warrant any further analysis for signal considerations.

d. **Fire and Police services** – The property is within the Laurel Fire Service Area boundary. The subdivision will have a dry hydrant tank installed alongside the road, North Shop House Road, on the north entry, as shown on the plat. The applicant will submit drawings for the tank to the Laurel Fire Department for review and approval. When the tank is installed the applicant will have the system tested and signed off by the Laurel Fire Department. **(Condition #4)**

The Yellowstone County Sheriff’s Department will provide law enforcement services to this subdivision.

e. **Solid Waste disposal** – The Billings Landfill has capacity for solid waste disposal. Solid waste will be collected and disposed of by a private garbage collection company. Each lot owner will be responsible for arranging for collection.

f. **Storm water drainage** – Stormwater management for the Shop House Acres Subdivision will be addressed through a combination of private detention ponds and conveyance swales. These systems are designed to safely accommodate runoff generated by both impervious surfaces (e.g., roads and driveways) and graded lot areas while protecting downstream properties, infrastructure, and natural drainage corridors. Proposed storm water drainage shall be submitted to the MDEQ for review and approval prior to final plat. All proposed stormwater systems shall meet the requirements of Section 4.7 of Yellowstone County Subdivision Regulation’s and the requirements of MDEQ. **(Condition #1)**

g. **School facilities** – The proposed subdivision is located within Elder Grove School District for K through 8. Elder Grove School responded that at the Elementary School has a capacity of 550 with recent enrollment at 500. The Middle School capacity is 300 with a recent enrollment of 250. West High School will provide school for grades 9 through 12. West High School capacity is shown as 1731 with current enrollment of 2133.

h. **Parks and recreation** – Parkland dedication is required for this subdivision. They are required to provide 1.93 acres of parkland. The applicant is proposing to provide a cash in lieu contribution to satisfy the requirement of parkland.

i. **Postal Service** – The applicant will be required to coordinate with the USPS to ensure the space they are proposing is a safe location for the postal worker to deliver the mail and the residents to retrieve their mail. The applicant is currently showing the location on the north entrance where the road is a public road. **(Condition #5)**

j. **Historic features** – No known historic or cultural assets exist on the site.

k. **Phasing of Development** - The applicant is proposing to develop this subdivision without doing phases.

3. Effects on the natural environment

The development will use noxious weed control measures to prevent the spread of noxious weeds to adjacent developed or agricultural land. As required by County Subdivision Regulations Section 4.15 all county subdivisions are required to apply for and obtain a weed management plan with the County Weed Department. Any subdivision that has an existing Weed Management Plan is required to get an updated Weed Management Plan. A weed management plan will be completed and a copy will be submitted with final plat. **(Condition #6)**

There are no apparent or known natural hazards on the property.

4. Effects on wildlife and wildlife habitat

The area being defined is an area with greater than one-mile of buffer-zone from the proposed subdivision. As such, not all information provided pertain specifically to the subdivision.

The U.S. Fish and Wildlife Services online Information for Planning and Consultation (IPaC) tool was assessed that no critical habitats are within the subdivision. The IPaC tool also listed endangered species that are potentially affected by activities in this located, including the monarch butterfly and Suckley’s Cuckoo Bumble Bee. There are Bald Eagles and/or Golden Eagles within the project area and they shall be protected under the Bald and Golden Eagle Protection Act. There are additionally eight species of migratory birds that could be present in the area. Lastly, subdivision development is typically located in areas of existing agricultural disturbance, and the more valuable riparian vegetation and habitat within the subdivision will be mostly preserved. In conclusion, no ‘key’ wildlife areas are known to exist in the subdivision.

Based on the available data and site analysis, no notable concerns requiring mitigation have been identified at this time.

There are no known endangered or threatened species on the property. A paragraph in the ‘Conditions that Run with the Land’ section of the SIA warns future lot owners of the likely presence of wildlife in the area and their potential to damage residential landscaping.

5. Effects on public health and safety

Plans and designs for the water and septic system will be reviewed and approved by MDEQ prior building construction on each lot to ensure public health and safety.

Fire and emergency services are provided for this proposed subdivision from Laurel Fire Department and the Yellowstone County Sheriff’s department.

B. Was an environmental assessment required? If yes, what, if any, significant adverse impacts were identified? (76-3-603 MCA) (Chapter 9, YCSR)

A summary of impacts was required for this subdivision pursuant Section 9.2 of the County Subdivision Regulations.

C. Does the subdivision conform to the Yellowstone County 2008 Growth Policy, the 2018 Urban Area Transportation Plan and the Billings Area Bikeway and Trail Master Plan Update? [BMCC 23-302.H.4.]

1. Yellowstone County - 2008 Growth Policy

The subdivision is consistent with the following goals of the Growth Policy:

- Goal: Predictable land use decisions that are consistent with neighborhood character and land use patterns. (p. 6)

The subdivision is consistent with the type of commercial development to the north on King Avenue West. There is also some large lot residential to the north.

- Goal: Controlled weed populations. (p. 9)

The developer shall complete a weed management plan and shall provide a re-vegetation plan for any ground disturbed by development.

2. 2023 Billings Urban Area Long Range Transportation Plan

The subject property maintains the road study area of the Transportation Plan. As proposed, the internal streets are neighborhood streets associated with this subdivision.

3. Billings Area Bikeway and Trail Master Plan (BABTMP)

This subdivision is outside the BABTMP boundaries for trails. This subdivision will not be required to install any trails.

D. Does the subdivision conform to the Montana Subdivision and Platting Act (MSPA) and to local subdivision regulations? [MCA 76-3-608 (3) (b) and Section 3.2 (3) (a) YCSR]

The proposed subdivision meets the requirements of the MSPA and the YCSR. The subdivider and the local government have complied with the subdivision review and approval procedures that are set forth by local and state subdivision regulations.

E. Does the subdivision conform to sanitary requirements? [Section 4.8 (C) and 4.9 (C), YCSR]

The subdivision must receive approval from the MDEQ prior to any building construction on each lot. The new parcels will be connected to the subdivision community septic system. This system will be approved by MDEQ before final plat.

**F. Does the proposed subdivision meet any applicable Zoning Requirements?
[Section 3.2 (H) (3) (e), YCSR]**

The proposed subdivision is outside the County Zoning Jurisdiction.

G. Does the subdivision provide for necessary planned utilities? [MCA 76-3-608 (3) (c) and Section 3.2 (H) (3) (b), YCSR]

The applicant will coordinate with private utility companies to provide the required easements.

**H. Does the proposed subdivision provide for Legal and Physical Access to all lots?
[MCA 76-3-608 (3) (d) and Section 3.2 (H) (3) (c) (d), YCSR]**

Legal and physical access will be provided from South 80th Street West. Access to each lot will be from the internal roads of the subdivision.

CONCLUSIONS OF FINDINGS OF FACT

- This subdivision does not create adverse impacts that warrant denial of the subdivision.
- Impacts to agriculture, agriculture water user facilities, local services, public health and safety, the natural environment, and wildlife should be minimal, and can be mitigated by reasonable conditions of final plat approval.
- The subdivision conforms to some of the goals of the Growth Policy.
- The applicant has complied with the MSPA and YCSR processes and the subdivision conforms to the law requirements.

RECOMMENDATION

Staff recommends to the Planning Board that they forward a recommendation of conditional approval to the Board of County Commissioners for the preliminary plat of Shop House Acres Subdivision, approve the variance request and adopt the Findings of Fact as presented in the staff report.