



**Montana's Sunrise City**  
115 2nd Street S.E., Sidney, Montana - 406-433-2809

**STAFF REPORT #MNR-24-01**  
**Sheehan First Minor Subdivision**  
**October 15, 2024**

**Owner**  
Scott Sheehan  
401 West Holly Street  
Sidney, MT 59270

**Agent**  
Big Sky Surveying  
Joe Kauffman, PLS  
PO Box 170  
Sidney, MT 59270

**Existing Zoning:** B-1 Community Business District.

**Legal Description:** Tract 1 COS 27-275, located in the SE¼ SE¼ Section 29, Township 23 North, Range 59 East P.M.M., City of Sidney, Richland County, Montana.

**REGULATORY REQUIREMENTS**

**Sidney Subdivision Regulations**  
**Chapter 5A**

1. Information to be Considered

The governing body's decision to approve, conditionally approve, or deny a proposed preliminary plat application shall be based on review of the application, preliminary plat, applicable environmental assessment, public hearing and comment, planning board recommendation, staff report, and other information submitted or prepared in the review of the application. As per [76-3-608\(10\), MCA](#), findings of fact by the governing body concerning whether the development of the proposed subdivision meets the requirements of these regulations and the MSPA must be based on the record as a whole.

The necessary and required information for the City Council to approve, conditionally approve, or deny the preliminary plat application has been submitted for public review.

- ✓ The application was submitted for public review on November 26, 2024.
- ✓ Element and Sufficiency Reviews were completed on November 29, 2024.
- ✓ The review timeline for Minor Subdivisions is 35 working days. The review timeline for this project expires on January 21, 2025.
- ✓ The project has been scheduled for consideration and public comments at the December 16, 2024, City Council meeting.

As the First Minor Subdivision of a Tract of Record, the city may not require parkland dedication, the preparation of an Environmental Assessment, or hold a formal public hearing. The application includes a summary of probable impacts addressing the review criteria found in §76-3-608 MCA.

Proposed Mitigations:

➤ None

2. Review Criteria

The basis for the governing body's decision to approve, conditionally approve, or deny the proposed subdivision shall be whether the subdivision meets the requirements of the MSPA and these regulations. The findings of fact shall include an evaluation of the following criteria.

- a) Compliance with These Regulations  
The review is based on the subdivision regulations in place at the time the application is determined to contain sufficient information for review. Subdivisions that do not comply with the following standards shall be denied, unless the requirement is made a condition of approval, or a variance is granted.
  - i. Design Standards – Compliance with provisions of the design standards in Chapter VII is required.
  - ii. Special Provisions for Condominiums, Townhouses, Townhomes, and RV and Mobile Home Parks - Condominiums, townhouses, townhomes, and RV and mobile home parks shall meet the additional design standards and requirements in Chapter III and as referenced in other chapters for these types of subdivisions.
  - iii. Compliance with Zoning – All subdivisions must demonstrate they are designed to comply with applicable zoning.
  - iv. Compliance with Other Regulations – All subdivisions shall demonstrate compliance with other applicable regulations including ARMs for sanitation and water supply, floodplain regulations, etc.
  - v. Conformance with Adopted Plans – Subdivisions must substantially comply with adopted plans such as a growth policy, transportation plan, or community wildfire protection plan. Because plans are not regulatory, no variance for non-conformance is required, nor can denial or a condition of approval be based solely on plan conformance.
- b) Compliance with the Subdivision Review Procedure ([76-3-608\(3\)\(b\)\(iii\), MCA](#))  
All preliminary plat applications shall be reviewed in compliance with the procedures established in these regulations and the MSPA. The record shall demonstrate the review processes and timeframes in Chapter IV were followed. All conditional approvals shall include a timeframe for final plat filing.
- c) Compliance with Survey Requirements ([76-3-608\(3\)\(b\)\(i\), MCA](#))  
The preliminary plat shall comply with the survey requirements in Part 4 of the MSPA.
- d) Provision of Legal and Physical Access ([76-3-608\(3\)\(d\), MCA](#))  
All preliminary plat applications shall demonstrate how legal and physical access is to be provided to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.
- e) Provision of Utility Easements ([76-3-608\(c\), MCA](#))  
The preliminary plat application shall provide easements within and to the proposed subdivision for the location and installation of any planned utilities.
- f) Impacts to Agriculture, Agriculture Water User Facilities, Local Services, the Natural Environment, Wildlife, Wildlife Habitat, and Public Health and Safety ([76-3-608\(3\)\(a\), MCA](#))  
The governing body shall identify any impacts it determines to be potentially

significant and adverse to agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety. The criteria for determining significant adverse impacts are the criteria adopted in the City of Sidney Growth Policy as required by [76-1-601\(3\)\(h\), MCA](#).

- ✓ The proposed subdivision is consistent with the Sidney Zoning Regulations.
- ✓ The proposed subdivision is consistent with the B-1 Zoning assigned to the property.
- ✓ The proposed uses of each lot in the subdivision is consistent with the B-1 Zoning assigned to the property.
- ✓ No additional public infrastructure is proposed to develop the proposed subdivision.
- ✓ The proposed subdivision does not require any variance to the adopted subdivision regulations.
- ✓ The proposed subdivision is consistent with the Sidney Growth Policy.
- ✓ The proposed subdivision is served by City sewer but not water. The proposed subdivision does not qualify for a Municipal Facilities Exemption (MFE) unless all lots are fully served by public infrastructure.
  - Proposed Mitigation: The provision of water for the lots in the subdivision shall be reviewed and approved by the Montana Department of Environmental Quality.
- ✓ The Sidney Public Works Department has submitted a 'Will Serve Letter' for the provision of water, sewer, and solid waste services. If each lot in the subdivision is connected to City Services an MFE could be approved.
  - Proposed Mitigation: The developer shall comply with all City of Sidney Department of Public Works requirements with provision of water, sewer, or solid waste services to the lots in the subdivision.
- ✓ The subdivision is subject to review as the First Minor Subdivision of a tract of record within the City of Sidney. All of the rights and exceptions associated with a First Minor Subdivision have been applied to the project.
- ✓ The preliminary plat appears to comply with the survey requirements of State Law and the Sidney Subdivision Regulations.
- ✓ Each lot has both legal and physical access to the public road infrastructure.
- ✓ All taxes due and levied must be paid in full prior to filing the Final Plat.
- ✓ Any liens and encumbrances against the property must be paid or a consent to platting certificate will need to accompany the Final Plat application.
  - Proposed Mitigation: An updated Title Commitment, not less than 30-days old, at the time of Final Plat application shall be submitted along with the Final Plat. Consent to Plats for each lien holder or owner, who is not a signatory on the Plat, must be submitted with the Final Plat.
- ✓ The preliminary plat shows the necessary public and private utility easements.
- ✓ The subdivision application includes a summary of probable impacts to the subdivision review criteria found in 76-3-608. The summary report does not include any adverse or unacceptable impacts, and is by reference incorporated into this report.
- ✓ The subdivision is exempt from the preparation of an Environmental Assessment as a First Minor Subdivision.

### 3. Limitations

- a) Prohibition on Requiring Capital Facilities for Education ([76-3-510, MCA](#))

Although the governing body may require the subdivider to pay or guarantee payments for part or all of the costs of extending capital facilities related to public health and safety, the costs of constructing or extending capital facilities related to education may not be imposed on the subdivider.
- b) Restrictions on Conditional Approval or Denial for Water and Sanitation ([76-3-608\(6\), MCA](#))

The governing body may conditionally approve or deny a proposed subdivision as a result of the water and sanitation information provided in the preliminary plat application or on public comment related to the provided sanitation information only if the conditional approval or denial

is based on existing subdivision, zoning, or other regulations that the governing body has the authority to enforce.

- c) **Limitation on Waivers of the Right to Protest Improvement Districts** ([76-3-608\(7\), MCA](#))  
The governing body may not require as a condition of subdivision approval that a property owner waive a right to protest the creation of a special improvement district or a rural improvement district for capital improvement projects that does not identify the specific capital improvements for which protest is being waived. A waiver of a right to protest may not be valid for a time period longer than 20 years after the date the final subdivision plat is filed with the county clerk and recorder.
- d) **Restriction on Encroachment onto Adjoining Private Property** ([76-3-608\(8\), MCA](#))  
The governing body may not approve a proposed subdivision if any of the features and improvements of the subdivision encroach onto adjoining private property in a manner that is not otherwise provided for under the Montana Sanitation in Subdivisions Act or these regulations or if the well isolation zone of any proposed well to be drilled for the proposed subdivision encroaches onto adjoining private property unless the owner of the private property authorizes the encroachment. For the purposes of this section, “well isolation zone” has the meaning provided in 76-4-102, MCA.
- e) **No Denial Solely for Education or Wildland Urban Interface** ([76-3-608\(1\), MCA](#))  
The governing body may not deny a proposed subdivision solely for impacts to educational services or designation or based solely on parcels within the subdivision having been designated as urban-wildland interface parcels under 76-13-145, MCA.
- f) **No Delay or Denial Based on Failure of Public Utility or Agency to Comment** (76-3-504(1)(i), MCA)  
The governing body may not delay a decision on the preliminary plat application past the review period time limits provided in these regulations and may not deny a preliminary plat application due to failure of any public utility or agency to provide comments on the application.

**None of the proposed mitigations or proposed conditions of approval violate the limitations on the review and approval, conditional or otherwise imposed by State Law or the Sidney Subdivision Regulations.**

**CONCLUSION:**

As discussed in this Report and the Findings of Fact, the Division is consistent with the City of Sidney Subdivision and Zoning Regulations. The necessary public infrastructure exists and is available to the resulting lot. As such, the project, subject to the imposition of conditions is approvable by the Sidney City Council.

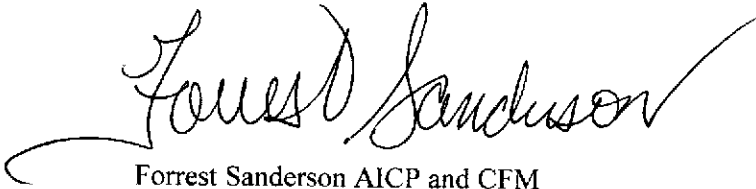
**RECOMMENDATION:**

The Subdivision Administrator recommends that the City Council Adopt this report (#MNR-24-01) as their Findings of Fact and Conclusions of Law. Further, the Subdivision Administrator recommends that the Sheehan Minor Subdivision, located in the SE¼ SE¼ Section 29, Township 23 North, Range 59 East P.M.M., City of Sidney, Richland County, Montana. be APPROVED subject to the following conditions:

1. That the Final Plat substantially comply with the documents, commitments, design and layout of the preliminary plat.

2. That a Subdivision Guarantee for the properties involved in the aggregation submitted for examination by the Subdivision Administrator. Said Subdivision Guarantee shall be less than 30 days old at the time of submittal.
3. That any lien holders' and owners sign the Final Amended Plat or provide a Consent to Plat to the filing of the Amended Plat.
4. That all taxes or assessments that are due and levied on the lots to be aggregated be paid prior to filing the Amended Plat.
5. The provision of water for the lots in the subdivision shall be reviewed and approved by the Montana Department of Environmental Quality.
6. The developer shall comply with all City of Sidney Department of Public Works requirements with provision of water, sewer, or solid waste services to the lots in the subdivision.
7. That the Final Amended Plat is approved for filing within three (3) calendar years from the date of this approval.

Respectfully submitted,

A handwritten signature in cursive script that reads "Forrest Sanderson". The signature is written in black ink and has a long, sweeping underline that extends to the left.

Forrest Sanderson AICP and CFM  
Contracted Planner  
City of Sidney