

CITY OF RED LODGE

1 PLATT AVENUE SOUTH, P.O. BOX 9, RED LODGE, MONTANA 59068



Red Lodge – RV Park Development Subdivision Application Staff Report SB-22-01

DATE: May 6, 2022
TO: Red Lodge City Council
Kelly Heaton, Chair

FROM: Courtney Long, Planning Director

RE: “6-unit RV Park Subdivision and Preliminary Plat Application”

Project Files SB 22-01

OWNER / APPLICANT:
Larry & Patricia Yung
1105 Broadway Avenue North
Red Lodge, MT 59068

AUTHORIZED REPRESENTATIVE:
Travis West, PE, RS-Engineering West
PO Box 194
Columbus, MT. 59109

PLANNING BOARD HEARING: April 27, 2022

CITY COUNCIL HEARING: May 10, 2022

Property description:

The subject properties are described as RED LODGE NORTH ANNEXATION, S22, T07 S, R20 E, MEYER SUBD LT 1 COS 1972 AM LESS HWY ROW. The lot lies directly south of an is managed by the Alpine Lodge.

Property size:

10,166 sq. ft. (.44 acres)

Notice provided:

Per the City of Red Lodge 2016 Zoning Regulations, notification was given at least (15) fifteen days prior to hearings via:

- Published in the April 14 and 21, 2022 editions of Carbon County News for Planning Board
- Published in the April 28 and May 5, 2022 editions of Carbon County News for City Council
- Adjacent landowners received public notice via USPS

Executive Summary of Project

Yung Improvement LLC is proposing approval for a six-unit recreational vehicle (RV) park within the Commercial Entrance North (C-3-N) Zoning District. The property is adjacent to and managed by the Alpine Lodge, and is proposed to be aggregated. The project triggers a major subdivision review, which follows the process laid out in the flow chart of Appendix O of the Red Lodge Subdivision Regulations.

The review is a subdivision in reverse, as the property has already been developed to accommodate RV-units and needs approval from City Council. Yung Improvement LLC hired Engineering West to bring the property into compliance with City ordinances and regulations.

Montana Code Annotated defines “recreational vehicle” as including a motor home, travel trailer, or camper (MCA 61-1-101). Red Lodge Subdivision Regulations define an RV Park as, “Any area or tract of land designed or used that contains two or more spaces which are available for rent to the general public for parking or placement of temporary recreational vehicles.” The Red Lodge Zoning Regulations further define temporary occupancy of RV Parks not to exceed 30 days in a calendar year. Further, the City of Red Lodge amended a camping ordinance in 2014 to allow for camping on privately owned land, limited to 14 days.

Background / New Information:

The following information was found following the Planning Board Hearing, and Planning Board had only heard that a Cease and Desist had been issued but staff could not find documentation of such action.

Development of the lot appears to have begun sometime in 2019 or 2020. According to City staff, the Yungs were previously approved to construct cabins on the vacant lot at the time other cabins were approved. In July 2020, once the use of the property became clear that it would be for RV’s City staff, via email, asked for development to stop until the project was approved through appropriate process. A Stop Work Order was mentioned but does not appear to have been put into effect through proper noticing procedure. A police officer was sent to the property at least once to enforce halting of development. A response email to the City in July 2020 claimed that the Yungs’ representative was working on an application for the City, though one does not appear to have been received. Staff have put in a request to the Police Department for any records of visits to the property.

There is not much documentation for a fact-based decision on which actions were taken, and both sides have different accounts of whether permission was granted or denied to continue aspects of development. Permission that the applicants suggested was approved by City staff was later said to have been a false statement by City staff.

Request:

A. To allow for a Recreational Vehicle (RV) Park development within the Red Lodge Commercial Entrance North (C-3-N) Zoning District and aggregation of lot.

Staff Recommendation / Suggested form of motion:

RECOMMENDATION:

- A. Schedule a subsequent hearing for Planning Board to review new information
- B. Accept Planning Board recommendation with conditions

SUGGESTED MOTION:

The following are suggested forms of motion for the Design Review and Conditional Use Permit. If motion is to deny, add explanation of reason for denial.

- A. After having reviewed the new information provided since the Planning Board Hearing, per 2.2.4.G of the Red Lodge Subdivision Regulations, I move to schedule a subsequent public hearing from Planning Board and Zoning Commission for consideration of the new information.

OR

- B. After having reviewed and considered the application materials, project memorandum, public comments and all of the information presented, I hereby move to (approve/deny) approval for a six-unit RV Park located on 1105 North Broadway within the amended RED LODGE NORTH ANNEXATION, S22, T07 S, R20 E, MEYER SUBD LT 1 COS 1972 AM LESS HWY ROW (subject to the following conditions):

Conditions:

1. That the use, operation and development of the property be in accordance with the plans, specifications and documents submitted for review except as modified by these conditions.
2. All licenses required by the City, County and State shall be obtained prior to continued use of the property.
3. Any Montana Department of Transportation comments pertaining to any issues shall be submitted to the City. Applicants shall work with the City and MDT to resolve any identified issues.
4. Any trash container(s) shall be screened from view.
5. If artifacts are uncovered during the excavation process the Carbon County Historic Preservation Officer is to be contacted.
6. The developer shall submit the site plans and use specifications to the Red Lodge Fire Department for review and approval before a building permit is submitted. All issues identified by the Fire Department shall be resolved prior to the use of the property.
7. That a Subdivision Improvement Agreement be completed according to Red Lodge Subdivision Regulations.
8. Any future lighting associated with the project shall be Dark Skies compliant which means they shall be full cutoff, shielded and directed downward onto the structure or sidewalk. Lighting shall not create off-site glare.
9. The driving areas shall be paved.
10. The backflow preventer of the water line shall be approved by the MT DEQ.
11. The lot shall be aggregated and filed with the County Clerk and Records Office.
12. Landscaping along the property adjacent to Highway 212 shall be installed. Vegetation shall be low growing and not exceed a height to impair site visibility.

Planning Board Recommendation:

On April 27th, 2022 the Red Lodge Planning Board and Zoning Commission reviewed the project.

Results from the public hearing:

1. Motion to approve Staff Report, 4-2 (passes)
2. Motion to approve CUP 22-04 with conditions and recommendation to City Council, 4-2 (passes)

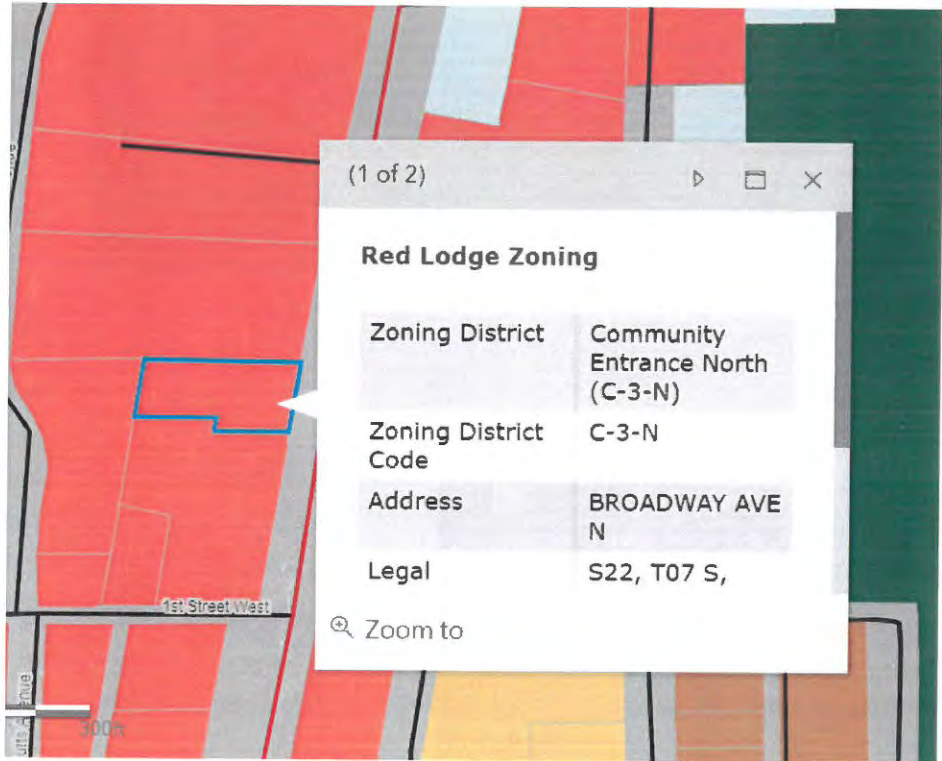
Points of discussion included (meeting minutes are available upon request, though as of this Staff Report have not been approved by vote from the Planning Board):

1. History of the development on the lot, as development proceeded approximately 3 years ago without following proper City and State processes for subdivisions. Please see Background section for detail.
2. City's responsibility in enforcement of the development, which has placed the Planning Board and City Council in a position to approve/deny an application for something that has been completed.
3. RV Parks in the Commercial (Community) Entrances and whether they should be allowed. RV Parks are not addressed in the Zoning Regulations or Growth Policy, though discussions in past years have generally been against them. This topic had split opinions for the proposed development among current Planning Board members.

Adjacent Zoning/Land Uses:

	ZONING	LAND USE
NORTH	Commercial Entrance North (C-3-N)	Hotel/Motel/Lodging
SOUTH	Commercial Entrance North (C-3-N)	Personal Care Services, Residential
EAST	Commercial Entrance North (C-3-N)	Commercial Services/Retail
WEST	Commercial Entrance North (C-3-N)	Mobile Home/Manufactured Park

Red Lodge Zoning District Map:



Site Characteristics

The lot for the RV Park has already been developed for 6-units with water and electricity. The lot is encompassed by a solid fence on the west and south. Highway 212 (Broadway Avenue North) borders the property on the east.

Site Area Aerial Photos and Street View Imagery



Figure 1 Street view



Figure 2 Aerial Imagery shows lot prior to development.

Dimensional Standards

The subject property is located in the Commercial Entrance North Zoning District (C-3-N).

The purpose and intent of the C-3-N Zoning District is to permit mixed-use developments containing a range of aesthetically compatible commercial and residential developments that consist with the Community Entrance Goals of the Growth Policy. This zoning district is intended to avoid typical strip commercial development

Subdivision Regulations require RV pads to be at minimum 10 feet by 50 feet.

Proposed Findings of Fact and Conclusions: *Findings of fact by the governing body concerning whether the development of the proposed subdivision meets the requirements of this chapter must be based on the record as a whole. The governing body's findings of fact must be sustained unless they are arbitrary, capricious, or unlawful (MCA 76-3-608).*

In accordance with state law, the Planning Department staff has developed Findings of Fact and Conclusions based on the local government review criteria as set forth in Section 76-3-608, MCA and the Red Lodge Subdivision Regulations (2011). The preliminary plat and supplements have been reviewed to determine if the proposed subdivision is in compliance with the Montana Subdivision and Platting Act, Red Lodge Subdivision Regulations (2011), and Red Lodge Growth Policy (2020).

The following criteria must be addressed for all subdivisions (Red Lodge Subdivision Regulations 2011).

COMPLIANCE WITH RED LODGE GROWTH POLICY

Compliance with Red Lodge Growth Policy – The Red Lodge Subdivision Regulations require that all subdivisions must be reviewed for compliance with the City’s Growth Policy, particularly those associated with the Central Business District, Community Entrances, Residential Neighborhoods, and Trails, Parks, and Open Spaces.					
	Recommended Findings	Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions
A.	The Red Lodge Growth Policy intends “to help the citizens of Red Lodge and the surrounding area sustain and even enhance their sense of place and spirit of community as growth occurs.” <u>The following are the applicable goals and strategies from</u>	RLSR 2.3.2	The driving and parking areas within the RV Park would need to be paved to the City standards.	#9	Subdivision Application “Preliminary Plat” tab

	the Growth Policy for making decisions on new development projects:				
B.	The proposed RV Park is situated adjacent to an existing sidewalk along Highway 212 and does not inhibit other future multi-modal routes proposed in the Active Transportation Plan.	RLGP “9-Community Entrances” Goal #1; ATP p. 45			
C.	The RV Park does not propose any structures that would contribute to the architectural, historical or neighborhood texture of Red Lodge’s historic image.	RLGP “9-Community Entrances” Goal #2			
D.	The development of an RV Park does not detract from visual characteristics in regards to views of surrounding landscape as it lacks building structures. The application as provided does not suggest environmental impacts greater than what is normal of commercial or high-density residential development.	RLGP “9-Community Entrances” Goal #3			Subdivision Application in its entirety
E.	The proposed RV Park does not detract from the Central Business District as the retail, service, governmental, social, and cultural heart of Red Lodge as the park provides short-term accommodation.	RLGP “9-Community Entrances” Goal #4			
F.	The proposed development on the lot does not support mixed use development of the property, though	RLGP p. 21			

	the surrounding land use is diverse in residential and commercial uses.				
G.	Although a parking lot is not proposed, the use of parked motor vehicles in the presented layout do not allow for sufficient screening of parked vehicles from Highway 212.	RLGP p. 22	Low growing vegetation that does not impair sight visibility can soften the view of the RV Park for passerbys.	#12	
CONCLUSION: Compliance with the City Growth Policy set forth in the findings are mitigated with the imposed conditions which are based on the record. The development is not in compliance with Growth Policy strategies to encourage mixed use residential and commercial development.					

COMPLIANCE WITH RED LODGE ZONING REGULATIONS

Compliance with Red Lodge Zoning Regulations – The Red Lodge Subdivision Regulations require that all subdivisions must be reviewed for compliance with the City’s Zoning Regulations.					
	Recommended Findings	Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions
A.	The Red Lodge Zoning Regulations state that if a use is not listed in the Allowed Uses table, then it is not considered an allowed use in that Zoning District. “RV Parks” are not listed in the Allowed Uses table for C-3-N.	RLZR 4.3.26; RLZR Table 4.3.122			

B.	The Red Lodge Zoning Regulations allow the Zoning Administrator to determine if the use is similar to that of an Allowed Use. In the Planning Board Hearing, staff considered “RV Parks” as similar to Manufactured Park as they are listed together in the Subdivision Regulations. No official “Similar Use Determination” was noticed and so RV Parks cannot be listed as a similar use	RLZR 4.3.30; RLZR Table 4.3.122			CU 22-04 Staff Report from April 27, 2022 Planning Board Hearing
CONCLUSION: The application is not in compliance with the Red Lodge Zoning Regulations.					

A. Impacts on Agriculture – Considers all aspects of farming or ranching including the practice of cultivating the ground, raising crops, and/or rearing animals. <i>See also</i> MCA § 41-2-103(1).					
	Findings	Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions
A.	The property and adjacent lands are not in current agricultural or cultivated use. Prior use of the lot has been vacant.	RLSR 2.2.5			Subdivision Application EA, page 11
B.	The property is within a commercial Zoning District in City limits, with restrictions on livestock.	RLZR 4.5.88			
CONCLUSION: There will be no impacts to agriculture based upon the findings.					

B. Impacts on Agriculture Water User Facilities – Considers any part of an irrigation system used to produce an agricultural product on property used for agricultural purposes. These facilities include, but are not limited to, ditches, head gates, pipes, and other water conveying facilities. Specific impacts may include, but are not limited to, impacts to disposition of water rights, and impact to water course and irrigation easements.					
Findings		Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions
A.	The area of the proposed subdivision does not contain existing irrigation ditches, pipes, head gates or other water conveying facilities for irrigation or stock watering to agricultural lands.	RLZR 4.5.88			Subdivision Application EA, p.12
B.	No agricultural water user facilities are on or near the project site that serve on-stream or downstream water users.	RLZR 4.5.88			Subdivision Application EA, p.12
CONCLUSION: There will be no impacts to agricultural water user facilities.					

C. Impacts on Local Services – Considers any and all services that local governments entities are authorized to provide.					
Recommended Findings		Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions
A.	Law enforcement is provided by the Red Lodge Police Department and averages a response time of less than 3 minutes. Adequate law enforcement can be provided.				Subdivision Application, Tab “EA” Letter dated March 15, 2022

B.	Fire protection and EMS services would be provided by the Red Lodge Fire Rescue. No comments were received from Red Lodge Fire Rescue.				Subdivision Application "EA" tab -Community Impact Report
C.	Approach to the property is from Highway 212, a state highway. Left turn lanes exist to the south of the property but does not extend north. Montana Department of Transportation did not see much impact for the proposed RV Park.				Planning Board Hearing, April 27, 2022
D.	No thru streets are proposed. A gravel loop access to each site is in place and will need to be paved.	RLZR 4.5.44		#9	Subdivision Application "Preliminary Plat" tab
E.	The use of the project is primarily for tourism use and should not have an impact on Red Lodge Public Schools District.				Subdivision Application "EA" tab -Community Impact Report
F.	Utilities are provided by Northwestern Energy. Electricity is extended to each RV unit.				Subdivision Application Tab "EA" Letter, no date; and p. 13
G.	Water service has adequate capacity to serve the units.		A DEQ approved backflow preventer shall be installed.	#10	Subdivision Application Tab "EA" Letter, March 7, 2022
CONCLUSION: There are minor impacts to local services and any impacts set forth in the findings are mitigated with imposed conditions which are based on the record.					

D. Impacts on the Natural Environment - Existing physical conditions related to the physical conditions which exist within a given area, including land, air, water, mineral, flora, fauna, noise, and objects of historic or aesthetic considerations. Specific impacts include but are not limited to impact on air quality; impact of groundwater quality and quantity; impact on surface water features; impact on wetlands; impact on residential ambient exterior light level; impact on historic or prehistoric sites.					
Findings		Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions
A.	Paving of driving surfaces and parking areas will increase runoff.	RLZR 4.5.9; RLSR 2.3.7	Stormwater Retention Pond to allow for groundwater recharge.		Subdivision Application "Stormwater" tab
B.	There are no nearby surface water features that would be impacted by runoff.				Subdivision Application "EA" p. 13
C.	Groundwater quality and quantity are not anticipated to be affected if water services are provided by the City. No wastewater services are proposed.				Subdivision Application "EA" p. 13
D.	Air quality impact will be minimal.		Electricity is provided to mitigate use of generators and paving of gravel driving areas will be required.		Subdivision Application "EA"
E.	The property is in an area that has not been found to contain historical or cultural sites. There is no impact to cultural properties.			#5	Subdivision Application "EA" p. 14 and Letter

F.	Areas of disturbance are at risk for encroachment of noxious weeds.		A noxious weed survey will determine if a Noxious Weed Control Plan will be required prior to final plat recordation.		Subdivision Application "EA" p. 14
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CONCLUSION: The impacts to the natural environment set forth in the findings are mitigated with the imposed conditions which are based on the record.

E. Impacts on Wildlife and Wildlife Habitat - Considers all living things which are neither human nor domesticated nor plant and the place or type of site where wildlife naturally lives and grows.					
	Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions	
A.	The property is not located within any wetlands, riparian areas, or critical wildlife habitat. Conversion from a vacant lot to a developed and paved area will have some impact on wildlife.				Subdivision Application "EA" p. 14-15
CONCLUSION: Impacts to wildlife and wildlife habitat in the findings are minimal.					

F. Impacts on Public Health and Safety - "Public Health and Safety" means "A condition of optimal well-being, free from danger, risk, or injury for a community at large, or for all people, not merely for the welfare of a specific individual or a small class of persons." Conditions that relate to public health and safety include but are not limited

to disease control and prevention; emergency services; environmental health; flooding; fire or wildfire hazards, rock falls or landslides, unstable soils, steep slopes, and other natural hazards; high voltage lines or high-pressure gas lines; and air or vehicular traffic safety hazards.”

	Recommended Findings	Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions
A.	The proposed RV Park does not provide wastewater services and recreational vehicles will need to properly dispose of wastes at the dump station located at the Town Pump to prevent a health risk.			Subdivision Improvement Agreement	Subdivision Application “SIA” tab p. 5; “EA” tab p. 19
B.	RV Parks require applicable licenses from the Montana Department of Health and Human Services	MCA Title 50- Chapter 52	Application sent to DPHHS	#2	“Planning Application for Alpine Lodge RV Park”
C.	RV Parks require applicable licenses from the Montana Department of Environmental Quality.	MCA Title 50- Chapter 60	Application sent to MDEQ	#2	“Planning Application for Alpine Lodge RV Park”
D.	The property is not located in a recognized floodplain and mitigates runoff with a retention pond to collect stormwater.				Subdivision Application “Floodplain” tab and “Stormwater” tab
E.	There are risks for wildfire in the area and fires due to use of recreational vehicles.	RLSR 2.3.12	The application lists fire hazards will be minimized with adequate water supply, limiting fire fuels and awareness.	#6	Subdivision Application “EA” tab p. 17

CONCLUSION: The impacts to public health and safety set forth in the findings are mitigated with the imposed conditions which are based on the record.

E. Impacts on Wildlife and Wildlife Habitat - Considers all living things which are neither human nor domesticated nor plant and the place or type of site where wildlife naturally lives and grows.

Recommended Findings	Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions
A. The property is not located within any wetlands, riparian areas, or critical wildlife habitat. Conversion from a vacant lot to a developed and paved area will have some impact on wildlife.				Subdivision Application "EA" p. 14-15

CONCLUSION: Impacts to wildlife and wildlife habitat in the findings are minimal.

COMPLIANCE WITH THE SURVEY REQUIREMENTS OF MONTANA SUBDIVISION AND PLATTING ACT AND LOCAL SUBDIVISION REGULATION

A. Survey Requirements

Recommended Findings	Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions
A. The final plat for each phase of the subdivision shall not contain errors or omissions when filed with the County Clerk	MCA §§ 76-3-	Correct any errors or omissions on		Subdivision Application

	and Recorders in order to provide a true and accurate representation and notice to the general public including, but not limited to, potential purchasers.	608(3)(b)(i); 76-3-401, et seq.; 76-3-611; RLSR 2.2.13	the preliminary plat prior to final plat approval.		"Preliminary Plat" tab
B. Subdivision Guarantee					

A.	Provide evidence of a clear title prior to filing the final plat.	MCA § 76-3-612; RLSR	Submit with final plat application a subdivision guarantee 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.		Subdivision Application "Title Report" tab
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C. Construction of Public Improvements				
Recommended Findings	Policy/Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions

A.	Improvements for the subdivision are necessary to ensure the public health, safety and general welfare needs are timely satisfied in accordance with the project proposal.	MCA § 76-3-507; RLSR 2.06	Complete required improvements within the proposed subdivision prior to approval of the final plat, unless a bond or other reasonable security approved by the City Council is obtained prior to final plat.		Planning Board recommended conditions; Subdivision Application
D. Subdivision Regulations					
A.	Development of the subdivision shall conform to all the proposed mitigation and improvements as identified in the subdivision application and as required under any conditional approval of the preliminary plat for each phase.	RLSR in its entirety	A condition of approval holding the subdivision approval to all of the information found in the application and under the proposed conditions of approval.	#1	Subdivision Application in its entirety

CONCLUSION: The proposed application conforms with the provisions of the Montana Subdivision and Platting Act and the RLSR adopted under the MSPA and the subdivider is held to all of the proposals and documentation in the subdivision application to ensure that conformance, unless specifically modified by the conditions of preliminary plat approval.

PROVISION OF EASEMENT FOR UTILITIES

Provision of Easements for Utilities- All subdivisions must provide easements for the location and installation of any planned utilities to and within the subdivision.

Recommended Findings		Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support Findings and Conditions
A.	The proposed preliminary plat provides for utility easements on the lot and for each RV-unit.	MCA §76-3-608	The utility easements must be shown on the face of the final plat and provide utility access to all RV-units.		Subdivision Application "Preliminary Plat" tab

CONCLUSION: The impacts to the provision of utility easement set forth in the findings are mitigated with the imposed conditions which are based on the record.

PROVISION OF LEGAL AND PHYSICAL ACCESS TO EACH PARCEL

Provision of Legal and Physical Access - All subdivisions must provide legal and physical access to each lot in the subdivision.

Recommended Findings		Policy/ Regulation	Summary of Proposed Mitigation	Recommended Conditions of Approval	Document(s) in Record Support
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				Findings and Conditions	
A.	The proposed RV Park will have a looped access drive and parking space adjacent to each RV pad.	MCA §76-3-608	The driving and parking areas within the RV Park would need to be paved to the City standards.	#9	Subdivision Application "Preliminary Plat" tab
CONCLUSION: The impacts to legal and physical access set forth in the findings are mitigated with the imposed conditions which are based on the record.					

Submitted By:



Courtney Long, Planning Director