



COMMUNITY PLANNING, DEVELOPMENT & INNOVATION

Development Services Division

435 RYMAN | MISSOULA, MT 59802-4297 | 406.552.6630 | FAX 406.552.6053

MINOR SUBDIVISION STAFF REPORT

Agenda Item: Minor Subdivision request--Grant Creek Phase II, Lots 22A and 22B located at 316 and 320 Expressway

Report Date: December 12, 2022

Case Planner: Spencer Starke, Associate Planner

Report Review &

Approved by: Dave DeGrandpre, Land Use Supervisor

Governing Body

Review Deadline: December 15, 2022

Public Meetings:

LUP 12/14/22: Public meeting and action on the motions.

City Council 12/19/22: Confirm decision under either consent agenda (if LUP decision is unanimous) or committee reports (if LUP decision is not unanimous).

I. GENERAL PROJECT INFORMATION

Subdivider and Owner:

Edgell Family Limited Partnership
2502 Klondike Court
Missoula, MT 59808

Representative:

Montana Northwest Co.
PO Box 8777
Missoula, MT 59807

Location of Request: 316 and 320 Expressway Missoula, MT 59808

The property is legally described as Lot 22 of Grant Creek Center Phase II, located in the Northeast Quarter of Section 7, Township 13 North, Range 19 West, P.M.M Missoula MT

Geocode: 04-2200-07-1-01-08-0000

Legal Notification: The legal ad was published in the Missoulian on November 29, 2022 and December 4, 2022. One subdivision poster was placed on the property on November 21, 2022. Adjacent property owners were notified by certified mail on November 21, 2022.

Zoning: M1-2 Limited Industrial

II. DECISION AND REGULATORY FRAMEWORK

The City Council Land Use and Planning Committee considers and makes a decision on the subdivision, with confirmation of that decision by City Council at a regular meeting.

Subdivision Regulations: [Missoula City Subdivision Regulations](#) adopted by City Council as amended on July 18, 2022.

Local Zoning Law: [Title 20, Missoula Municipal Code](#) amended May 2, 2022.

Surrounding Land Uses:

North: Manufactured Home Park (County)

South: Warehousing, Wholesaling and Freight Movement Limited

East: Light Equipment Sales / Rentals

West: Warehousing, Wholesaling and Freight Movement Limited

Surrounding Zoning:

North: County Zoning- Neighborhood Residential (NR)

South: M1-2 Limited Industrial

East: M1-2 Limited Industrial

West: M1-2 Limited Industrial

III. RECOMMENDED MOTIONS

Approve the variance request for the Grant Creek Phase II Lots 22A and 22B minor subdivision to deviate from Article 3, Section 3-020 Table .2A, 3-020.3.C and 3-020.15.D(1) of the City Subdivision Regulations which prescribe road design standards for Urban Collector Minor Arterial Roads requiring 80 feet of right-of-way, five-foot wide sidewalks, and seven-foot wide boulevards based on the findings of fact in the staff report.

Approve the Grant Creek Phase II, Lots 22A and 22B Minor Subdivision at 316 and 320 Expressway, based on the findings of fact and subject to the conditions of approval in the staff report.

IV. CONDITIONS OF SUBDIVISION APPROVAL

1. The final plat shall meet the requirements of Section 5-050. (*City Subdivision Regulations Section 5-050*)
2. Prior to final plat approval the applicant shall submit a reciprocal stormwater easement and a shared maintenance agreement to ensure the continuing operation of the stormwater facilities onsite. The easement and maintenance agreement are subject to review and approval by the City of Missoula Public Works and Mobility

and Development Services Current Planning Division. (*City Subdivision Regulations Section 3-040.2.B and Section 5-020.11.B*)

3. Prior to final plat approval, all proposed and existing easements regarding the subdivision must be reviewed and approved by the City of Missoula Public Works and Mobility and Development Services Current Planning Division. (*City Subdivision Regulations Section 3-060.1*)
4. The subdivider shall cause the following statement to be shown on the final plat, in the development covenants, and on each instrument of conveyance, subject to review and approval of Development Services, prior to final plat approval:
"Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners to any future SID/SLID, based on benefit, for the upgrading of streets and alley within this subdivision and Expressway, including but not limited to paving, curbs and gutters, non-motorized facilities, street widening, street lighting and drainage facilities." (*City Subdivision Regulations Section 5-050.3.AA and BB; Missoula City Public Works Standards and Specifications, Chapter 12.*)
5. Prior to final plat, the subdivider shall designate all areas of the parcels with slopes greater than 25% as a "No Build Zone" shown with bearings and distances on the plat, subject to review and approval of Development Services. (*City Subdivision Regulations Section 5-050.4.G*)
6. The subdivider shall include the following statement in the development covenants, prior to final plat approval. "The Owner of any lot shall not allow noxious weeds to remain or grow on the lot. Weeds shall be controlled by the use of allowable chemicals, cutting, pulling, tillage or some other form of weed management allowed under the guidelines of the Missoula County weed control program. Ground disturbances caused by construction or maintenance shall be vegetated with beneficial species at the first appropriate opportunity and in accordance with Missoula County Weed Control. Resources to assist in land management can be obtained from the DNRC and the Conservation District. Examples but not limited to are "Tips For Fighting Weeds on Small Acreage in Montana" and "Tips on Land and Water Management on Small Farms and Ranches in Montana." The following DNRC website lists multiple resources available, <http://dnrc.mt.gov/>." (*City Subdivision Regulations Section 3-010.1F and Resolution No. 2012-063*)
7. The preliminary plat shall be in force for a period of three years from the date of City Council approval, and shall expire unless a preliminary plat extension is reviewed and approved subject to the procedures outlined in Article 4-070.1.B(1). (*City Subdivision Regulations Section 4-070.1.A.(2)*)

V.INTRODUCTION

Development Services has received a request from Montana Northwest Company, on behalf of Edgell Family Limited Partnership, for a two-lot minor subdivision of a 1.16-acre parcel located at 316 and 320 Expressway.

The parcel is fully developed with two office buildings, and the subdivision would result in each building being on its own separate lot. The subject property is zoned M1-2 Limited Industrial. The minimum parcel area is 5,000 square feet when lots contain commercial buildings, as is the case here. Lot 22A and Lot 22B are each proposed to be 25,300 square feet in area.

Access is proposed along Expressway utilizing the existing shared access/driveway. The applicant is proposing a shared access easement for the benefit of Lot 22A and 22B.

The application includes a request to vary from the road standards of Table .2A of Section 3-020 of the City of Missoula Subdivision Regulations. The standard requested to be varied from requires an 80-foot wide right-of-way. The applicant is proposing to utilize Expressway, a 70-foot-wide right-of-way as it exists.

VI. SUBDIVISION FINDINGS OF FACT

A. Zoning and Comprehensive Plan Compliance

Findings of Fact:

1. The subject property is located at 316 and 320 Expressway. (*Missoula County Property Information System; Application Packet Section 3 Subdivision Application*).
2. The property is legally described as Lot 22 of Grant Creek Center Phase II, located in the Northeast Quarter of Section 7, Township 13 North, Range 19 West, P.M.M Missoula, MT. (*Missoula County Property Information System; Application Packet Section 3 Subdivision Application*)
3. Section 3-010.1.B of the City Subdivision Regulations states that subdivision plats must comply with the Missoula City Zoning Ordinance. The current Missoula City Zoning Ordinance is Title 20.
4. The subject property is zoned M1-2 Limited Industrial, which permits a wide range of commercial, industrial, and residential uses. The M1-2 zoning district requires a minimum parcel area of 5,000 square feet. Lot 22A and Lot 22B are both proposed to be 25,300 square feet. (*Title 20 Zoning Ordinance; Missoula County Property Information System; Application Packet Sections 9 Preliminary Plat and 4 Zoning Map*)
5. Lot 22 is developed with two office buildings. There are three separate businesses on the site, a medical office, and administrative office in the eastern most building, and an administrative office in the western most building. Both Medical offices and offices are a permitted land use in the M1-2 zoning district. (*Application Packet Section 2 Project Summary*)

6. The subdivision would create two lots. No other uses are proposed for Lot 22A or Lot 22B. (*Title 20 Zoning Ordinance; Application Packet; Section 2 Project Summary*).
7. There are no setback requirements for parcels that do not abut residential zoned parcels in the M1-2 Limited Industrial zoning district. The subject property does not abut residential zoned parcels. The maximum height in the M1-2 zoning district is 50 feet. Both of the office buildings are less than 50 feet in height. (*Title 20 City Zoning Ordinance; Missoula County Property Information System; Personal Observation*)
8. Thirty-eight parking spaces serving the two commercial office buildings are located on the existing on Lot 22. If approved, Lot 22B will contain 22 parking spaces and Lot 22A will contain 16 parking spaces. (*Application Packet Section 4 Aerial map; Section 9 Preliminary Plat*)
9. Title 20 parking regulations require one parking space per every 480 square feet of building area for administrative office uses, and one space per every 240 square feet for medical office uses. The office buildings are both approximately 4,800 square feet. Lot 22B requires a minimum of 10 spaces, and Lot 22A requires 15 parking spaces. Both Lots will have sufficient parking spaces to meet the parking requirements of Title 20. (*Application Packet Section 4 Aerial map; Section 9 Preliminary Plat*)
10. Subdivision Regulations Section 3-010.1.I. requires that the subdivision be reviewed for compliance with the Missoula City Growth Policy and its amendments.
11. The Our Missoula 2035 City Growth Policy is the applicable regional plan and recommends a land use designation of Light Industrial for the subject property. Areas designated as Light Industrial are designated for commercial and industrial uses that are relatively low impact. (*Our Missoula 2035 City Growth Policy Land Use Map; "What's My Zoning?"; Application Packet Sections 2 Project Summary; Section 4 Aerial map, Section 9 Preliminary Plat, and Section 3 Subdivision Application*)
12. According to the Our Missoula 2035 City Growth Policy, current related zoning districts in the Industrial Light land use designation include M1-2 Limited Industrial. (*Our Missoula 2035 City Growth Policy Land Use Map; "What's My Zoning"*)
13. The current and proposed use for the existing structures as offices is permitted in the M1-2 Zoning district. Any change to the use will require a zoning compliance review. (*Title 20 Zoning Ordinance*)
14. The property is located within the Wye-Mullan West Comprehensive Plan area. This plan is considered an attachment of the growth policy. The plan designates the parcel and the parcels around it as Light Industrial. The existing offices are not more intensive than the recommended uses outlined in the Wye-Mullan West Comprehensive Area plan. (*Wye-Mullan West Comprehensive Area Plan 2005*)

Conclusions of Law:

1. The subdivision complies with the Our Missoula 2035 City Growth Policy and Wye-Mullan Comprehensive Plan land use designations of Industrial Light, and the standards of the M1-2 Limited Industrial zoning district.
2. Per State Law MCA 76-1-605(2)(b) no land use proposal shall be conditioned or denied based solely upon the lack of compliance with the Growth Policy.

B. PRIMARY CRITERIA COMPLIANCE

CRITERION A: IMPACT ON AGRICULTURE

Findings of Fact:

1. Section 5-020.6.A of the City Subdivision Regulations states the applicant must demonstrate the subdivision proposal will have no adverse impacts on agriculture.
2. The application packet states the subject property is currently occupied by two commercial offices. (*Application Packet Sections 2 Project Summary and 3 Subdivision Application*.)
3. The application packet states the property does not contain any active agricultural land and the property is zoned for residential, commercial, and industrial development. Staff has confirmed this assertion. (*Title 20 City Zoning Ordinance; Application Packet Sections 2 Project Summary; 3 Subdivision Application; Personal Observation*)
4. The application packet states adjacent properties are not used for agriculture. Staff has confirmed that all adjacent properties contain commercial or residential uses. (*Application Packet Sections 2 Project Summary; 3 Subdivision Application; 4 Adjacent Properties Map; Personal Observation*)
5. The Natural Resources Conservation Service (NRCS) Soil Survey for Missoula County shows Lot 22A and Lot 22B as being comprised of 1.2 acres of 88- pit gravel (81.4% of the site). The northern steeply sloped sections of Lot 22A and Lot 22B are covered by 72 – Moise Gravelly Loam Soil, which is classified as Farmland of Local Importance per the NRCS Soil Survey. The total acreage of Moise Gravelly Loam Soil is 0.3 acres and has limited agricultural potential due to the existing slopes, current development with the offices, and associated parking. (*Soil Survey of Missoula County Area, Montana, Detailed Soil Map, Sheet Number 77; Application Packet Sections 1 Project Summary; 3 Subdivision Application; 6.2 NRCS Soil Survey*)

Conclusions of Law:

1. The application packet demonstrates the subdivision proposal will have no adverse impacts on agriculture.

2. There will be minimal impact to agriculturally important soils as a result of this subdivision.

CRITERION B: IMPACT ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact:

1. Section 5-020.6.B of the City Subdivision Regulations states in areas where agricultural water user facilities exist on the subject property or adjoin the property, the application packet must identify the agricultural water user, describe any proposed changes to the agricultural water use and describe alterations to the availability of water.
2. There are no irrigation ditches or structures present onsite. (*Application Packet Sections 2 Project Summary; 3 Subdivision Application*)
3. The application packet states that the site has already been fully developed and no additional impact to agricultural water facilities would be created as a result of this subdivision. (*Application Packet Sections 2 Project Summary; 3 Subdivision Application*)

Conclusions of Law:

1. No impacts to agricultural water users or water user facilities are foreseen as a result of this subdivision.

CRITERION C: IMPACT ON LOCAL SERVICES

1. Section 5-020.6.C of the City Subdivision Regulations states the application packet must identify the services and evaluate the impacts on those services including transportation elements, utilities, water supply, sewage disposal, solid waste disposal, schools, emergency services, and information pertaining to residential units and taxation.
2. Section 3-101.5 of the City Subdivision Regulations states the subdivision must be served by adequate public facilities and services such as transportation systems (including non-motorized), parking, police and fire protection, drainage structures, solid waste disposal, water supply, and sanitary sewage disposal; or the subdivider will provide adequately for such services.

ROADS, DRIVEWAYS, AND NON-MOTORIZED FACILITIES

3. The applicant is proposing access to the subdivision via a shared access easement onto Expressway. No changes to the approach are proposed. (*Application Packet Sections 2 Project Summary; 3 Subdivision Application*)
4. Subdivision regulations for urban collectors require a minimum 80-foot right-of-way to include 10-foot driving lanes, five-foot bike lanes, curb and gutter, seven-foot boulevards, and five-foot sidewalks. (*Application Packet Sections 2 Project Summary; 3 Subdivision Application*)

5. Expressway is developed within a 70-foot right of way including appropriately size driving lanes, bike lanes, parking lanes, curb and gutter, and sidewalks. However, there is no boulevard separating the sidewalk from the curb along the property. (*Application Packet Sections 2 Project Summary and Variances; 3 Subdivision Application*)
6. The applicant requests to vary from Article 3-020 Table .2A of the City Subdivision Regulations for Urban Collector Streets. The variance request is to retain the current road configuration as built within the existing right-of-way. (*Application Packet Sections 2 Project Summary; 9 Preliminary Plat; 3 Subdivision Application; 2 Variances*).
7. Staff recommends approval of the variance request as described in Section VIII of this report.

Conclusion of Law:

1. The subdivision will meet the road improvement and non-motorized facility standards in the Missoula City Subdivision Regulations if the variance request is approved by City Council.

TRANSIT

Findings of Fact:

1. Per Section 3-020.16.B(1)(b) of the City Subdivision Regulations, the subdivider must provide active transportation facilities that provide safe routes to schools, playgrounds, bus stops, and public parks and common areas.
2. The nearest Mountain Line bus stop is located at the corner of Expressway and Reserve Street within 0.3 miles of the subject property. (*Application Packet Sections 3 Subdivision Application; 4 Bus Stops Map*)
3. The bus stop at the corner of Expressway and Reserve Street can be safely accessed by pedestrians and bicyclists via the non-motorized facilities along Expressway. (*Application Packet Sections 9 Preliminary Plat; 3 Subdivision Application; 4 Bus Stops Map*)
4. Section 3-020.4.G of the City Subdivision Regulations states when development is adjacent to or within $\frac{1}{4}$ mile of an established public transit or school bus route, subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities. Subdividers should consult with the Missoula Urban Transportation District and Missoula County Public Schools early in the planning and design process.
5. City Engineering will not be requiring the installation of bus stop facilities for this subdivision. The applicant requested agency comment from the Missoula Urban Transportation District and Missoula County Public Schools. No comment was

received from either agency at the time of this report. (*Application Packet Sections 3 Subdivision Application*)

DRAINAGE

Findings of Fact:

1. Section 3-040 of the City Subdivision Regulations provides minimum standards for site grading and control of storm water runoff.
2. Section 3-040.2.E of the City Subdivision Regulations states all drainage systems must meet the minimum standards of the Montana Department of Environmental Quality (DEQ), as required by MCA Title 76, Chapter 4 and 5, Part 1, as amended, and all applicable state and local regulations.
3. The applicant submitted correspondence with Montana DEQ demonstrating compliance with MCA 76-4-127, and is exempt from Sanitation in Subdivision review. The subdivision meets the minimum standards of MDEQ. (*Section 5 Water and Sanitation*).
4. The site is already developed with parking and office buildings. No new impacts to drainage will result as part of this subdivision. (*Application Packet Section 2 Summary: Section 5 Water and Sanitation*).
5. City engineering provided comment showing that storm water will flow between properties. A reciprocal stormwater easement and a shared maintenance agreement will be required to ensure continuing maintenance and function of the existing stormwater facilities. (*Agency Comment 10/24/2022*)
6. Lot 22 is already built out and is currently served by onsite drywell injection sumps. (*Application Packet Preliminary Plat; Section 2 Summary; Section 5 Water and Sanitation*).

Conclusions of Law:

1. Lot 22A and Lot 22B have adequate storm water infrastructure to service the existing development so long as a reciprocal stormwater easement and shared maintenance agreement is recorded with the final plat.

WATER AND SANITATION

Findings of Fact:

1. Public sewer and water are available to the subdivision. Each lot is currently served by municipal sewer and water facilities in compliance with the Subdivision Regulations.
2. No additional development is proposed as a result of this subdivision. (*Application Packet Preliminary Plat; Section 2 Summary*)

Conclusions of Law

1. Lot 22A and Lot 22B have adequate water and sanitation facilities.
2. Review of water and sewer systems is under the jurisdiction of state and local health authorities under the Montana Sanitation in Subdivision Act.

SOLID WASTE

Findings of Fact:

1. Republic Services provides disposal service to the subdivision. (*Application Packet Section 2*)

Conclusions of Law:

1. Solid waste disposal service will be available to the subdivision and will be in compliance with the Subdivision Regulations.
2. Review of solid waste disposal is under the jurisdiction of state and local health authorities under the Montana Sanitation in Subdivision Act.

PARKS AND RECREATION

Findings of Fact:

1. Section 3-080.2.C of the City Subdivision Regulations states that parkland dedication is not required for a subdivision in which only one additional lot is created.
2. Only one additional lot is being created in the proposed subdivision, and both lots are designated for commercial use. (*Application Packet Sections 2 Project Summary; 9 Preliminary Plat; 3 Subdivision Application*).
3. No parkland dedication is proposed for this subdivision. (*City Subdivision Regulations Article 3, Section 3-080.2. B & C; Application Packet Sections 2 Project Summary; 3 Subdivision Application*)

Conclusion of Law:

1. The subdivision proposal is exempt from the requirement to dedicate parkland per Section 3-080.2.C of the City Subdivision Regulations.

SCHOOLS

Findings of Fact:

1. No residential development is proposed on Lot 22A and Lot 22B. (*Application Packet Sections 2 Project Summary; 3 Subdivision Application*)

2. An agency comment request was sent to Hellgate Elementary School District and Missoula County Public Schools on October 5th, 2022. Hellgate Elementary School District and Missoula County Public Schools did not submit comment at the time of this report. (*Request for Agency Comment 10/5/22*)

Conclusion of Law:

1. No adverse impacts to schools requiring mitigation have been identified.

FIRE DEPARTMENT

Findings of Fact:

1. The Missoula City Fire Department already serves the subdivision. The nearest station is located approximately two miles away on Latimer Street (*Application Packet Sections 2 Project Summary; 3 Subdivision Application*).
2. Section 3-070.1 of the City Subdivision Regulations requires that water supply for fire protection be provided via a public or community water system with 1,000 gallons per minute minimum flow, or via residential sprinkler systems.
3. Existing fire hydrants are located near the property. There are existing hydrants on the corner of Expressway and International Drive, and at the corner of Expressway and Patterson Road. (*Application Packet Sections 2 Project Summary; 2.3 Existing Conditions Map; 3 Subdivision Application*)

Conclusion of Law:

1. Adequate fire service is available to the subdivision.

LAW ENFORCEMENT

Findings of Facts:

1. The subdivision is located within the jurisdiction of the Missoula Police Department. (*Application Packet Sections 2 Project Summary; 3 Subdivision Application*)
2. The City of Missoula Police Department is located less than four miles from the proposed subdivision. (*Application Packet Sections 2 Project Summary; 3 Subdivision Application*)
3. The Missoula Police Department had no comments regarding the subdivision application. (*Agency Comment – Police Chris Odlin 10.5.20*)

Conclusions of Law:

1. Law enforcement services are available to the subdivision.

CRITERIA D, E, AND F: IMPACT ON THE NATURAL ENVIRONMENT, WILDLIFE, AND WILDLIFE HABITAT

Findings of Fact:

1. Subdivision Regulations Section 5-020.6.D states the application packet must identify natural environmental resources and evaluate the impacts on those resources including adjacent public lands, cultural resources, hydrological characteristics, soil characteristics and vegetative cover types.
2. The subject property is not adjacent to public lands. (*Application Packet Sections 3 Subdivision Application; 4 Vicinity Map & Adjacent Properties Map*)
3. No riparian resources exist on the property. (*Application Packet Sections 2 Project Summary; 3 Subdivision Application*)
4. The application states that no wildlife habitat will be disturbed as a result of this subdivision and there are no impacts to mitigate. (*Application Packet Sections 2 Project Summary; 3 Subdivision Application*)
5. The Montana State Historic Preservation Office provided comment stating that as long as there will be no disturbance or alteration of structures over 50 years of age, it is unlikely cultural properties will be impacted by the project. The Montana State Historic Preservation Office concluded that a cultural resource inventory is unwarranted at this time. However, if cultural materials are inadvertently discovered, the Montana Historic Preservation Office should be contacted, and the site investigated. (*Application Packet Sections 2 Project Summary; 3 Subdivision Application*)

Noxious Weeds

6. Subdivision Regulations Section 3-010.1F requires the subdivision to comply with other regulations applicable to the land proposed for subdivision.
7. The Missoula County Noxious Weed Management Plan, adopted by City Council Resolution 2012-063, requires a weed management plan as part of subdivision plans.
8. Lot 22 is currently landscaped with shrubs and trees. (*Application Packet Sections 2 Project Summary; 4 Existing Conditions Map; 3 Subdivision Application*)
9. The application packet includes a weed management and revegetation plan. The weed management plan states weeds will be managed by hand pulling and herbicide application. (*Application Packet Section 7.2 Weed Management Revegetation Plan*).
10. The following section and statement is included in the development covenants:
"The Owner of any lot shall not allow noxious weeds to remain or grow on the lot.

Weeds shall be controlled by the use of allowable chemicals, cutting, pulling, tillage or some other form of weed management allowed under the guidelines of the Missoula County weed control program. Ground disturbances caused by construction or maintenance shall be vegetated with beneficial species at the first appropriate opportunity and in accordance with Missoula County Weed Control. Resources to assist in land management can be obtained from the DNRC and the Conservation District. Examples but not limited to are “Tips For Fighting Weeds on Small Acreage in Montana” and “Tips on Land and Water Management on Small Farms and Ranches in Montana.” The following DNRC website lists multiple resources available, <http://dnrc.mt.gov/>.”

Conclusion of Law:

1. No impacts to the natural environment, wildlife, and wildlife habitat are foreseen as a result of this subdivision if the covenants are recorded containing the above noxious weed language and the proposed weed plan.

CRITERION G: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. Section 5-020.6.G of the City Subdivision Regulations states the applicant must demonstrate that the subdivision will have no adverse impact on conditions that relate to the public health and safety including 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, on-site or nearby off-site land uses that create a nuisance (e.g. noise, dust, smoke, unpleasant odors), and air or vehicular traffic safety hazards.

Hazardous Land

2. Subdivision Regulations Section 3-010.2 requires the mitigation of hazards to subdivision development, including but not limited to flooding and slopes of 25% or more.
3. Lot 22 contains an area of slopes exceeding 25% on the northern portion of the parcel. The applicant has proposed a no-build zone on those portions of the parcel that contain slopes 25% or greater. (*Application Packet Section 9 Preliminary Plat*)
4. The subject property is outside of the FEMA-identified 1% annual chance flood hazard areas and floodplain. (*Application Packet Section 4 Floodplain Map*).
5. No adverse impacts related to soil instability, high ground water, or any other potential hazard were identified. (*Application Packet Sections 3 Subdivision Application; Report*)

Conclusion of Law:

1. No adverse impacts to public health and safety are foreseen as a result of this subdivision if the recommended condition of approval is imposed.

VII. PRIMARY CRITERIA COMPLIANCE

1. SURVEY REQUIREMENTS

Findings of Fact:

1. The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with Part 4 of M.C.A. 76-3.
2. As described in the Subdivision Regulations Section 4-070.4, Development Services has a process to require review of all final plats for conformance with state law and local regulations.

Conclusion of Law:

1. This proposal will meet the survey requirements if the condition of approval is imposed.

2. SUBDIVISION REGULATIONS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

1. The plat will be brought into compliance with the local subdivision regulations if the conditions of approval are imposed.

3. REVIEW PROCEDURE

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in Article 4 of the Missoula City Subdivision Regulations.
2. Notice of a public hearing for this subdivision was posted on the property on November 24, 2022 and letters were mailed to adjacent property owners on November 22, 2022.
3. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty days of such decision. The application shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider, a contiguous landowner, an owner of land within the City of Missoula who can establish a likelihood of material injury to property or its material value, or the City Council. In order to file an appeal, the plaintiff must be aggrieved by the decision, demonstrating that a specific personal and legal interest, as opposed to a general interest, has been or is likely to be specifically and injuriously affected by the decision.

Conclusion of Law:

1. This subdivision proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Article 4 of the Missoula City Subdivision Regulations.

D) PROVISION OF EASEMENTS FOR UTILITIES:

Findings of Fact:

1. Access to utilities is provided to the subdivision via the Expressway, Public Access Utility and Private Maintenance Easements, and Public Utility Easements. *(Preliminary Plat)*
2. An existing 10-foot utility easement, and a proposed five-foot utility easement are located along the southern portion of Lot 22 adjacent to Expressway. *(Preliminary Plat)*
3. Lot 22 is currently developed, with utility services provided to the existing offices. *(Preliminary Plat)*
4. The application packet states the subdivision is currently served by Northwestern Energy (electricity and natural gas). *(Subdivision Application Section 3)*
5. The application packet states that the subdivision is currently served by Charter Communications (telephone and cable TV). *(Subdivision Application Section 3)*
6. Subdivision Regulations Section 3-060.1 states that easements must be reviewed and approved by City Engineering.
7. The existing structures are currently served by City water and sewer. No new development is proposed. *(Subdivision Application Section 3)*

Conclusion of Law:

1. Utility services are available to this subdivision and the subdivision is in compliance with the Subdivision Regulations so long as the condition of approval is met.

E) PROVISION OF LEGAL AND PHYSICAL ACCESS:

Finding of Fact:

1. Legal and physical access will be provided to the subdivision via the existing Expressway route. *(Subdivision Application, Section 8 Preliminary Plat)*

Conclusion of Law:

1. The subdivision proposal meets the physical and legal access requirements of the Subdivision Regulations.

VIII. VARIANCE REQUEST

A variance is requested from Article 3, Sections 3-020 Table .2A, 3-020.3.C and 3-020.15.D(1) of the City Subdivision Regulations, which prescribe road design standards.

Expressway is functionally classified as an Urban Collector Road which requires 80 feet of right-of-way, five-foot-wide sidewalks, and seven-foot-wide boulevards.

The applicant requests to vary from the requirements for an Urban Collector and retain the current design of Expressway within an existing 70-foot-wide public access easement with five-foot-wide sidewalks that run along the roadway and are not separated from the curb by a boulevard (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 4 Variances*).

RECOMMENDATION:

Development Services recommends **APPROVAL** of the variance request to allow Expressway along the property to remain in its current state, with no additional right-of-way or improvements.

FINDINGS:

A. The granting of this variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

Granting of the variance as submitted does not pose a threat to public safety, health, or welfare. Expressway currently contains two driving lanes, bike lanes, parking, and sidewalks. Current infrastructure accommodates all modes of transportation. (*Application Packet Sections 2.1 Preliminary Plat; 4 Variances*)

B. The conditions upon which the request for variance are based are unique to the property for which the variance is sought and are not applicable generally to other property.

Unlike a street being proposed as part of this subdivision, Expressway was designed and built by Montana Department of Transportation, outside the realm of control of the applicant. This publicly funded street and streetscape are unique to this subdivision, given that the street already exists, adjacent to the subject property. The street's non-compliance with the City subdivision regulations is unique, given that the road was designed and built prior to the subdivision application. (*Application Packet Sections 1 Project Summary; 2.1 Preliminary Plat; 2.3 Existing Conditions Map; 4 Variances*)

C. Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, a hardship to the owner will result if the strict letter of the regulations is enforced.

Expanding Expressway an additional 10 feet with a new boulevard and modified sidewalk along the property would require the removal of landscaping and general redesign of the site. The site is already built out and the expansion of the right-of-way, installation of a boulevard, and realignment of the sidewalk only along the subject property to meet Subdivision requirements would present a hardship to the applicant. (*Application Packet Sections 2.1 Preliminary Plat; 2.3 Existing Conditions Map; 4 Variances*)

D. The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy;

This variance request will not violate the provisions of the Missoula City Zoning Ordinance or Our Missoula 2035 City Growth Policy. Expressway currently provides for all modes of transportation, meeting the Our Missoula 2035 City Growth Policy which promotes the development of a system of connected active transportation and transit routes in the community. (*Our Missoula 2035 City Growth Policy; Application Packet Section 4 Variances*)

E. The variance will not cause an increase in public costs.

Approval of the variance will not cause an increase in public costs. Expressway will likely not be expanded since the site and surrounding parcels have been developed. (*Application Packet Section 2.1 Preliminary Plat; 4 Variances; 7 Covenants*)

F. The hardship has not been created by the applicant or the applicant's agent or assigns.

The hardship has not been created by the applicant or the applicant's agent. The hardship is a result of previous street design and development. (*Application Packet Sections 2.3 Existing Conditions Map; 4 Variances*)

IX. REFERENCES CITED

The following materials are referenced throughout this document. For ease of reading, short versions of the citations (shown in bold) are used in-text, and full citations are included here.

Plans & Regulations

M.C.A.: Montana Code Annotated, 2015

http://leg.mt.gov/bills/mca_toc/76.htm

Subdivision Regulations: *City of Missoula Subdivision Regulations*, adopted by the Missoula

City Council and amended July 18, 2022

<http://www.ci.missoula.mt.us/DocumentCenter/View/22394>

2035 Our Missoula City Growth Policy

<http://www.ci.missoula.mt.us/1748/Our-Missoula>

Title 20: *Title 20 Missoula Zoning Ordinance*, adopted by the City Council and amended

August 22, 2017

https://library.municode.com/mt/missoula/codes/code_of_ordinances?nodeId=TIT20ZO

Elements of the application packet:

Vicinity Map: (Section 4)

Floodplain Map: (Section 4)

Zoning Map: (Section 4)

Aerial Photo: (Section 4)

Development Covenants: (Section 8)

Grading and Drainage Plan & Exhibits: (Section 5)

Land Use Map: 2035 Our Missoula City Growth Policy Land Use Map (Section 4)
Preliminary Plat: Preliminary Subdivision Plat of Grant Creek Center Phase II Lots 22A and 22B (Section 9)
Project Summary: (Section 2)
Subdivision Application: City Minor Subdivision Application (Section 3)
Water and Sanitation Report: (Section 5)
Right of way width Variance Request: (Section 2)
Noxious Weed Management Plan: (Section 8)

Agency Comments cited:

Troy Monroe, City of Missoula Public Works and Mobility, September 29th, and October 24th, 2022

Other Resources

Wastewater Service Area Map: as of March 19, 2012

<ftp://ftp.ci.missoula.mt.us/Maps%20and%20Graphics/City%20Maps/PDF/WastewaterServiceAreaMap.pdf>

Missoula County Noxious Weed Management Plan: Adopted by the Missoula Board of County Commissioners in Resolution 2012-063

<http://missoulaeduplace.org/images/weeds/noxiousweedmanagementplan/2012weedplan.pdf>

Montana Department of Natural Resources and Conservation

<http://dnrc.mt.gov/divisions/water/water-rights/new-appropriations-program>