

EXECUTIVE SUMMARY

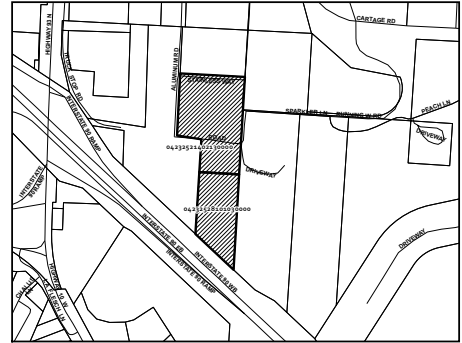
CASE PLANNER: Casey Drayton

REVIEWED AND APPROVED BY: Tim Worley

PUBLIC METING DATE: BCC: August 24, 2017

35-DAY LIMIT: September 12, 2017

AGENDA ITEM: **AKB Commercial Subdivision**



**APPLICANT/
FEE OWNER:** AKB Investments, LLP
8571 Running W Road
Missoula, MT 59808

REPRESENTATIVE: WGM Group, Inc.
c/o Jeff Smith, P.E.
1111 E Broadway
Missoula, MT 59802

LOCATION: 8600 Aluminum Road, Missoula, MT 59808 in the Wye area.

LEGAL DESCRIPTION: Tract 2-B-2A of Certificate of Survey No. 6455, located in the SE ¼ of Section 21, SW ¼ of Section 22, NW ¼ of Section 27 and NE ¼ of Section 28, Township 14 North, Range 20 West, Principal Meridian, Montana.

LEGAL NOTICE: Adjacent property owners were notified by mail on July 31, 2017.

ZONING DESIGNATION: C-C2, General Commercial

GROWTH POLICY: The Wye Mullan West Area Plan (2005), an amendment to the Missoula County Growth Policy (2016), designates this location as Commercial/Industrial.

SURROUNDING LAND USES	SURROUNDING ZONING
North: Truck Repair and Service Center	C-C2 General Commercial
South: I-90 ROW & Travel Plaza	C-C2 General Commercial
East: Vacant	Unzoned
West: Vacant	C-C2 General Commercial

PROPOSAL

AKB Commercial Subdivision

STAFF RECOMMENDATION

Approval of the subdivision,
subject to conditions.

MISSOULA BOARD OF COUNTY COMMISSIONERS

August 24, 2017

AKB COMMERCIAL SUBDIVISION

I. BACKGROUND

The AKB Commercial Subdivision is a proposal by AKB Investments, LLP, represented by WGM Group, Inc. for five lots on 17.08 acres. Lot 1 will include an existing building, and Lots 2 – 5 would be vacant upon subdivision. Lot sizes range from 1.29 acres to 9.84 acres. All 5 lots will be served by extension of the Wye Area Water System and City of Missoula sewer. Access to each lot is proposed by improvement of onsite Aluminum and Running W Roads. Cartage Road, a county maintained public road, provides access to Aluminum Road from Highway 93 N.

The subdivision is zoned for general commercial use (C-C2). The subdivision is outside mapped floodplain and lacks significant hazard areas. The southeast portion of the property falls within the Airport Influence Area; an aviation easement will be required in accordance with the resolution. The parent parcel for this subdivision received preliminary plat approval in 2008 for a 10-lot subdivision known as the Wye Commercial Subdivision. The subdivision preliminary plat approval remains valid until December 17, 2018. The applicant intends to withdraw that approval pending approval of the AKB Commercial Subdivision.

II. SUBDIVISION FINDINGS OF FACT AND CONCLUSIONS OF LAW

A.) ZONING AND GROWTH POLICY COMPLIANCE

Findings of Fact:

1. The proposal is for a five-lot minor subdivision on 17.08 acres. Proposed lot sizes range from 1.29 acres to 2.75 acres for lots 1, 2, 3, and 5. Lot 4 is proposed at 9.84 acres. *(Project Summary, Page 1; Preliminary Plat)*
2. A large building used for light industrial purposes currently occupies the subject property. *(Project Summary, Page 1)*
3. The property proposed for subdivision is in the C-C2 General Commercial Zoning District. Permitted uses include, but are not limited to, automotive sales and service, building material and equipment sales and service, contractor or construction service, transient lodging, repair service, personal services, and professional offices. *(Zoning District Standards)*
4. The applicant proposes a five-lot subdivision that would place the existing building on Lot 1, and create 4 vacant lots. *(Preliminary Plat)*.
5. Setbacks (in the C-C2) for structures are 25' at the front and 10' at the rear. There are no side setbacks in the zoning district. *(Zoning District Standards)*
6. The existing building on proposed lot 1 is approximately 55' from the front lot line and 95' from the rear lot line. *(Preliminary Plat)*
7. The C-C2 zoning district has no minimum lot width. A minimum lot area of 3000 square feet only applies to lots used for residential purposes. *(Zoning District Standards)*
8. Any new development proposed will be reviewed for zoning compliance at time of application for a building permit.
9. The applicable amendment to the Missoula County Growth Policy (2016) is the 2005 Wye Mullan West Comprehensive Area Plan ("Wye Mullan Plan"). The land use designation is Commercial/Industrial. *(Property Information System)*

10. The Missoula County Growth Policy outlines a series of objectives. Objective 5.1 encourages the support of local businesses. (*Growth Policy*)
11. Objective 5.3 encourages the facilitation of well-designed commercial and industrial development that is located appropriately, served by necessary infrastructure, conducive to public health and the environment, and reduces buyer and developer financial and legal risks. (*Growth Policy*)
12. A goal of the Wye Mullan Plan is to cluster commercial and industrial development along major travel corridors and in appropriate land use areas. (*Wye Mullan Plan, 5-1*)
13. The Wye Mullan Plan notes that commercial/industrial areas support uses that rely on convenient access to Highway corridors. (*Wye Mullan Plan, Page 7-19*)
14. FEMA-designated floodplain is absent from the property. (*Property Information System*)
15. The goal of the subdivider is to create five lots supported by community water and sewer systems. (*Project Summary, Page 1*)

Conclusions of Law:

1. The subdivision complies with the Missoula County Zoning Regulations C-C2 General Commercial district standards.
2. The subdivision is in substantial compliance with the Missoula County Growth Policy (2016).
3. The subdivision is in substantial compliance with the Wye Mullan West Plan (2005).

B.) PRIMARY CRITERIA COMPLIANCE

CRITERION 1: EFFECTS ON AGRICULTURE AND AGRICULTURAL WATER USER FACILITIES -

Findings of Fact:

1. Agricultural production is absent from the site. The parent parcel is occupied by a single building with outdoor storage and disturbance to the surrounding natural surface. (*Property Information System*)
2. The property is host to three classifications of soils: Argixerolls-Haploxerolls complex, 0 – 4% slopes which is considered farmland of local importance; Bigarm gravelly loam, 4 – 15% slopes classified as farmland of statewide importance; and Argixerolls-Haploxerolls complex, 4 – 15% slopes which is considered farmland of local importance. (*Agricultural Soils Farmland Exhibit, NRCS Web Soil Survey*)
3. Land uses adjacent to the parent parcel are vacant or developed with commercial and industrial use. The property is not currently adjacent to a larger agricultural enterprise where extension of production to the parcel would be feasible. (*Property Information System*)
4. Grazing on the vacant land to the east or west is the only identified potential for adjacent use to be classified as agriculture. (*Subdivision Application, Page 7; Property Information System*)
5. The property to the east of the parent parcel has historically been utilized for private grazing land. (*Covenants, Page 3*)
6. A section of the covenants has been added to educate future lot owners of the potential implications of living adjacent to agricultural operations. (*Missoula County Subdivision Regulations, Section 3.1.4.2.B.2; Covenants, Page 3*)
7. A condition of approval requires that the section of the Covenants titled “Amendments” shall reference the section titled “Living Adjacent to Agricultural Lands” subject to Community and Planning Services review and approval prior to final plat. (*Missoula County Subdivision Regulations Section 3.1.4.2.B.2; Covenants, Pages 3 and 4*)

8. The property lacks surface water rights and irrigation facilities. (*DNRC Water Rights Query, Subdivision Application, Pages 8 and 9*)

Conclusions of Law:

1. Impacts to agriculture or agricultural water user facilities are lacking in the subdivision.
2. Impact to any adjacent agricultural operations will be mitigated through notification found in the development covenants with the amendment required as a condition of approval.

CRITERION 2: EFFECTS ON LOCAL SERVICES --

Roads

Findings of Fact

1. The subdivision is served by Aluminum Road, a 32' wide gravel road within a 60' wide roadway easement. (*Subdivision Application, Page 17*)
2. Aluminum Road connects to Cartage Road, a 32' wide county maintained public road. (*Property Information System*)
3. The subdivision is proposed as commercial and the applicable road standards in Subdivision Regulations Table 3.4.7 requires a 60' – 80' ROW and a pavement width of 26' if no parking is proposed, 34' if parking is proposed on 1-side, and 42' if parking is proposed on both sides. (*Missoula County Subdivision Regulations, Table 3.4.7*)
4. All portions of Aluminum Road and Running W Road within the subdivision and adjacent to the subdivision are proposed as 32' wide paved roads within a 60' ROW. Parking areas are not proposed. Plans for and improvements shall be reviewed and approved by County Public Works prior to final plat approval. (*Public Works, 6/9/17; Preliminary Road Plan and Profile*)
5. Stainless Way, an existing 60' wide private roadway easement is proposed to be released with consent of the easement grantor and grantee. The section of easement to be released runs the full length of the northern boundary of the AKB subdivision. (*Subdivision Application, Page 19*)
6. The building on proposed lot 1 of the subdivision utilizes an existing secondary driveway access from Stainless Way. (*Property Information System*)
7. Stainless Way is designated on the preliminary plat as a 50' wide private access easement for the use and benefit of Tract 2-B-1A. (*Preliminary Plat*)
8. A condition of approval requires Stainless Way to be designated as a 50' wide shared private access easement for the use and benefit of Tract 2-B-1A of COS 6455 and Lot 1 of the AKB Subdivision. A private road maintenance agreement shall provide for year-round maintenance of Stainless Way. The development agreement shall be attached to the development covenants and shall be reviewed and approved by Missoula County Public Works prior to final plat approval. The private road maintenance agreement for Stainless Way shall not be amended or deleted without governing body review and approval. (*Missoula County Subdivision Regulations Appendix B; Preliminary Plat*)
9. A 1' Access Control Line is shown on the preliminary plat along the south boundary of the 50' private access easement known as Stainless Way to restrict access to any of the AKB Commercial Subdivision lots. (*Preliminary Plat*)
10. A condition of approval requires that the access control line along the south boundary of the 50' private access easement known as Stainless Way be amended to allow access to the secondary driveway that serves the existing building on Lot 1. The access control line shall run the full length of the easement exclusive of the existing secondary access. (*Preliminary Plat*)
11. Sparkler Lane, an existing 60' wide private roadway easement is proposed to be released with the consent of the easement grantor and grantee. The roadway improvements and

easement are proposed to be removed from the northern boundary of Tract 2-B-1A of COS 6455 to the point where it intersects with Running W Road. (*Subdivision Application, Page 19; Preliminary Plat*)

12. All lots within the AKB subdivision and adjacent to the subdivision will be provided legal and physical access with the road configuration proposed. (*Preliminary Plat*)
13. Aluminum Road and Running W Road are shown on the plat as public access and utility easements. (*Preliminary Plat; Public Works, 6/9/17*)
14. The covenants and road maintenance agreement exhibit refer to private road access easements. This designation conflicts with the preliminary plat and Public Works comments. (*Covenants; Preliminary Plat; Public Works, 6/9/17*)
15. All references in the covenants, and associated exhibits, to the Private Road Maintenance Agreement and Private Road Easement shall be altered to allow for public access. This is a condition of approval and subject to Missoula County Public Works and Missoula County Community and Planning Services review and approval prior to final plat review. (*Public Works, 6/9/17*)
16. Aluminum Road and Running W Road are proposed to be paved to a minimum of 32' in width; plans and improvements shall be reviewed and approved by County Public Works prior to final plat approval. (*Public Works, 6/9/17; Missoula County Subdivision Regulations Table 3.4.7*)
17. A condition of approval requires a street signage plan in conformance with the Manual on Uniform Traffic Control Devices, including, but not limited to, provisions for temporary signage during construction, permanent signage, and cost of installation to be the responsibility of the subdivider, shall be reviewed and approved by County Public Works prior to final plat approval. The developer must install the temporary signs prior to construction and permanent signs prior to final plat approval. (*Public Works, 6/9/17; Missoula County Subdivision Regulations Section 3.4.1.2*)
18. The subdivision covenants address driveways in excess of 150' in length, as well as appropriate emergency vehicle clearance and drivable width. (*Covenants*)
19. The subdivision is located in the Air Stagnation Zone. The City-County Environmental Health Division states that most new roads, access ways, and parking areas built in the Air Stagnation Zone must be paved. A permit application and approved permit are required prior to construction. (*Environmental Health Division, 3/21/17*)
20. The RSID/SID waiver statement on the plat shall state the following and shall appear in each instrument of conveyance for each phase: "Acceptance of a deed for a lot within this subdivision constitutes assent of the lot owner to waive the right to protest a future RSID/SID for improvements including but not limited to the installation of dust abatement, paving, drainage facilities, curbs and gutters, pedestrian walkways or bikeways to Cartage Road, Aluminum Road, Running W Road, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land". (*Public Works, 6/9/17; Missoula County Subdivision Regulations Section 6.3.8.1.*)
21. A road maintenance agreement providing for year-round maintenance of Aluminum Road and Running W Road is attached to the Development Covenants. The inclusion of this agreement is a condition of approval subject to the review and approval of Public Works prior to final plat approval and may not be amended or deleted without governing body approval. (*Missoula County Subdivision Regulations Appendix B*)

Conclusions of Law

1. The subdivision will meet the road standards in the Missoula County Subdivision Regulations if the required conditions of approval are imposed.

Pedestrian Facilities

Findings of Fact:

1. Pedestrian facilities are lacking within and around the subdivision. (*Subdivision Application, Page 16*)
2. Minor subdivisions in the Urban Area are not required to have pedestrian facilities per Missoula County Subdivision Regulations Section 3.4.9.1.A. However, they are required to include a waiver of the right to protest creation of an SID/RSID for future construction of sidewalks, bicycle lanes or trails. This language is found on the preliminary plat. (*Missoula County Subdivision Regulations Section 3.4.9.1.A*)

Conclusions of Law:

1. The proposal complies with the Missoula County Subdivision Regulations.

Water & Sanitation Systems

Findings of Fact:

1. The subdivision will be connecting to an existing public water supply system, Wye Area Water System. (*Subdivision Application, Page 21*)
2. The closest main along Running W Road is within 20' of the property. The main will be extended with stub-outs provided to each lot. (*Sanitary Summary, Page 1*)
3. A well serves the existing building on lot 1. The building will be connected to the public system as part of the extension of service. (*Sanitary Summary, Page 1*)
4. The Wye Area Water Company agreed that they had adequate capacity to provide water to the previously approved Wye Commercial Subdivision. (*Wye Area Water Company, 2/3/2009*)
5. Missoula County Subdivision Regulations Section 3.6.5 requires connection to a public water or wastewater system if any part of the subdivision is within 500' of the system.
6. The subdivision is within the RSID 8489 Sewer District and will be connecting to the City of Missoula public sewer. (*Sanitary Summary, Page 1; Subdivision Application, Page 22*)
7. Sewer lines have previously been extended through the subdivision. The building on lot 1 is connected to the system. New stub-outs are proposed to serve the remaining 4 lots. (*Sanitary Summary, Page 1*)

Conclusions of Law:

1. The water and sanitation information complies with Subdivision Regulations.
2. Review of water and sanitation 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 will be able to provide solid waste disposal services to this subdivision. (*Republic Services, 3/27/17*)

Conclusion of Law:

1. 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. No parkland dedication or cash-in-lieu of park dedication is proposed for the subdivision. (*Project Summary, Page 2*)

2. Missoula County Subdivision Regulations Sections 3.10.3.1 and 3.10.3.3 exempt minor subdivisions and non-residential subdivisions, respectively, from parkland dedication requirements.

Conclusions of Law:

1. This subdivision is exempt from parkland dedication or cash-in-lieu of park dedication since it is a minor commercial subdivision.

Schools

Findings of Fact:

1. The Subdivision Application indicates that the subdivision is within DeSmet Elementary School District and the Frenchtown School District for secondary. (*Subdivision Application, Page 22*)
2. Little residential impact is expected and the estimated number of school aged children to add to the district is zero. (*Subdivision Application, Page 22*)
3. The C-C2 zoning district does allow for possibility of single-family and two-family residential development as a permitted use with multi-family development as a conditional use. (*Zoning District Standards*)

Conclusion of Law:

1. There are no identified adverse impacts to schools requiring mitigation.

Fire Department

Findings of Fact:

1. The subject property is located in the Frenchtown Rural Fire District and is approximately two miles from the nearest fire station. (*Subdivision Application, Page 23*).
2. Missoula County Subdivision Regulations Section 3.5.3 requires water supply for fire protection that includes a municipal system, storage and hydrants, or fire sprinklers.
3. The Fire Suppression Plan confirms that a municipal system is the chosen water supply for firefighting. The system will provide the minimum flow required by NFPA 1142 standards. (*Fire Suppression Plan Exhibit*)
4. Placement of the hydrant location will be reviewed and approved by the Missoula County Fire Inspector prior to final plat review. (*Missoula County Subdivision Regulations Section 3.5.10*)
5. The covenants include language regarding visibility and requirements for address signs. This language shall not be amended or deleted without governing body review and approval. (*Covenants*)

Road & Driveway Access

6. Language in the covenants addresses emergency access, including unobstructed horizontal and vertical clearance, plus the need for turn-arounds on dead-end driveways exceeding 150' in length. This language shall not be amended or deleted without governing body review and approval. (*Covenants; Missoula County Subdivision Regulations Section 3.5.7*)

Conclusions of Law:

1. This subdivision meets the fire protection requirements of the Subdivision Regulations.

Sheriff Department

Findings of Fact:

1. The subject property is approximately 10 miles away from the Missoula County Sheriff's office. (*Subdivision Application, Page 23*)

2. No comments indicating issues with the subdivision were received from the Sheriff's Department.

Conclusion of Law:

1. This subdivision has been reviewed for adequate police protection per Missoula County Subdivision Regulations. Missoula County law enforcement services will be available to the subdivision in a manner consistent with its distance from services and ease of access.

CRITERIA 3 AND 4: EFFECTS ON THE NATURAL ENVIRONMENT AND WILDLIFE AND WILDLIFE HABITAT--

Findings of Fact:

Natural Environment

1. Missoula County Subdivision Regulations Appendix E summarizes the Primary Review Criteria for subdivisions. Subdivisions with slopes greater than 25% can be considered to have an impact on the natural environment. (*Missoula County Subdivision Regulations Appendix E*)
2. Natural slopes in excess of 25% grade are identified on the preliminary plat as "No Build Zones". (*Missoula County Subdivision Regulations Section 3.1.2.3.B.; Preliminary Plat*)

Wildlife & Wildlife Habitat

3. The subdivision is in a moderately-developed area with I-90 adjacent to the south and Highway 93 N in close proximity to the west. (*Property Information System*)
4. The property is classified as Big Game Winter Range Habitat. Species identified include Whitetailed Deer and Mule Deer. (*FWP Crucial Areas Planning System; Property Information System*)
5. Previous site disturbances and relatively little vegetation provide no significant wildlife habitat areas. (*Property Information System*)
6. Montana Fish, Wildlife and Parks was contacted regarding the subdivision, but did not comment.
7. Covenant language referred to as "Living With Wildlife" has been included that addresses the issue of wildlife attractants. This language shall not be amended or deleted without prior approval of the governing body. (*Covenants*)

Weed Management

8. The subdivision site appears to contain large areas of disturbance. Further disturbance can be expected from subdivision infrastructure improvements and site development. (*Property Information System*)
9. The Covenants make reference to the Weed Management Plan Development Agreement, Montana County Weed Control Act, and the Missoula County Noxious Weed Management Plan. (*Covenants*)
10. Ground disturbances caused by construction or maintenance shall be re-vegetated with beneficial species at the first appropriate opportunity by the property owners. (*Covenants; Missoula County Subdivision Regulations Section 3.7.12*)
11. The Weed Management Plan Development Agreement referenced in the covenants was recorded for the previously approved Wye Commercial Subdivision as a condition of approval. The applicant intends to withdraw the approval of the Wye Commercial Subdivision prior to filing the plat for the AKB Commercial Subdivision. (*Project Summary, Page 1; Covenants, Exhibit A*)
12. A condition of approval requires a Weed Management Plan as a development agreement or part of the covenants that is updated with current references and descriptions that pertain to the AKB Commercial Subdivision. This plan shall be reviewed and approved by the Missoula County Weed District prior to final plat approval. (*Missoula County*)

Subdivision Regulations Section 3.7.11; Missoula County Subdivision Regulations Appendix B)

13. A condition of approval requires that a current site analysis, goals and action items will need to be identified as part of a proper management plan. This plan shall address the developer as the responsible party for implementation and execution until such time that each lot is conveyed and the new owner assumes the responsibility for weed management. *(Missoula County Subdivision Regulations Sections 3.7.12.3, 3.1.2.4, and Appendix B)*
14. The Weed Control section of the covenants shall be updated to reference the Weed Management Plan for the AKB Commercial Subdivision; this is a condition of approval. *(Covenants)*

Conclusion of Law:

1. With the required conditions of approval, the subdivision complies with the Missoula County Subdivision Regulations and mitigates for the subdivision's impacts to the natural environment, wildlife and wildlife habitat.

CRITERION 5: EFFECTS ON PUBLIC HEALTH AND SAFETY--

Findings of Fact:

Floodplain/Steep Slopes

1. The subdivision does not contain any FEMA floodplain. *(Property Information System)*
2. Natural slopes in excess of 25% grade shall be deemed unsuitable for building sites unless a geotechnical analysis and an engineering plan demonstrate that development can safely occur on the slope. The applicant has opted to show the natural slopes in excess of 25% grade on the preliminary plat as "No Build Zones". *(Missoula County Subdivision Regulations Section 3.1.2.3.B.)*
3. The covenants contain a section titled No-Build Zone – Steep Slopes that references the areas shown on the plat with slopes greater than 25%. The area prohibits all primary and accessory structures, roads, and driveways. *(Covenants)*
4. A condition of approval requires these areas to be depicted by bearings and distances on the Conditions of Approval Sheet that is required with the final plat. *(Missoula County Subdivision Regulations Section 3.1.2.3.B)*

Airport

5. The proposed subdivision is located at the fringe of the Missoula Airport Influence Area. Approximately 12.5 acres of the property is included within the influence area. The area of the subdivision within the influence area will need to meet the requirements outlined in the Airport Influence Area Resolution, including the filing of an avigation easement. This is required as a condition of approval. *(Subdivision Regulations Section 3.1.3.2.K)*
6. A note on the face of the preliminary plat and a section of the covenants confirms the location adjacent to the airport, and therefore this location may be subject to noise, odors, fumes, dust, traffic, etc. This section may not be amended or deleted without governing body approval. *(Covenants)*

Radon

7. The covenants contain a section on Radon that confirms Missoula County as having high radon potential. In accordance with recommendations from the City-County Health Department, all new construction is recommended to incorporate radon resistant construction features. *(Covenants; Environmental Health Division, 3/21/17)*

Air Quality

8. Since this subdivision is inside the Missoula Air Stagnation Zone, only approved pellet stoves may be installed at this location. The Missoula City-County Air Pollution Control

Program regulations prohibit the installation of wood burning stoves or fireplaces inside the Missoula Air Stagnation Zone. Pellet stoves that meet emission requirements or natural gas or propane fireplaces may be installed. Pellet stoves require an installation permit from the County Public Works Department. (*Environmental Health Division, 3/21/17*)

9. The covenants include language about stove installation. The covenant language reflects what is acceptable by the City-County Health Department. (*Covenants*)

Conclusions of Law:

1. The subdivision will comply with public health and safety standards in the Missoula County Subdivision Regulations with the required conditions of approval.
2. Hazards relating to radon and air quality will be mitigated if the owners enforce the Development Covenants as amended.

C) COMPLIANCE: This subdivision complies with:

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.

Conclusion of Law:

1. This proposal meets the survey requirements.

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 developer has submitted a plat which complies with the requirements of local subdivision regulations or conditions have been required that will bring the plat into compliance.

3) REVIEW PROCEDURE AND NOTICE OF APPEAL PROCESS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in Section 5 of the Missoula County Subdivision Regulations.
2. The public meeting notification for this subdivision was mailed to notice recipients on July 31, 2017 per Missoula County Subdivision Regulations Section 5.7.11.
3. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) 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 Missoula County who can establish a likelihood of material injury to property or its material value, or the Missoula County Board of County Commissioners. 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 Missoula County Subdivision Regulations.

D) PROVISION OF EASEMENTS FOR UTILITIES:

Findings of Fact:

1. Missoula County Subdivision Regulations Section 3.8.7 requires easements for utilities to be shown on the preliminary and final plat.
2. All easement areas dedicated as depicted on the plat are 20' in width or greater as required by Missoula County Subdivision Regulations. (*Preliminary Plat; Missoula County Subdivision Regulations 3.8.3*)
3. A condition of approval requires a 20' wide utility easement to be dedicated and depicted on the plat along portions of the east property line where the Sparkler Lane private road and utility easement is being abandoned. (*Missoula County Subdivision Regulations Section 3.8.3*)

Conclusion of Law:

1. Utility services will be available to this subdivision and are in compliance with the subdivision regulations with the required condition of approval.

E) PROVISION OF LEGAL AND PHYSICAL ACCESS:

Findings of Fact:

1. Aluminum Road serves the AKB Subdivision. This is a private road within 60' wide established easements to allow access. (*Roadway Easements*)
2. The existing Aluminum Road is a 32' wide gravel road. (*Subdivision Application, Page 17*)

Conclusion of Law:

1. The proposal meets physical and legal access requirements for subdivision.

MOTIONS AND CONDITIONS

III. RECOMMENDED MOTION FOR SUBDIVISION

1. **THAT** the **AKB Commercial Subdivision** be **approved**, based on the findings of fact in the staff report and subject to the recommended conditions of approval in the staff report.

IV. RECOMMENDED CONDITIONS OF SUBDIVISION APPROVAL

Plat Notes:

1. The following disclaimer shall be shown on the face of the plat, subject to CAPS review and approval prior to final plat approval:
“The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water, or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as ‘Utility Easement’ and ‘Public Access and Utility Easement’ to have and to hold forever.” (*Missoula County Subdivision Regulations Section 7.7.1*)

Agriculture:

2. The section of the Covenants titled “Amendments” shall include the section of the covenants titled “Living Adjacent to Agricultural Lands” subject to Community and Planning Services review and approval prior to final plat. (*Missoula County Subdivision Regulations Section 3.1.4.2.B.2*)

Roads:

3. A street signage plan in conformance with the Manual on Uniform Traffic Control Devices, including, but not limited to, provisions for temporary signage during construction, permanent signage, and cost of installation to be the responsibility of the subdivider, shall be reviewed and approved by County Public Works prior to final plat approval. The developer must install the temporary signs prior to construction and permanent signs prior to final plat approval. (*Public Works, 6/9/17; Missoula County Subdivision Regulations Section 3.4.1.2*)
4. The access control line shown along south boundary of the 50’ wide private access easement known as Stainless Way shall be amended to allow access to the secondary driveway that serves the existing building on Lot 1. The access control line shall run the full length of the easement exclusive of the existing secondary access. (*Preliminary Plat*)
5. All references in the covenants, and associated exhibits, to the Private Road Maintenance Agreement and Private Road Easement for Aluminum Road and Running W Road shall be altered to allow for public access subject to Missoula County Public Works and Community and Planning Services review and approval prior to final plat review. (*Public Works 6/9/17*)
6. A road maintenance agreement providing for year-round maintenance of Aluminum Road and Running W Road shall be attached to the Development Covenants. This agreement is subject to the review and approval of Missoula County Public Works prior to final plat approval and may not be amended or deleted without governing body approval. (*Missoula County Subdivision Regulations Appendix B*)
7. Stainless Way shall be designated on the final plat as a 50’ wide shared private access easement for the use and benefit of Tract 2-B-1A of COS 6455 and Lot 1 of the AKB Subdivision. A private road maintenance agreement shall provide for year-round maintenance of Stainless Way. The development agreement shall be attached to the

development covenants and shall be reviewed and approved by Missoula County Public Works prior to final plat approval. The private road maintenance agreement for Stainless Way shall not be amended or deleted without governing body review and approval. *(Missoula County Subdivision Regulations Appendix B; Preliminary Plat)*

Airport Influence Area:

8. The following statement shall appear on the face of the plat: “Areas of this property are located within the Airport Influence Area and subject to the requirements of the Airport Influence Area Resolution.” *(Missoula County Subdivision Regulations Section 3.1.3.2.K)*
9. An avigation easement shall be recorded for this subdivision in compliance with the Airport Influence Area Resolution and subject to review and approval of the Missoula County Airport Authority prior to final plat approval. *(Missoula County Subdivision Regulations Section 3.1.3.2.K)*

Weeds:

10. A Weed Management Plan is required as a development agreement or part of the covenants that is updated with current references and descriptions that pertain to the AKB Commercial Subdivision. This plan shall be reviewed and approved by the Missoula County Weed District prior to final plat approval. *(Missoula County Subdivision Regulations, Section 3.7.11; Missoula County Subdivision Regulations Appendix B)*
11. A current site analysis, goals and action items will need to be identified as part of a proper management plan. This plan shall address the developer as the responsible party for implementation and execution until such time that each lot is conveyed and the new owner assumes the responsibility for weed management. *(Missoula County Subdivision Regulations Sections 3.7.12.3, 3.1.2.4, and Appendix B)*
12. The Weed Control section of the covenants shall be updated to reference the Weed Management Plan for the AKB Commercial Subdivision. *(Covenants)*

Development Covenants:

13. The section of the Covenants titled “Amendments” shall not be amended or deleted without prior approval of the governing body subject to Community and Planning Services review and approval prior to final plat. *(Covenants)*

Plat:

14. The “No Build Zones” for steep slopes shall be shown in bearings and distances on a conditions of approval sheet, subject to Community and Planning Services review and approval prior to final plat approval. *(Missoula County Subdivision Regulations Section 3.1.2.3.B and Appendix B)*

Utilities:

15. A 20’ wide utility easement shall be dedicated and depicted on the plat along portions of the east property line where the Sparkler Lane private road and utility easement is being abandoned. *(Missoula County Subdivision Regulations, Section 3.8.3)*

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.

Rules, Plans & Regulations

Missoula County Growth Policy: Adopted by the Board of County Commissioners in 2016.

<http://www.missoulacounty.us/home/showdocument?id=15085>

Missoula County Subdivision Regulations: Adopted by the Board of County Commissioners of Missoula County and amended November 4, 2016.

<http://www.missoulacounty.us/Home/ShowDocument?id=23722>

Wye Mullan West Comprehensive Area Plan: Adopted by Missoula City Council and the Board of County Commissioners in 2005.

<https://shared.missoulacounty.us/index.php/s/1TEB7dWG1b3CEul>

Zoning District Standards: Missoula County Zoning Regulations adopted by the Board of County Commissioners on April 11, 2017.

<https://www.missoulacounty.us/home/showdocument?id=25491>

Information Queries:

DNRC Water Rights Query:

<http://wrqs.dnrc.mt.gov/>

Fish Wildlife and Parks Crucial Areas Planning System:

<http://fwp.mt.gov/gis/maps/caps/>

Missoula County Property Information System:

<http://gis.missoulacounty.us/propertyinformation/>

Natural Resources Conservation Service Web Soil Survey:

<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

Elements of the AKB Commercial Subdivision application packet:

Agricultural Soils Farmland Exhibit: *AKB Commercial Subdivision, Section 2, Maps/Exhibits*

Covenants: *AKB Commercial Subdivision, Section 7, Development Covenants*

Fire Suppression Plan Exhibit: *AKB Commercial Subdivision, Section 2, Maps/Exhibits*

Preliminary Plat: *AKB Commercial Subdivision, Section 2, Maps and Exhibits*

Preliminary Road Plan and Profile: *AKB Commercial Subdivision, Section 2, Maps and Exhibits*

Project Summary: *AKB Commercial Subdivision, Section 1, Project Summary*

Roadway Easements: *AKB Commercial Subdivision, Section 3, History*

Sanitary Summary: *AKB Commercial Subdivision, Section 8, Water and Sanitation*

Subdivision Application: *AKB Commercial Subdivision, Section 6, Subdivision Application*

Vegetation Management Plan: *AKB Commercial Subdivision, Section 7, Development Covenants*

Wye Area Water Company: *AKB Commercial Subdivision, Section 8, Water and Sanitation*

Agency Comment Letters and Other Cited References (hard copy documents are included in application packet or attached to this staff report):

Environmental Health Division, 3/21/17: *Missoula City-County Health Department, Environmental Health Division, dated March 21, 2017.*

Public Works, 6/9/17: *Missoula County Engineering Division, dated January 18, 2017.*

Republic Services, 3/27/17: *Republic Services, dated March 27, 2017.*

V. ATTACHMENTS

- A. Final Plat Requirements
- B. Project History Form

ATTACHMENT A FINAL PLAT REQUIREMENTS

If the Commissioners preliminarily approve the proposed subdivision, the preliminary approval applies to the subdivision as proposed on the preliminary plat and in the submittal packet, as amended by any conditions of approval. The Planning Office and other applicable agencies will review the following items, in addition to conditions of approval, Subdivision Regulations Section/Table 7.5, and the final plat checklist, prior to final plat approval in order to ensure compliance with the subdivision regulations, other applicable regulations, and the proposed preliminary plat and submittal packet:

Roads

1. Plans for and installation of Aluminum Road and Running W Road to a minimum of 32' wide paved roads shall be reviewed and approved by Missoula County Public Works.
2. The 60' private roadway easement for the sections of Stainless Way and Sparkler Lane shown on the preliminary plat shall be eliminated in accordance with process established by Missoula County.

Plat

3. The RSID/SID waiver statement on the plat shall state the following and shall appear in each instrument of conveyance for each phase: "Acceptance of a deed for a lot within this subdivision constitutes assent of the lot owner to waive the right to protest a future RSID/SID for improvements including but not limited to the installation of dust abatement, paving, drainage facilities, curbs and gutters, pedestrian walkways or bikeways to Cartage Road, Aluminum Road, Running W Road, based on benefit. The waiver shall run with the land and shall be binding on the transferees, successors, and assigns of the owners of the land". (*Public Works, 6/9/17*)
4. The Airport Influence Area note shall be shown on the face of the final plat.

Fire

5. The Missoula County Fire Inspector shall review the plans for and installation of the fire hydrant.

**ATTACHMENT B
SUBDIVISION PROJECT HISTORY**

Project: AKB Commercial Subdivision, 5-lot commercial minor subdivision

Applicant/ Representative: WGM Group, Inc.

	Dates		
Scoping/ Pre-application Meetings	Preapplication: 12/6/2016		
Element	1st: 2/13/17 - 2/21/17	2nd: 3/9/17-3/16/17	3rd: N/A
Sufficiency	Submitted 1 st : March 16, 2017 2 nd : May 26, 2017 3 rd : July 7, 2017	15 Day Deadline 1 st : April 6, 2017 2 nd : June 19, 2017 3 rd : July 28 (July 24)	Sufficient-Y/N 1 st : N 2 nd : N 3 rd : Y
Submittal 7 copies 7 days prior to 1 st meeting	Received 7/25/17	Accepted	35 Day Deadline Sept. 12, 2017
Planning Board	N/A		
BCC	8/24/2017		
Public Notice	Poster N/A	Legal Ad N/A	APO letters 7/31/2017
Plat Approval Expiration Date 20 years, HB 445			
Extension	Requested	Granted	New Proj. App. Exp. Date
CAPS Plat Sign Off			

Report Reviews/Final Report Issued

Meetings with Applicant

Other Actions