

Attachment A

Staff Analysis and Recommendation

County Planning, County Public Works, and County Legal staffs have reviewed the two requests from the applicant (See Page 2 and Page 4 of this attachment below) for variances from Section 4.6 (C) (B) (13) and Section 4.6 (A) (3) of the Yellowstone County Subdivision Regulations and are recommending denial.

Variance #1: Section 4.6 (C) (B) (13) All roads within or adjacent to the subdivision shall be paved if they connect to an existing paved road.

The proposed subdivision is dedicating the internal roads to the county and will be creating an RSID-M to maintain them. The applicant is asking to not have to pave the dedicated right-of-way from the intersection of South 68th Street West and Cowgirl Way going south to the south east corner of the subdivision. As stated by county legal, "Failure to pave the 'stub' on 68th at this time would mean that it would likely never be paved. We could never force a potential subdivider to the south of this proposed subdivision to pave something in a different subdivision after making an affirmative decision to allow the current subdivider to not pave on his own property."

Variance #2: Section 4.6 (A) (3) There shall be right-of-way and road connections made when existing roads or platted roads outside of the subdivision connect to the subject parcel.

The second variance request is to not connect to an existing South 70th Street West road section in the subdivision to the south, Linlee Lake Estates. This section of South 70th Street West is already paved in the Linlee Lake Estates Subdivision to the southern edge of the proposed Cowboy Country subdivision. The subdivision regulations require connection to existing streets that abut the subject property from surrounding subdivisions. County Legal Department staff stated that, "Failure to connect to the existing South 70th Street West would defeat the subdivision regulations that provide for connectivity. There are countless commercial and residential subdivisions that use the same street for transportation needs."

To provide connection to existing and future subdivisions, the entire length of South 68th Street West needs to be built and a connection to the existing 70th Street West needs to take place for the benefit of future and existing property owners for the safety and ease of movement through the neighborhoods. Therefore, staff is recommending denial of the proposed variances, and recommends that the Planning Board recommend denial to the Board of County Commissioners.

NORTH STAR LAND SERVICES, P.C.

33 Centennial Road, Columbus, Montana 59019

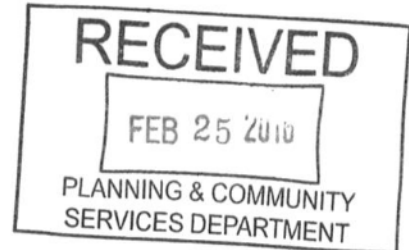
Phone and Fax – (406) 322-9943 Email: nstar0102@gmail.com

Thomas G. Kelly, Land Surveyor

Montana Registration No. 11289 LS

2-22-16

Yellowstone County
City/ County Planning Department
2825 3rd Ave. North, 4th Floor
Billings, MT 59101



RE: Request for Variance, Cowboy Country Acres Subdivision, 2nd Filing
Yellowstone County Subdivision Regulations, Streets and Roads
Section C, Road and Street Performance Standards for Subdivisions
Paragraph 13, Street Surfacing

The request for a variance is from the above referenced regulation asking that we will **not be required** to pave that section of 68th Street West from the intersection of 68th Street West and Cowgirl Way going south and being 408.88 feet in length.

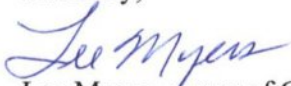
This request satisfies the five findings found in Section 11.1.A of the Subdivision Regulations, which is described below.

- 1) Granting of this variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties because this section of 68th Street West is a dead end and only serves as access for Mr. Meyers to get to his property located southeast of the proposed subdivision. A no access strip is located along the east line of Lot 1, Block 2, therefore there will not be any accesses off of this section of road onto any lot.
- 2) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced. At this point in time this section of road does not provide access to any of the lots, is not a through street and is not part of the main road design for the subdivision.
- 3) The variance will not result in an increase in taxpayer burden because it does not effect anything that would require public finding.
- 4) The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations. This area is located in a non zoned area.

5) The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied. The road design of Cowboy Country Acres Subdivision, 2nd Filing satisfies the requirements of the Yellowstone County Subdivision Regulations for road design and paving this section of 68th Street West will not deviate from meeting these requirements or improving on the traffic flow or safety of the roads within the subdivision. If this section of road, in the future, serves as an access to a another development, then the road will be paved to county standards.

Thank you for you consideration of this variance request and look forward to continuing through the subdivision review and approval process.

Sincerely;



Lee Myers, owner of Cowboy Country Acres Subdivision, 2nd Filing

NORTH STAR LAND SERVICES, P.C.

33 Centennial Road, Columbus, Montana 59019

Phone and Fax – (406) 322-9943 Email: nstar0102@gmail.com

Thomas G. Kelly, Land Surveyor

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Yellowstone County
City/ County Planning Department
2825 3rd Ave. North, 4th Floor
Billings, MT 59101

RE: Request for Variance, Cowboy Country Acres Subdivision, 2nd Filing
Yellowstone County Subdivision Regulations, Streets and Roads
Section A, Road Network Performance Standards
Paragraph 4, Proposed roads shall be looped or connected to other roads whenever possible

The request for a variance is from the above referenced regulation asking that we will **not be required** to extend 70th Street West south to intersect with Lakeshore Drive being a street in Linlee Lake Estates Subdivision.

This request satisfies the five findings found in Section 11.1.A of the Subdivision Regulations, which is described below.

- 1) Granting of this variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties because Cowboy Country Acres Subdivision, 2nd Filing road design connects 68th Street West and 70th Street West with a connector street, "Cowgirl Way" which provides a loop road design and proper ingress/egress for the subdivision.
- 2) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, an undue hardship to the owner would result if the strict letter of the regulation was enforced. If we connect 70th Street West and Lakeshore Drive it would be intermixing residential and commercial use via the road design and provide a hardship on the existing residential residents of Linlee Lakes Estates Subdivision.
- 3) The variance will not result in an increase in taxpayer burden because it does not effect anything that would require public finding.
- 4) The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations. This area is located in a non zoned area. Connecting the roads would, however, create a connection between a residential and commercial use that would be detrimental to both uses.

5) The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied. The road design of Cowboy Country Acres Subdivision, 2nd Filing satisfies the requirements of the Yellowstone County Subdivision Regulations for ingress/egress for the subdivision and meet the objectives of keeping residential and commercial uses separate.

Thank you for your consideration of this variance request and look forward to continuing through the subdivision review and approval process.

Sincerely;

A handwritten signature in blue ink that reads "Lee Myers". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Lee Myers, owner of Cowboy Country Acres Subdivision, 2nd Filing

