

Attachment A

Staff Analysis and Recommendation

County Planning, County Public Works, County GIS and County Legal staffs have reviewed this request for a variance from regulation that requires developers to provide a possible future connection to undeveloped land next to their proposed subdivision. The applicant is requesting a variance from Section 4.6.B.1 Relation to Undeveloped Areas of the Yellowstone County Subdivision Regulations, staff is recommending denial.

The County has this regulation in place to provide for future movement between developments without requiring people to go out on main arterial streets to move within a residential neighborhood.

In **County Subdivision Regulations Section 4.6.B., 1 Relation to Undeveloped Areas**, it states; When a proposed subdivision adjoins undeveloped land, streets within the proposed subdivision shall be arranged to allow access to the adjoining undeveloped land. Street right-of-way within the proposed subdivision shall be provided to the boundary lines of the tract to be developed, unless prevented by topography or other physical conditions.

By providing future access it would be beneficial to future home owners safety. By providing connections within proposed subdivision, in the future when the surrounding land develops people living in the subdivision will be able to travel between developments without having to go onto main roads to get to their neighbors. Without the internal connections, people would be required to go out onto Hesper, including children on bikes or walking, to get to the neighbor in another development to the east or west. There are no physical barriers to these connections as this land is farm land without any major grade changes to the east or west.

The required road would require increasing the cost of the RSID if they are installed, but they are short sections and with additional development and increase in lots the cost would go down. The connections to the east and west could both be dedicated public easement similar to the 60-foot road and utility easement shown on the proposed plat for Hesper. The easement would not take away from overall lot acreage causing them to go below the 1-acre size.

The purpose of these regulations is to provide for future growth and address connectivity for vehicle and pedestrian access for convenience and safety. By not providing a future connection to the east and west, this development creates an 'island' with no connection within neighborhoods that are next to each other. This will make movement within the neighborhoods not possible and require people to go onto main arterial roads to get to neighbors' homes. Children will not be able to walk safely in a 'neighborhood' or get to a friend's house that is not on their street. Public safety and law enforcement services also are hindered in reaching residence when there is only one way into a neighborhood and/or access to adjoining neighborhoods is blocked.

Therefore, staff is recommending denial of the proposed variance, and recommends that the Planning Board recommend denial to the Board of County Commissioners.

December 21, 2017

Yellowstone County Planning Department
2825 3rd Avenue North
4th Floor (Miller Building)
Billings, MT 59101

To Whom it May Concern:

Whitehorse Estates Subdivision, 1st Filing, a 12-lot proposed residential development, is submitting this written petition respectfully requesting a variance from Section 4.6.B.1 in the Yellowstone County Subdivision Regulations which states "Relation to Undeveloped Areas: When a proposed subdivision adjoins undeveloped land, streets within the proposed subdivision shall be arranged to allow access to the adjoining undeveloped land. Street right-of-way within the proposed subdivision shall be provided to the boundary lines of the tract to be developed, unless prevented by topography or other physical conditions". The variance is requested for the following reasons:

Per Yellowstone County Subdivision Regulations Section 11.1.A the following are addressed:

1. *The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;*

Response: Granting of this requested variance will have no detrimental effects to the public health, safety, or general welfare or injurious to other adjoining properties. Granting this variance would eliminate the possibility of vehicular access to the adjoining properties through the proposed development. By eliminating this possibility, the adjoining landowners would not be exposed to vehicular traffic to their land which could cause safety concerns and degradation of the land.

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;*

Response: The proposed development will be zoned Agricultural Suburban which requires lots to be greater than 1 acre. If the strict letter of the regulation was enforced and the developer was required to provide access to the adjoining undeveloped areas to the east and west it would reduce the total acreage of the development. The proposed lot configuration is very close to providing each lot

the minimum 1 acre area and could fall below the 1 acre threshold for the zoning. Although the road could be created by means of an easement the landowner would pay taxes on land that they cannot use and does not benefit them in anyway.

3. *The variance will not result in an increase in taxpayer burden;*

Response: The result of not providing access to adjoining undeveloped land will have no effect on the taxes of the proposed development or adjoining undeveloped land. In fact, minimizing the linear feet of roadway will minimize the tax assessment for street maintenance through County RSIDs.

4. *The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations; and*

Response: This requested variance will not in any manner place the subdivision in nonconformance with the adopted zoning regulations. In fact, if this variance is not granted it could place the subdivision in nonconformance with the adopted zoning regulations.

5. *The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.*

Response: The adjoining land to the east of the development is owned by another party and his intention is to only build a single-family residence on his tract. Providing vehicular access to the adjoining land to the east would contribute to the possibility of someone driving through his land. The land to the west is also currently undeveloped and at this time the landowner does not know if he will develop it as a single-family residence. Providing access to the west may limit the landowner on his development options if or when he decides to develop it.

Feel free to contact PEC Project Manager Robert Neihart with any questions or concerns at (406) 384-0080 or rob@performance-ec.com.

Sincerely,

Robert Neihart, PE
Project Manager