

Attachment A

Staff Analysis and Recommendation

County Planning, County Public Works, County Legal staff have reviewed the request for a variance from **Section 4.6.B.1 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, other physical conditions, or adjoining land cannot be further subdivided or developed.

The applicant has requested this variance, see Request Letter included below this analysis, because they feel the existing irrigation ditch on the property to the south is a hindrance to future development to the south. They also feel the properties to the south have many opportunities for multiple connections to existing roads around them.

Below are the comments from County Public Works and County Legal.

Although we agree that the ditch does run somewhat east and west, it also runs a fair bit north and south. We are unable to determine exactly what the hardship is that they are requesting relief from. The ditch appears to be on the other property and they are not being asked to cross-said ditch. It appears that the proposed connection to the south could be situated in an area that the ditch would not be an issue; therefore, we feel that we cannot support this variance.

After reviewing the proposed subdivision, we do not think a variance is justified. The ditch only runs parallel to the property line for a short distance. There seems to be ample space to provide an access to a large amount of the adjoining undeveloped land along the southern border without having to deal with the ditch.

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties; There are two different properties to the south of this proposed subdivision. One 20-acre parcel and the other one that is 133 acres. The large parcel does have multiple street frontages around the outer edge of the land. The 20-acre parcel has frontage only on South 80th Street West. The granting of the variance would not be detrimental to public health, safety and general welfare at this time. Should either property to the south develop it may hinder the ability to develop without a connection to the north. The subdivision regulations require connections to undeveloped land to ensure neighborhood connections and not the creation of residential islands. The regulation is looking to the future of possibilities not the immediate condition.

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; There are no particular physical surroundings, shape or topographical condition of the land that would prevent the applicant from providing a future connection to the

south. The ditch mentioned in the applicants request is on the property to the south and would not hinder this applicant from providing a connection for the future.

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

4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy; The subdivision is outside of zoning and will not cause a nonconformance with zoning. The 2008 Yellowstone County Growth Policy does not directly address this specific issue.

5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied. The variance application provided by the agent suggest the alternative is that there are many frontages on the 133 acre parcel that they are able to have more than one way in and out should they develop. They also suggest that the same is true for the 20-acre parcel. While this is true at this time there is no way of knowing how the properties to the south may develop or if they will develop as two large developments or if they will be broken into smaller pieces and sold to multiple developers. The subdivision regulations require connections to undeveloped land to ensure neighborhood connections and not the creation of residential islands. The regulation is looking to the future of possibilities not the immediate condition.

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

Variance Request #1 – Street Right-of-Way

Section 4.6.B.1 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.

A variance is being pursued to relieve the applicant from the requirement to provide street right-of-way within the proposed subdivision, to the boundary lines of the tract to be developed. There is an existing irrigation ditch located on the parcel immediately south of the subject property. This ditch runs east to west and is a physical condition that would hinder future adjoining right-of-way onto the subject property. It is also worth noting that the 133-acre parcel to the south of the subject property already has opportunities for access off S. 80th St. West, Hesper Road, and S. 84th St. West. The 20-acre parcel immediately to the south of the subject property also already has existing access off S. 80th Street West. Due to the existing east to west irrigation ditch and the multiple alternative access opportunities on the properties located south of the subject property, a variance is being pursued to relieve the applicant from providing street right-of-way to the southern boundary line of the tract to be developed.

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

The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties. Homestead Acres Subdivision proposes one new access point onto S. 80th Street West, and to extend the private access easement to the existing road at the northern boundary of the tract to be developed. This will provide a safe access onto the subdivision roadways to the north for fourteen of the proposed lots on the east side of the irrigation ditch. The two proposed lots on the west side of the irrigation ditch are proposed to have individual access off S. 84th Street West. This will also provide safe access onto the surrounding roadways. The variance will not be injurious to other adjoining properties as they have several alternative access opportunities as noted above.

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;

Undue hardship to the owner would result if the strict letter of the regulation was enforced as there is an existing irrigation ditch running east to west on the property located immediately south of the subject property. This is a physical and topographical condition unique to this property. This ditch would hinder a future adjoining right-of-way onto the subject property.

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

An increase in taxpayer burden will not result from approving this variance. The subdivider proposes to construct the proposed roadways within Homestead Acres. If the properties located

to the south are developed at a future time, there are existing alternative access opportunities on the existing surrounding roadways.

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

Approving this variance will not place the subdivision in nonconformance with the growth policy. The property is unzoned so approving the variance will not place the subdivision in nonconformance with any adopted zoning regulations.

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

The alternative design proposed for Homestead Acres is equally effective as it is proposed to connect with existing roadways to the north, east and west. The lots to the south already have opportunities to connect to the south, east and west. The existing irrigation ditch located on these properties hinders a future adjoining right-of-way onto the subject property.