

## Attachment A

### Staff Analysis and Recommendation

City staff has reviewed the request for a variance from **Section 23-406, Streets and Roads. B Streets and Roads Design and Improvement Standards**. Specifically, the applicant is requesting to construct a graveled road that serves as secondary access to the subdivision. The intent is that the gravel surface will only be temporary. The SIA, based on a condition of approval of preliminary plat, has provisions that require the surfacing to be completed on or before January 10, 2025.

The applicant has requested this variance, see Request Letter included below this analysis.

This proposed subdivision is a major subdivision and it is required to have two ways of ingress/egress. It is on the south side of Alkali Creek Road and will be required to cross Alkali Creek and the surrounding floodplain and wetland areas. As a waterway with wetlands and floodplain they are required to coordinate with the Army Corp of Engineers to determine mitigation requirements. Timbers Boulevard North is still under review to determine where the road can be located considering wetland impacts.

With Phase II annexation, Petition number 21-14 for annexation, to take place January 10, 2025, or earlier upon written request of the DEVELOPER. The city will annex "Phase 2" defined in the annexation agreement. Upon that annexation the developer will be required to build the section of Timber Boulevard North to a City paved street standard from the paved northern end of Timber Boulevard South, completed with the first filing, out to Alkali Creek Road.

*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 applicant will be building a gravel surface road that will support the weight of a 40-ton truck in all weather conditions. This will provide a short term second access solution for the subdivision. This variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.

*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.*

Because this subdivision is being built near a stream, Alkali Creek, and associated wetland with the stream they are required to work with the Army Corp of Engineers to determine the best location for this portion of road. Building it to a paved standard at this time and then possibly being required to move portions of it because of requirements from the Army Corp of Engineers would not be the best use of resources or the possibility of doing irreparable damage to wetlands with multiple road constructions. Strict adherence to the letter of the regulation could possibly have damaging environmental consequences that can be avoided.

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

The variance request will not increase taxpayer burden.

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

Granting the variance will have no effect on zoning. It is an issue of road location and the lots around that road have not been determined at this point.

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

The alternate design is to build a gravel surface road that will support a 40-ton truck in all weather conditions until the final approved location of the road can be worked out with the Army Corp of Engineers and any mitigation requirements they may impose.

## Variance request from applicant's agent

### Variance Request

The Timbers, First Filing is requesting a variance regarding the construction of Timbers Boulevard, North. This road will be built 20' wide as a secondary gravel access. This road will be within a 60' right-of-way and be built to withstand 40 tons. This request has been coordinated with Fire and Public Works and is supported by both departments with the agreement that 50% of the cost to complete the roadway to City complete road standards will be secured prior to final platting and the City has authorization to complete the roadway in its entirety through an SID process if the road is not constructed to full City Standards within 2 years of the final plat being recorded.

Below we have included the variance facts of hardship in correlation with Section 23-1101.A. Please see our answers in **bold**.

1. The granting of the variance will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;  
**Granting a variance regarding Timbers Boulevard North being built using gravel will not be detrimental to public health, safety or general welfare. This road will be built 20' wide and built to withstand 40 tons. By building this road at a 20' width it will allow the Timbers, First Filing a secondary access promoting public health, safety and general welfare.**
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;  
**The Timbers, First Filing is a major subdivision and requires many infrastructure costs. This subdivision is proposed adjacent to Alkali Creek which had a wetland area associated with it. The developer is currently working with Army Corps of Engineers to determine what portions of the existing wetland can be removed or relocated and that final determination will determine the final location of Timbers Boulevard North. If the developer constructed Timbers Blvd North to full City Standards at this time prior to Army Corps determination the road may need to be relocated in the future. A 20 foot wide Gravel road is much easier to relocate than a completed 34 foot wide paved roadway with curb, gutter, and utilities. The plan of the developer is to move forward with Filing 2 of the development and the construction of Timber Blvd North once Army Corps makes their final wetland determination.**
3. The variance will not result in an increase in taxpayer burden;  
**The Timbers, First Filing has a subdivision improvements agreement with the City of Billings. According to the SIA, the developer has to provide a security for 50% of the engineer's estimate to complete Timbers Boulevard North prior to filing the final plat. As such, if the developer never moves forward with Filing 2, the City can create an SID and use this 50% security to complete the road. This process will ensure this variance will not result in an increase to taxpayer burden.**
4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy; and  
**This variance does not place the subdivision in nonconformance with zoning or growth policy regulations.**
5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.  
**The design of building Timbers Boulevard North using 20' wide gravel within a 60' wide right-of-way, as well as building the road to withstand 40 tons will be equally**

**effective as a full City secondary access for emergency services. This road will be able to withstand the uses of a secondary access point for the subdivision but provide against undue hardship for the developer who is constructing adjacent to Alkali Creek and the unknow wetland conditions.**