

Attachment B

Staff Analysis and Recommendation

County Planning, County Public Works, County Legal staff and Billings Fire Department have reviewed the request for a variance from Yellowstone County Subdivision Regulations Section 4.6.B.1, When a proposed subdivision adjoins undeveloped land, streets within the proposed subdivision shall be arranged to allow access to the adjoining undeveloped land.

The applicant is proposing to develop a subdivision that is a single dead-end cul-de-sac private road that is a maximum of 1,000 feet long. Yellowstone County Subdivision Regulations Section 4.6.B.1, require; when a proposed subdivision adjoins undeveloped land, streets within the proposed subdivision shall be arranged to allow access to the adjoining undeveloped land. This regulation is to avoid neighborhood islands. The creation of neighborhood island makes getting from one subdivision to another difficult and in some cases dangerous for neighborhood that are next to each other. Without the internal connections it requires people to leave their subdivision by way of major roads, principle arterials or collector roads, to get to the next subdivision. This can be problematic for youth to get to a neighbor's house when they must go out to major roads to get to a development next to them but is an island development.

The applicant is asking for a variance from the requirement of providing future connections to undeveloped land adjacent to this propose subdivision.

Staff has reviewed the proposed subdivision and the variance request for no connection to adjoining undeveloped land. As an alternative the applicant has proposed to provide walking paths to undeveloped adjacent land. Staff feels this is a workable option although not the best option.

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 this variance would not be detrimental to public health, safety, or general welfare or injurious to other adjoining properties. It will not allow future development around this one to access the road and vis a versa. This variance will create a vehicular neighborhood island. The applicant is providing a workable option to allow for foot/bicycle traffic from this subdivision to future development around the proposed 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.

There are no surrounding physical conditions that would result in an undue hardship to the developer. The land is currently used for farming and is generally flat. There is a 60-foot private access on the east border of the proposed subdivision.

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

The variance 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.

Approval of this variance will not place this subdivision in nonconformance of adopted zoning regulations or the growth policy. Zoning does not dictate street layout

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

The alternate option proposed by the subdivider are pedestrian paths to the surrounding properties, one to the east and one to the west. This will provide a connection for foot traffic and bicycles to move between subdivisions as the area develops.

Therefore, staff and the Planning Board is recommending approval of the proposed variance to the Board of County Commissioners.



MEMO

To: Yellowstone County Planning Board

From: Taylor Kasperick, Project Manager

Date: 6/22/2022

Re: The Waters Subdivision Variance Written Statement

On behalf of Mason Shanks (Owner/Subdivider) of the proposed The Waters Subdivision, Performance Engineering is submitting two variance requests in connection with the proposed development. The Owner is requesting a variance from Section 4.6.A.6 and 4.6.B.1 of the Yellowstone County Subdivision Regulations which describe development requirements pertaining to multiple means of vehicular access for all major subdivision and the requirement to provide means for future connection to adjacent undeveloped areas, respectively. This written statement has been prepared and is submitted to the Planning Board to describe the facts of hardship and reasoning upon which the variances are being requested. Below are the criteria for which variances are reviewed against with findings of the variances requested to follow.

1. The granting of the 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;
3. The variance will not result in an increase in taxpayer burden;
4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy; and
5. The subdivider must prove that the alternative design is equally effective and the objectives of the improvements are satisfied.

Variance from 4.6.B.1 - *"Relation to Undeveloped Areas: When a proposed subdivision adjoins undeveloped land, streets within the proposed subdivision will 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 developed."*

1. The subdivision is not proposing to provide vehicular access to adjoining undeveloped land which is not anticipated to be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
 - a. If provided the variance, it is not believed that the lack of vehicular access to adjoining undeveloped land would be detrimental to the public health safety or general welfare. This is because traffic volumes on the internal private roadway will be decreased overall without additional accesses provided, allowing for residents of the subdivision to avoid having traffic from outside the subdivision utilizing the internal private roadway as a through street. In addition, it is proposed with the subdivision to provide pedestrian path easement to the developed property to the south and to the portion of adjacent undeveloped property to the east. Pedestrian access to the portion of the undeveloped property to west can be accommodated through the parkland being proposed with the subdivision.
 - b. The adjoining undeveloped property to the east and west (a single parcel that adjoins on both sides of the proposed subdivision) has sufficient frontage along Central Avenue and along 52nd Street West that multiple means of access are available should it ever be developed, not necessitating access through the proposed subdivision.
2. The subdivision proposes to utilize privately owned and maintained internal roadways as part of the development. Requiring access to adjacent undeveloped areas would in turn be placing additional use from areas outside the subdivision and HOA and additional wear and tear on the private roadway that would in turn be a maintenance and upkeep burden and hardship on the Subdivider and HOA who is responsible for maintaining the roadway.
3. The variance will not result in an increase in taxpayer burden.
4. The variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulations or Growth Policy.
5. The objectives of improvements for providing access to undeveloped areas is to allow for future connectivity between adjacent subdivisions. While vehicular access is not proposed to be provided to adjacent undeveloped areas as part of the subdivision as it is a private roadway, pedestrian access is proposed to provide the connectivity to adjacent properties, thus fulfilling the objective of the improvements.