



PRELIMINARY SUBDIVISION VARIANCE APPLICATION

SECTION 11.1 VARIANCE (76-3-506), MCA

PLANNING DIVISION

2825 3RD AVENUE NORTH, 4TH FLOOR
BILLINGS, MONTANA 59101

PHONE: (406)247-8676

FAX: (406) 657-8327

PROJECT# PZ-26-00013

PROPERTY INFORMATION							
Primary Parcel/Legal Description (C/S, Subdivision, Lot, Block)					Property Tax ID		
S14, T1S, R24E, P.M.M of Yellowstone County, Montana					000D002070		
General Location		Approximately 3000' south of the intersection of S 80th Street West and King Ave West					
CLASSIFICATION: (CHECK ONE)							
<input type="checkbox"/>	City Major (6 or more lots)	<input type="checkbox"/>	City Minor (5 lots or fewer)	<input type="checkbox"/>	City Subsequent Minor (Reviewed as aa minor)	<input type="checkbox"/>	City Expedited
<input checked="" type="checkbox"/>	County Major (6 or more lots)	<input type="checkbox"/>	County Minor (5 lots or fewer)	<input type="checkbox"/>	County Subsequent Minor (Reviewed as a major)	<input type="checkbox"/>	County Expedited
ATTRIBUTES							
Gross Area (Acres)	19.78 acres	Net Area (Acres)	18.48 acres	Number of Lot(s)	49		
Lot Size Maximum (Square Feet)		48,907 SF	Lot Size Minimum (Square Feet)		14,841 SF		
APPLICANT/SURVEYOR INFORMATION							
PROPERTY OWNER:							
E-mail Address	yellowstonecontractors@yahoo.com	Mobile Phone	406-690-6633	Home Phone			
Mailing Address (City, State, Zip)	49660 Hammer Dam Rd. Ronan, MT 59864						
AGENT/SURVEYOR:							
E-mail Address	Kolten.L.Knatterud@IMEGcorp.com	Mobile Phone		Business Phone	406-248-9000		
Mailing Address City, State, Zip	550 N 31st St #111, Billings, MT 59101						

A. Variance(s) Requested

List and Attach Variance Request application and Variance Request criteria answers per Chapter 11.

1.A.1-5. **Each requested variance shall be deemed a separate application, to be processed concurrently with the preliminary plat. A variance review fee must accompany all applications for variances.**

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.

B. Facts of Hardship: Provide a **separate written statement** describing the facts of hardship upon which the request for variance is based.

I declare that I am the owner of record of the above-described property, and have examined all statements and information contained herein, and all attached exhibits, and to the best of my knowledge and belief, the information is true and correct.

Owner of Record

Date

Owner Under Contract

Date



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Article 23-1100. ADMINISTRATIVE PROVISIONS

Section 23-1101. Variances.

The City Council or Yellowstone County Board of County Commissioners may grant reasonable variances from the design and improvement standards of these Regulations when strict compliance would result in undue hardship and the result would not negatively affect public health and safety. The granting of a variance shall not have the effect of nullifying the intent and purpose of these Regulations or justifying submission of an incomplete application. The City Council or Board of County Commissioners may not approve a variance that would permit structures within the 100-year floodplain, as defined in 76-5-101, MCA.

A. Requesting a Variance. The subdivider shall include with the submission of the variance request, a written statement describing the facts of hardship upon which the request for the variance is based. Each requested variance shall be deemed a separate application, for which a fee shall be required. Information addressing each of the following findings shall accompany the application. The Planning Board shall review the submitted findings and make a recommendation to the City Council or Yellowstone County Board of County Commissioners.

The governing Board shall not approve variances unless the subdivider has demonstrated that the request satisfies the following findings:

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.

B. In granting variances, the Governing Body may require conditions of approval that will, in their judgment, secure the objectives of these Regulations.

C. When any such variance is granted, the motion of approval of the proposed subdivision shall contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.

D. An application for a variance is not necessary where Planned Neighborhood Developments are proposed, as modifications to the standards and requirements of these Regulations may be approved by the governing body.

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 required access spacing of 600 feet for connections to adjacent parcels and to allow the proposed subdivision to provide one access connection to the property located immediately south of the subject property.

The proposed subdivision will also provide roadway connections to the adjacent property located to the south and west through the proposed internal road network. Therefore, the applicant is not requesting relief from the requirement to provide access to adjacent parcels. The variance request is specifically related to the required spacing of those access connections and the number of access points provided to the property located to the south and west.

There is existing marshy, shallow groundwater on the property located immediately south of the subject property, which limits the practicality of providing multiple access points along the southern boundary. The 133-acre parcel located south and west of the subject property also has multiple alternative access opportunities from S. 80th Street West, Hesper Road, and S. 84th Street West. Additionally, the proposed subdivision will include an approach along the southern boundary, with a portion dedicated as public right-of-way to provide access to the southern parcel. The property immediately north of the subject property also has existing access from S. 80th Street West.

Due to the physical site constraints and the multiple alternative access opportunities available to the adjacent parcel, the applicant is requesting a variance from the required access spacing and to allow only one access connection to the property located immediately south of the subject property.

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 public health, safety, or general welfare, nor will it be injurious to adjoining properties. Shop House Acres Subdivision proposes two new access points onto S. 80th Street West from the tract to be developed. These access points will provide safe access to the subdivision roadways for all 49 proposed lots. The variance will not be injurious to 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 were enforced, as there is existing marshy, shallow groundwater on the property located immediately south of the subject property. This is a physical and topographical condition unique to the property. The approach located in the southeast corner of the subject property will provide a portion of public right-of-way on the southern boundary line that can also serve as access to the property located immediately south of 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 Shop House Acres. If the property located to the south and west is 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 Shop House Acres is equally effective as it is proposed to connect with existing roadways to the east. The lot to the south and west already has opportunities to connect to the south, east and west.