

**Variance Request – Right-of-Way Width**  
**Whitehorse Estates Subdivision, 2<sup>nd</sup> Filing**

Whitehorse Estates Subdivision, 2<sup>nd</sup> Filing is a 13-lot major subdivision proposed between South 48<sup>th</sup> Street West and 56<sup>th</sup> Street West, along Hesper Road, just west of Whitehorse Estates Subdivision, 1<sup>st</sup> Filing. As part of the proposed subdivision, a variance from **Section 4.6.B.7** of the Yellowstone County Subdivision Regulations is requested. The section outlines the minimum right-of-way required to be dedicated as 60'. Table 4.6.C.1 outlines the required right-of-way width for different road functional classifications. South 52<sup>nd</sup> Street West is designated as a Future Collector according to the Roadway Functional Classification Map. The Yellowstone County Subdivision Regulations do not specify required right-of-way dedications for these roadways, as such, it is assumed a Minor Arterial with 2 lanes will be substituted. This roadway requires 80' right-of-way dedication and 44' road width according to Table 4.6.C.1. The proposed subdivision is requesting approval to dedicate 40 feet of right-of-way for South 52<sup>nd</sup> Street West at this time, consistent with the right-of-way previously dedicated by adjoining subdivisions to the north. The proposed right-of-way configuration preserves the ability for the roadway to be expanded to the Future Collector standard, with the remaining right-of-way anticipated to be dedicated upon future development of the adjacent property to the west. As such, the requested variance represents an interim approach that accommodates the current phase of development while preserving the future functionality of the roadway.

*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 will not be detrimental to the public health, safety, or general welfare, nor injurious to adjoining properties. A 40-foot right-of-way dedication is proposed along the subdivision boundary for the future construction of 52nd Street West, in lieu of the minimum 60-foot width or 80-foot width associated with the assumed Minor Arterial standards. This proposed right-of-way width is consistent with the subdivisions to the north including Espy Subdivision, Bridle Creek Estates, and Diamond Falls Subdivisions, which have already dedicated 40 feet, and will maintain continuity while avoiding irregular roadway alignments that could create future safety or design concerns. The variance will not negatively impact access to adjacent properties or future connectivity and avoids the dedication of excess right-of-way that is not aligned with existing conditions, supporting efficient land use while maintaining safe and functional transportation infrastructure.

*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.*

Strict application of the 60-foot or 80-foot right-of-way requirement would create an undue hardship due to the existing conditions surrounding the property, namely the previously dedicated right-of-way north of the subdivision have previously been dedicated as 40-feet wide. Requiring the additional width would reduce land available for the development to allow placement of wastewater treatment appurtenances with proper setbacks to property lines, individual drinking water wells and stormwater facilities. Strict enforcement of the regulation would therefore impose an unnecessary burden on the property owner without providing a

proportional public benefit, particularly given the ultimate roadway can still be accommodated through future right-of-way dedication associated with development of adjacent properties to the west.

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

The requested variance will not result in an increase in taxpayer burden. The proposed 40-foot right-of-way and 28-foot roadway (24-foot asphalt with 2-foot gravel shoulders, and a borrow ditch along the east edge of the roadway) section will reduce the amount of pavement and infrastructure required, thereby lowering long-term construction and maintenance costs for a roadway that will only be utilized by lot owners within the subdivision at this time. The design remains sufficient to serve anticipated traffic volumes and accommodate residential access, emergency services, and utility infrastructure. The proposed design also maintains consistency with existing adjacent right-of-way dedications and roadway improvements, thereby avoiding irregular roadway transitions or unnecessary reconstruction. In addition, the proposed right-of-way configuration preserves the ability for future roadway widening and additional right-of-way dedication to occur as adjacent properties to the west develop. As such, the requested variance represents an efficient and proportional infrastructure improvement approach that accommodates current development needs without creating additional public financial obligations.

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

The requested variance will not place the subdivision in nonconformance with any adopted zoning regulations or the Growth Policy. The property is zoned RR1 and the proposed subdivision complies with all applicable Yellowstone County zoning requirements, including lot size, use, and development standards. The variance request is limited to right-of-way width and does not affect the underlying zoning designation or the overall consistency of the subdivision with the County's Growth Policy.

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

The proposed alternative design is equally effective in meeting the intent of the required improvements. The proposed 40-foot right-of-way dedication and interim roadway section, consisting of 24 feet of paved asphalt with 2-foot gravel shoulders on each side, and a borrow ditch, will adequately accommodate anticipated traffic volumes associated with the proposed subdivision, provide safe two-way vehicular traffic, and allow for emergency access and utility services. The proposed design is also consistent with the existing right-of-way dedications and roadway improvements within adjacent subdivisions to the north, thereby maintaining continuity within the established roadway and avoiding irregular roadway transitions. In addition, the proposed right-of-way configuration preserves the ability for the future collector roadway improvements, additional right-of-way dedication, and roadway widening to occur upon future development of the adjacent property to the west. Accordingly, the proposed alternate design satisfies the safety, accessibility, connectivity, and long-term roadway functionality without requiring full right-of-way dedication at this time of development.