

Variance Request A
Whitehorse Estates Subdivision, 2nd Filing

Whitehorse Estates Subdivision, 2nd Filing is a proposed major subdivision in Yellowstone County. As part of the proposed subdivision, the subdivider is requesting a variance from Section 4.6.B.7 of the Yellowstone County Subdivision Regulations regarding the right-of-way width along S 52nd St W. The regulations require subdividers to provide entire right-of-way width if they cannot get required right-of-way from the adjacent property owner. They are asking to provide half of the road width with this variance.

Staff, which include Planning, Public Works and County Legal, are recommending approval of the variance. Considering existing right-of-way dedication to the north, in the future should the property to the west develop, they will be required to dedicate the second half of S 52nd St W. If this subdivision dedicates 80 feet for S 52nd St W on their property it will put road dedication 40 feet farther to the east compared to the dedication to the north. When new developments to the northwest dedicate the their required 40 feet to the existing 40 feet of dedication, this will put the new dedication 40 feet to the west of the right of way from this subdivision, if they are required to provide 80 feet all on their land. The road, S 52nd St W, will not line up with the road to the north when the road is built in the future.

County Public works provided a statement concerning the proposed variance.

It is my understanding that Performance Engineering is asking for a variance from right of way width, but they intend to construct the road to a county standard. After reviewing the request, the surrounding area, considering alignment, and future opportunity to obtain additional right of way to the west, Public Works is not opposed to the request.

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 public health, safety, or general welfare or injurious to other adjoining properties. This is requested to match the right of way that has been allowed in the past on subdivisions to the north, Epsy Subdivision, Bridle Creek Estates Subdivision, and Diamond Falls Subdivision. This subdivider is planning on putting a full-width County standard road within the half right-of-way they would like to provide. They are planning on building a 24-foot-wide paved surface road with two-foot shoulders from Hesper Road to the northwest corner of the subdivision. By allowing the narrower right-of-way to match right-of-way to the north, it will align with existing right-of-way. This will limit paved areas from being aligned in different locations within various dedicated right-of-way when they are built in the future.

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 or topography that would restrict the subdivider from providing the entire 80-foot-wide right-of-way on his property. County Subdivision Regulations require the applicant to either obtain half of the required right-of-way from the

neighboring property owner or provide the entire right-of-way on their own property. According to information provided by the subdivider's agent, the neighbor to the west has no interest in providing any road right-of-way. The subdivider is asking to dedicate half the needed right-of-way similar to what has been done to the north. The difference being the subdivider is proposing to build a county standard road within the 40 foot dedication. 24 foot wide paved area with 2 foot gravel shoulders on each side.

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

A half road width will not increase the taxpayer burden. An RSID will be created to maintain public roads as is standard practice in Yellowstone County.

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

The zoning is Rural Residential 1. Zoning does not have any regulatory input on roads within the county.

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

The alternative design is to have a road half right-of-way with a standard 24 foot paved surface road built to Yellowstone County road regulations.