

MCNETT FLATS SUBDIVISION

Major Subdivision Application

Section 5: Variance Requests

<i>Revision</i>	<i>Date</i>
1 st Element Review Copy	August 25, 2020
1 st Sufficiency Review Copy	September 1, 2020
2 nd Sufficiency Review Copy	October 16, 2020
3 rd Sufficiency Review Copy	November 10, 2020
Governing Body Review	December 4, 2020



MEMO

TO: THE CITY OF MISSOULA
FROM: WOITH ENGINEERING, INC.
DATE: DECEMBER 1, 2020
JOB: MCNETT FLATS SUBDIVISION
RE: VARIANCE REQUESTS
CC:

☐ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ FOR YOUR USE

We are requesting six variances for this proposed development. Variances one through three all involve reducing the required right-of-way widths of the proposed roadway improvements for this project. Variances four and five involve block length, and variance six involves an existing right-of-way, public access easement, and commuter trail. George Elmer is designated as an Urban Collector with parking, while the remaining roadways included in the proposed development (Old Ranch Road, Winchester Drive, Remington Drive, Briar Way and Abby Lane) are all classified as Urban Local Streets. These variances are necessary to integrate existing conditions with intuitive design, and to avoid unnecessary complexity in our roadway configuration. Each variance has been discussed and outlined in the sections below to show that the requests are warranted per the City of Missoula Subdivision Regulations, existing conditions related to the request, and applicable Growth policies. We appreciate your consideration and judgment on these matters.

Variance Request #1- George Elmer Drive Right-of-Way

City of Missoula Standard: George Elmer is classified as an Urban Collector (with parking). Per Article 3-020 of the City of Missoula Subdivision Regulations, Table .2A, Standards for Geometric Design of Roads and Streets, an Urban Collector with parking requires a 90-foot minimum Right-of-way width. To meet the specified standards there must be two travel lanes of minimum 10-foot width; 8-foot parking lane width; 6-foot wide bike lanes; curb and gutter; 7-foot-wide boulevard and 5-foot wide sidewalk. This results in a total width of 73 feet.

Variance Request: A variance is requested to reduce the right-of-way width to 80', instead of the required 90' wide right-of-way. The existing cross section of George Elmer Drive leading on the proposed development currently has 11' wide travel lanes and 5' wide bike lanes. However per conversation with the City of Missoula it shall be required to follow the Standards for Geometric Design of Roads and Streets specified in Table .2A of the City of Missoula

Subdivision Regulations which requires the travel lanes to be 10' wide and bike lanes to be 6' wide. The existing cross section widths have been investigated and measured by Woith Engineering, Inc.

Rationale: This variance shall allow for the total 73 feet of required street improvement width to fit within the right of way and does not require any easements for the adjacent lots. This also leaves space for wider travel lanes if deemed necessary, or an additional 3.5 feet behind the edge of sidewalk on both sides of the right-of-way to allow room for maintenance.

Please refer to the proposed right-of-way cross sections exhibit included with the proposed construction plans.

The six criteria for requesting a variance as stated in Section 6-010 of the City of Missoula Subdivision Regulations have been addressed by Woith Engineering, Inc. as follows:

- 1.) The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

The proposed street cross section for George Elmer Drive shall meet all standards of Article 3-020 Table .2 A of the Missoula City Subdivision regulations for an Urban Collector with parking except for the required 90' minimum right of way width. The proposed dedicated right-of-way width is 80'. The proposed right-of-way will not result in a threat to public safety, health or welfare and shall not be injurious to other persons or property.

- 2.) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

The conditions upon which this request for a variance is based are unique to the property due to the existing right-of-way easement, previous roadway plans, and no warranted need for a center turn lane at this time. A traffic impact study has been performed for the proposed development by Abelin Traffic Services. This variance request to provide a right-of-way width that still fits the required roadway improvement widths and matches the existing right-of-way dedication easement is a condition that applies directly to this property and proposed development.

- 3.) Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced.

In providing the required 90' right-of-way width a hardship that is not the fault of the owner would result. When the property was purchased by the applicant it was assumed that the dimensions of the existing 80' right-of-way easement would be continued through the development. The existing right-of-way width of 80' can be observed on the Plats of both the Flynn Ranch Subdivision and 44 Ranch Subdivision located directly adjacent to the south. The existing 80' right-of-way easement is also recorded on Certificate of Survey's 5699 and 6109 and project the continuation of that right-of-way width onto the proposed development property. These documents were used in the proposed design development of the project. It has also been assumed that future developments including the 2019

Mullan BULD Grant are also accounting for 80' right-of -ways. Therefore, if this development is required to provide more land than other projects in the surrounding area, it would be an undue hardship.

- 4.) The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy.

This variance request will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or conflict with the Missoula County Growth Policy.

- 5.) The variance will not cause an increase in public costs.

This variance shall not cause any increase in public costs.

- 6.) The hardship has not been created by the applicant or the applicant's agent or assigns.

The hardship has not been created by the applicant or the applicant's agent. The hardship is a direct result of previous development and planning. Especially the recordation of the deeded George Elmer Drive 80' right-of-way per Book 726, Page 567 and Certificate of Survey 5699.

Variance Request #2- Old Ranch Road Right-of-Way

City of Missoula Standard: Old Ranch Road is classified as an Urban Local Street. Per Article 3-020 of the City of Missoula Subdivision Regulations, Table .2A, Standards for Geometric Design of Roads and Streets, an Urban Local Street requires an 80-foot minimum Right-of-way width. To meet the specified standards there must be two travel lanes of minimum 10-foot width; 8-foot parking lane width; curb and gutter; 7-foot-wide boulevard and 5-foot wide sidewalk. This results in a total width of improvements of 62 feet.

Variance Request: A variance is requested to reduce the right-of-way width to 64', instead of the required 80' wide right-of-way. The existing cross section widths have been investigated and measured by Woith Engineering, Inc.

Rationale: This variance shall allow for the total 62 feet of required street improvement width to fit within the right of way and does not require any easements for the adjacent lots. This also leaves space for wider travel lanes if deemed necessary, or an additional 1' behind the edge of sidewalk on both sides of the right-of-way to allow room for maintenance.

Please refer to the proposed right-of-way cross sections exhibit included with the Preliminary Plat, "Urban Local Street".

The six criteria for requesting a variance as stated in Section 6-010 of the City of Missoula Subdivision Regulations have been addressed by Woith Engineering, Inc. as follows:

- 1.) The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

The proposed street cross section for Old Ranch Road shall meet all standards of Article 3-020 Table .2 A of the Missoula City Subdivision regulations for an Urban Local Street except for the required 80' minimum right of way width. The proposed dedicated right-of-way width is 64'. The proposed right-of-way will not result in a threat to public safety, health or welfare and shall not be injurious to other persons or property.

- 2.) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

The conditions upon which this request for a variance is based are unique to the property due to the existing right-of-way easement, previous roadway plans, and no warranted need for a center turn lane at this time. A traffic impact study has been performed for the proposed development by Abelin Traffic Services. This variance request to provide a right-of-way width that still fits the required roadway improvement widths and fits more closely to the existing right-of-way dedication easement as well as requests from the City of Missoula, is a condition that applies directly to this property and proposed development.

- 3.) Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced.

In providing the required 80' right-of-way width a hardship that is not the fault of the owner would result. When the property was purchased by the applicant it was assumed that the dimensions of the existing 60' public road right-of-way and utility easement would be continued through the development as seen on the Subdivision Plat of Flynn Ranch, Phase 1. However, per conversation with the City of Missoula it was made clear that the proposed right-of-way width would have to be at least 63'. It was decided to propose a right-of-way width of 64' to match the rest of the proposed urban local street rights-of-ways on the development. It would be an undue hardship for the developer to have to dedicate even more land than what has been required in adjacent developments in the area.

- 4.) The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy.

This variance request will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or conflict with the Missoula County Growth Policy.

- 5.) The variance will not cause an increase in public costs.

This variance shall not cause any increase in public costs.

- 6.) The hardship has not been created by the applicant or the applicant's agent or assigns.

The hardship has not been created by the applicant or the applicant's agent. The hardship is a direct result of previous development and planning.

**Variance Request #3 - Winchester Drive, Briar Way, Remington Drive and Abby Lane
Right-of-Ways**

City of Missoula Standard: The remaining proposed roadways included in the design of the proposed subdivision include Winchester Drive, Briar Way, Remington Drive and Abby Lane. They are all classified as an Urban Local Street. Per Article 3-020 of the City of Missoula Subdivision Regulations, Table .2A, Standards for Geometric Design of Roads and Streets, an Urban Local Street a 80-foot minimum Right-of-way width. To meet the specified standards there must be two travel lanes of minimum 10-foot width; 8-foot parking lane width; curb and gutter; 7-foot-wide boulevard and 5-foot wide sidewalk. This results in a total width of improvements of 62 feet.

Variance Request: A variance is requested to reduce the right-of-way width to 64', instead of the required 80' wide right-of-way.

Rationale: This variance shall allow for the total 62 feet of required street improvement width to fit within the right of way and does not require any easements for the adjacent lots. This also leaves space for wider travel lanes if deemed necessary, or an additional 1' behind the edge of sidewalk on both sides of the right-of-way to allow room for maintenance.

Please refer to the proposed right-of-way cross sections exhibit included with the Preliminary Plat, "Urban Local Street".

The six criteria for requesting a variance as stated in Section 6-010 of the City of Missoula Subdivision Regulations have been addressed by Woith Engineering, Inc. as follows:

- 1.) The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

The proposed street cross section for Winchester Drive, Briar Way, Remington Drive, and Abby Lane shall meet all standards of Article 3-020 Table .2 A of the Missoula City Subdivision regulations for an Urban Local Street except for the required 80' minimum right of way width. The proposed dedicated right-of-way width is 64'. The proposed right-of-way will not result in a threat to public safety, health or welfare and shall not be injurious to other persons or property.

- 2.) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

The conditions upon which this request for a variance is based are unique to the property due to the existing right-of-way easements and roadway plans being reviewed by the City at this time. The adjacent development to the west, "Remington Flats", is currently under subdivision review by the City of Missoula. The development currently shows 64' wide right of ways for both Winchester Drive and Remington Drive which will be connected to our proposed road layout

along the western boundary of the property. Per conversation with the City of Missoula it was made clear that the proposed right-of-way width would have to be at least 63'. Through coordination with the adjacent developer and the City of Missoula the proposed right-of-way width of 64' is proposed to carry on with the remaining Urban Local Streets classified on the development. This variance request to provide a right-of-way width that still fits the required roadway improvement widths and that will match the right-of way widths of the adjacent development, as well as requests from the City of Missoula, is a condition that applies directly to this property and proposed development.

- 3.) Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced.

In providing the required 80' right-of-way width a hardship that is not the fault of the owner would result. It was decided to propose a right-of-way width of 64' to match the rest of the proposed urban local street rights-of-ways on the development and those on the adjacent development to the west, "Remington Flats". It would be an undue hardship for the developer to have to dedicate more land than what has been required in adjacent developments in the area.

- 4.) The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy.

This variance request will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or conflict with the Missoula County Growth Policy.

- 5.) The variance will not cause an increase in public costs.

This variance shall not cause any increase in public costs.

- 6.) The hardship has not been created by the applicant or the applicant's agent or assigns.

The hardship has not been created by the applicant or the applicant's agent. The hardship is a direct result of previous development and planning.

Variance Request #4 – Block Length (Lot No. 1)

City of Missoula Standard: Article 3-030.2 A (2) of the City of Missoula Subdivision Regulations states that blocks may not exceed 480 feet in urban-suburban subdivisions

Variance Request: A variance is requested to allow block lengths longer than 480 feet on Block 1 as shown on the Block Length Variance Exhibit.

Rationale: On blocks that exceed 480 feet, a pedestrian access easement shall be provided to break up the block and allow for a pedestrian corridor that connects the proposed development to the existing 44 Ranch Subdivision to the south, and any future developments to the north via 5 foot sidewalks.

The six criteria for requesting a variance as stated in Section 6-010 of the City of Missoula Subdivision Regulations have been addressed by Woith Engineering, Inc. as follows:

- 1.) The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

The extended blocks will not result in a threat to public safety, health, or welfare nor are they injurious to other persons or property. All other aspects of Article 3-030.2 have been met in our design. Coordination with emergency services including the City of Missoula Fire Department has shown no evidence of the block length being a threat to public safety. No single-family homes are to be constructed on these lots. Therefore, by having multi-family and commercial developments on the lots it will provide multiple travel corridors and easy access to main roadways through parking lots in the event of an emergency.

- 2.) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

The conditions upon which this request for a variance is based are unique to the property because of the lot dimensions resulting from the right of way locations of Remington Drive, Briar Way, Winchester Drive, Abby Lane, and George Elmer Drive. The width of the parcel as well as having to tie in Winchester Drive and Remington Drive to the adjacent development Remington Flats are also unique to this development situation and are not generally applicable to other properties.

- 3.) Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced.

Because of the physical surroundings of the specified property which includes the proposed adjacent development to the west, Remington Flats, it requires the owner to tie into both of their proposed roadways creating challenges with the geometric layout of the proposed lots. Also because of the particular shape of the property and the concentration of traffic on the surrounding Urban Local Collector Streets and George Elmer Drive, breaks in the blocks as a result of another roadway would not serve a purpose. The design has met all other aspects of Article 3-030.2 and a lower density development would be an undue hardship to the owner if the strict requirements of these regulations are enforced.

- 4.) The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy.

This variance request will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy.

- 5.) The variance will not cause an increase in public costs.

This variance request will not cause any increase in public costs.

- 6.) The hardship has not been created by the applicant or the applicant's agent or assigns.

The hardship has not been created by the applicant of the applicant's agent. The hardship is a result of the geometric shape of the property and the previous determination of the Remington Drive, Winchester Drive, and George Elmer Drive rights-of-way and having to tie into these existing roadway plans.

Variance Request #5 – Block Length (Lot No. 6)

City of Missoula Standard: Article 3-030.2 A (2) of the City of Missoula Subdivision Regulations states that blocks may not exceed 480 feet in urban-suburban subdivisions

Variance Request: A variance is requested to allow block lengths longer than 480 feet on Block 6 as shown on the Block Length Variance Exhibit.

Rationale: On blocks that exceed 480 feet, a pedestrian access easement shall be provided to break up the block and allow for a pedestrian corridor that connects the proposed development to the existing 44 Ranch Subdivision to the south, and any future developments to the north via 5 foot sidewalks.

The six criteria for requesting a variance as stated in Section 6-010 of the City of Missoula Subdivision Regulations have been addressed by Woith Engineering, Inc. as follows:

- 1.) The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

The extended blocks will not result in a threat to public safety, health, or welfare nor are they injurious to other persons or property. All other aspects of Article 3-030.2 have been met in our design. Coordination with emergency services including the City of Missoula Fire Department has shown no evidence of the block length being a threat to public safety. No single-family homes are to be constructed on these lots. Therefore, by having multi-family and commercial developments on the lots it will provide multiple travel corridors and easy access to main roadways through parking lots in the event of an emergency.

- 2.) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

The conditions upon which this request for a variance is based are unique to the property because of the lot dimensions resulting from the right of way locations of Remington Drive, Briar Way, Winchester Drive, Abby Lane, and George Elmer Drive. The width of the parcel as well as having to tie in Winchester Drive and Remington Drive to the adjacent development Remington Flats are also unique to this development situation and are not generally applicable to other properties.

- 3.) Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced.

Because of the physical surroundings of the specified property which includes the proposed adjacent development to the west, Remington Flats, it requires the owner to tie into both of their proposed roadways creating challenges with the geometric layout of the proposed lots. Also because of the particular shape of the property and the concentration of traffic on the surrounding Urban Local Collector Streets and George Elmer Drive, breaks in the blocks as a result of another roadway would not serve a purpose. The design has met all other aspects of Article 3-030.2 and a lower density development would be an undue hardship to the owner if the strict requirements of these regulations are enforced.

- 4.) The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy.

This variance request will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy.

- 5.) The variance will not cause an increase in public costs.

This variance request will not cause any increase in public costs.

- 6.) The hardship has not been created by the applicant or the applicant's agent or assigns.

The hardship has not been created by the applicant of the applicant's agent. The hardship is a result of the geometric shape of the property and the previous determination of the Remington Drive, Winchester Drive, and George Elmer Drive rights-of-way and having to tie into these existing roadway plans.

Variance Request #6 – Pius Way Right-of-Way Width

City of Missoula Standard: Article 3-020.3.H.(2)

Variance Request: A variance is requested from the requirement that subdivisions abutting existing streets provide dedication of right-of-way to meet the requirements of Table .2A measured from the existing center line extending along the entire frontage of the proposed subdivision. The project requests to maintain the existing 54' right-of-way in lieu of an 80' right-of-way along Pius Way.

The proposed project will provide half-street improvements along Pius Way to bring the pavement width to standard. A 7-foot boulevard, 10-foot commuter trail, and 2-foot maintenance access strip will be constructed along the frontage. The existing right-of-way width is not sufficient for these improvements, so a public access easement will be dedicated along the frontage of Lot 4 and Lot 5.

Rationale: A proposed public access easement for the trail has been provided and located according to correspondence with City Staff:

- a. For the section of Pius Way to the west of Old Ranch Road, the proposed boundary was determined based on an October 28 email from Dave DeGrandpre. The proposed easement location, based off of the existing centerline, allows half-street improvements to allow Pius Way to be brought to City Standard pavement width for an Urban Local Street, per the First Sufficiency Review comment letter, with a 7' wide boulevard, 10' wide sidewalk/secondary commuter trail, and an additional 2' to the north of the sidewalk/secondary commuter trail for maintenance.
- b. To the east of Old Ranch Road, the location of the proposed easement boundary and sidewalk/secondary commuter trail is based on the exhibit provided by Troy Monroe in the First Sufficiency Review comment letter. This location will allow for the half-street improvement to Pius Way, minimum 7' boulevard, 10' sidewalk/secondary commuter trail, and 2' of maintenance access strip to the north of the trail.

The six criteria for requesting a variance as stated in Section 6-010 of the City of Missoula Subdivision Regulations have been addressed by Woith Engineering, Inc. as follows:

- 1.) The granting of the variance does not result in a threat to the public safety, health, or welfare, and is not injurious to other persons or property.

The half-street improvements will bring the half of Pius Way adjacent to the proposed subdivision into compliance with the pavement widths required in Table 3-020.2A. The proposed commuter trail is part of the Mullan BUILD Grant improvements, and its construction in lieu of a 5' sidewalk will not result in a threat to public safety, health, or welfare, and is not injurious to other persons or property.

- 2.) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.

The conditions upon which this request for a variance is based are unique to the property because of the existing insufficient width and configuration of Pius Way and the commuter trail proposed by the BUILD Grant design.

- 3.) Because of the physical surroundings, particular shape, or topographical conditions of the specified property involved, undue hardship to the owner would result if the strict requirements of these regulations are enforced.

Pius Way is an existing public street and right-of-way; thus, the strict requirements of the regulations cannot be enforced and the City of Missoula staff has specifically requested the half-street improvements.

- 4.) The variances will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy.

This variance request will not in any manner violate the provisions of the zoning ordinance or any variance granted to those regulations or the Missoula County Growth Policy.

- 5.) The variance will not cause an increase in public costs.

This variance request will not cause any increase in public costs.

- 6.) The hardship has not been created by the applicant or the applicant's agent or assigns.

The hardship has not been created by the applicant of the applicant's agent. The hardship is a result of the existing width and layout of Pius Way, the proposed BUILD Grant trail system, and requests from City of Missoula staff.