



ENGINEERING DEPARTMENT

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RECORD OF DECISION

SUBJECT: ESP21-003; A request for a variance from Chapter 5: Road and Bridge Standards in the *Summit County Land Use and Development Code* ("Code"), Section 5107.03.K Number of Driveway Accesses, for Block 10 Lot 1 in the Sunbowl at Hamilton Creek Sub #2.

DATE: August 23, 2021

DECISION: Approved

APPEAL: The appeal period on this Variance action will expire on August 27, 2021.

BACKGROUND

Code Section 5107.03.K Number of Driveway Accesses requires that access be taken from the County Road of lowest functional classification. The subject property is located between Hamilton Creek Road and Heather Way, directly adjoining Hamilton Creek Road and separated from Heather Way by a local water drainage and wetlands area.

DISCUSSION

Access to Sunbowl Lot 1 is challenging due to the narrow shape of the lot, onsite wetlands and drainage areas, and proximity to existing structures and utilities. Requiring the property to take access from Heather Way would cause exceptional practical difficulty and undue hardship on the owner based on the existing conditions.

CRITERIA FOR DECISION

Chapter 5, Section 5600 of the Code provides the Authority for the County Engineer to grant variances from the strict application of the Road & Bridge Standards under the following circumstances:

1. Where, by reason of exceptional topographic or physical conditions or other extraordinary and exceptional situations or conditions, the strict application of these regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, an individual proposing to construct a road, bridge, recpath or driveway.
2. For the purpose of reducing environmental damage where an individual is proposing to construct any improvement governed by these regulations (or to which the standards contained herein would apply) and, in the opinion of the County Engineer, the strict application of these regulations would result in excessive cut and fill slopes, visual scarring or other environmental damage.
3. Additional flexibility from the design criteria and construction specifications of this chapter may be granted for projects undergoing a rural land use process, as specified in Section 8420. This flexibility may be granted by the County Engineer consistent with the intent of limiting visual and environmental impacts potentially caused by road or recpath construction, provided safe access for motor and emergency vehicles is ensured.

4. Relief will not result in substantial detriment to public health, safety and welfare, substantial impairment of the road or recpath design or construction standards, or the granting of any special privilege or use.

Section 5600 also provides the following guidance on what criteria shall be considered when evaluating a variance request:

1. The effect of using a lesser standard on public health and safety including the ability of emergency vehicles to gain access using the road(s), bridge(s), recpath(s), or driveway(s) built to a lesser standard.
2. The severity of the terrain crossed by the road alignment.
3. The availability of alternative alignments where the same or more stringent standards could be met with the same or less environmental damage.
4. The length of road or recpath segments which will be built to a lesser standard.
5. The amount of snowfall anticipated and degree of exposure of the road or driveway surface to sunlight.
6. Comments from other agencies received during the referral period.

ACTION

The County Engineer hereby approves the variance request with the following findings:

1. The strict application of Code Section 5107.03.K would cause exceptional practical difficulty and undue hardship to the owner based on existing wetlands, drainage, narrow property dimensions and existing utilities.
2. The granting of this variance will not result in any detriment to the health, safety or welfare of the public.
3. The Summit County Engineering and Road & Bridge Departments have reviewed this variance application and are not opposed to its approval.

Approval of this variance is based on the following conditions:

1. The approved variance expires in twelve months if no permits for construction have been issued.

The Board of County Commissioners or the applicant has three (3) calendar days from the date of this report to appeal the County Engineer's decision and have the decision reviewed during the BOCC's next available regularly scheduled meeting, for which the noticing requirements in the Code can be met as a new business item.