

STAFF REPORT
September 9, 2004

No. 04SV044 - Variance to the Subdivision Regulations to waive the requirement to install sidewalk, curb, gutter, street light conduit and sewer as per Chapter 16.16 of the Rapid City Municipal Code

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GENERAL INFORMATION:

PETITIONER Fisk Land Surveying and Consulting Engineers for the Good Samaritan Society

REQUEST **No. 04SV044 - Variance to the Subdivision Regulations to waive the requirement to install sidewalk, curb, gutter, street light conduit and sewer as per Chapter 16.16 of the Rapid City Municipal Code**

EXISTING
LEGAL DESCRIPTION

A parcel of land located in the West One-Half (W ½) of Section Twenty Three (23) of Township One North (T1N), Range Seven East (R7E) of the Black Hills Meridian (BHM), Pennington County, South Dakota, including all of Tract D of Medicine Ridge No. 2 (as shown on the plat recorded on September 24, 1976 and filed in Plat Book 14 on Page 227), all of Lot 3 of Tower Ridge Subdivision (as shown on the plat recorded on May 14, 1984 and filed in Plat Book 19 on Page 159), all of Tracts F and G located in the Northeast One Quarter of the Southwest One Quarter (NE ¼ SW ¼) and Southeast One Quarter of the Northwest One Quarter (SE ¼ NW ¼) of said Section 23, T1N, R7E, BHM (as shown on the plat recorded on September 22, 1970 and filed in Plat Book 11 on Page 59), and a portions of vacated right-of-way adjoining said lots, more fully described as follows: Beginning at the northeast corner of Lot 3 of Tower Ridge Subdivision in said Section 23, T1N, R7E, BHM, said corner being marked by a rebar, thence, South 00 degrees 12 minutes 34 seconds East (more or less) along the easterly line of said Lot 3 of Tower Ridge Subdivision (said line being coincident with the westerly line of Lot 1 of Enchanted Hills Subdivision, also located in Section 23, T1N, R7E, BHM and as shown on the plat recorded on November 2, 1977 and filed in Plat Book 15 on Page 197), a distance of 178.24 feet (more or less) to the southeast corner of said Lot 3 of Tower Ridge Subdivision, said corner being coincident with the northeast corner of previously described Tract F, said corner being marked by a rebar with survey cap marked "LS 1771"; thence, South 00 degrees 12 minutes 15 seconds East (more or less) along the easterly line of said Tract F (said line being coincident with the westerly line of previously described Lot 1 of Enchanted Hills Subdivision), a distance of 121.75 feet (more or less) to the southwest corner of said Lot 1 of Enchanted Hills Subdivision, said corner being marked by a rebar; thence, South 00 degrees 10 minutes 15 seconds East (more or less) along the easterly line of said Tract F and previously described Tract G (said line being coincident with the westerly line of previously described Lot 1 and Lot 2 of Enchanted Hills Subdivision), a distance of 279.96 feet (more or less) to the southwest corner of said Lot 2 of Enchanted Hills Subdivision, said corner being coincident with the northwest corner of Lot 3 of Enchanted Hills Subdivision and said corner being marked by a rebar; thence, South 00 degrees 11 minutes 01 seconds East (more or less) along the easterly line of said Tract G (said line being coincident with the westerly line of previously described Lot 3 of Enchanted Hills Subdivision), a distance of 124.70 feet (more or less) to the southwest corner of said Lot 3 of Enchanted Hills Subdivision, said

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corner being coincident with the northwest corner of Lot 5 of Enchanted Hills Subdivision and said corner being marked by a rebar; thence, South 00 degrees 15 minutes 44 seconds East (more or less) along the easterly line of said Tract G (said line being coincident with the westerly line of previously described Lot 5 of Enchanted Hills Subdivision), a distance of 213.66 feet (more or less) to the southwest corner of said Lot 5 of Enchanted Hills Subdivision, said corner being coincident with the northwest corner of Lot 6 of Enchanted Hills Subdivision and said corner being marked by a rebar; thence, South 00 degrees 08 minutes 16 seconds East (more or less) along the easterly line of said Tract G (said line being coincident with the westerly line of previously described Lot 6 of Enchanted Hills Subdivision) a distance of 331.28 feet (more or less) to the southwest corner of said Lot 6 of Enchanted Hills Subdivision, said corner being coincident with the northwest corner of Lot 7 of Enchanted Hills Subdivision and said corner being marked by a rebar; thence, South 01 degrees 03 minutes 11 seconds East (more or less) along the easterly line of said Tract G (said line being coincident with the westerly line of previously described Lot 7 of Enchanted Hills Subdivision) a distance of 64.35 feet (more or less) to the southeast corner of said Tract G, said corner being marked by a rebar with survey cap marked "LS 1019"; thence, South 89 degrees 56 minutes 34 seconds West (more or less) along the southerly line of said Tract G, a distance of 481.92 feet (more or less) to the southwest corner of said Tract G, said corner being marked by a rebar with survey cap marked "LS 1019"; thence, North 00 degrees 17 minutes 07 seconds West (more or less) along the westerly line of said Tract G, a distance of 450.68 feet (more or less) to the southeast corner of previously described Tract D of Medicine Ridge No. 2, said corner being marked by a rebar with survey cap marked "LS 1019"; thence, South 89 degrees 50 minutes 58 seconds West (more or less) along the southerly line of said Tract D of Medicine Ridge No. 2, a distance of 455.58 feet (more or less) to the southwest corner of said Tract D of Medicine Ridge No. 2, said corner being coincident with the southeast corner of Tract E of Medicine Ridge No. 2 and said corner being marked by a rebar with survey cap marked "LS 1019"; thence, North 07 degrees 27 minutes 38 seconds East (more or less) along the westerly line of said Tract D of Medicine Ridge No. 2 (said line being coincident with the easterly line of said Tract E of Medicine Ridge No. 2) a distance of 911.90 feet (more or less) to the northwest corner of said Tract D of Medicine Ridge No. 2, said corner being coincident with the northeast corner of Said Tract E of Medicine Ridge No. 2 and said corner being marked by a spike; thence, North 07 degrees 18 minutes 46 seconds East (more or less) a distance of 34.93 feet (more or less) to a point along the center line of Plains Vista Court right-of-way, said point being marked by a rebar with survey cap marked "LS 6565"; thence, South 82 degrees 45 minutes 38 seconds East (more or less) a distance of 25.49 feet (more or less) to a point along the center line of Plains Vista Court right-of-way, said point being marked by a rebar with survey cap marked "LS 6565"; thence; curving to the left along a curve with a radius of 1000.76 feet, a delta of 7 degrees 13 minutes 45 seconds, a length of 126.27 feet (more or less) and a chord bearing of South 86 degrees 32 minutes 17 seconds East and a chord distance of 126.18 feet (more or less) to a point along the center line of Plains Vista Court right-of-way, said point being marked by a rebar with survey cap marked "LS 6565"; thence, North 89 degrees 59 minutes 18 seconds East (more or less) a distance of 165.32 feet (more or less) to a point along the centerline of Plains Vista Court right-of-way, said point being marked by a rebar with survey cap marked "LS 6565"; thence, curving to the right on a curve with a

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radius of 150.15 feet, a delta of 39 degrees 33 minutes 47 seconds, a length of 103.68 feet (more or less), a chord bearing of South 70 degrees 11 minutes 15 seconds East and a chord distance of 101.63 feet (more or less) to a point along the centerline of Plains Vista Court right-of-way, said point being marked by a rebar with survey cap marked "LS 6565"; thence, North 39 degrees 33 minutes 37 seconds East (more or less) a distance of 35.55 feet (more or less) to a northwesterly corner of previously described Lot 3 of Tower Ridge Subdivision, said corner being marked by a rebar; thence, North 38 degrees 23 minutes 24 seconds East (more or less) along the westerly line of said Lot 3 of Tower Ridge Subdivision, a distance of 12.77 feet (more or less) to the northwest corner of said Lot 3 of Tower Ridge Subdivision, said corner being marked by a rebar with survey cap marked "LS 1771"; thence, along the northerly line of said Lot 3 of Tower Ridge Subdivision, and curving to the left along of curve with a radius of 382.75 feet, a delta of 59 degrees 01 minutes 11 seconds, a length of 394.27 feet (more or less), a chord bearing of South 79 degrees 54 minutes 38 seconds East (more or less) and a chord distance of 377.06 feet (more or less) to the point of beginning. Said tract of land contains 23.11 acres more or less.

PROPOSED

LEGAL DESCRIPTION	Lot 1 of ELGSS Subdivision, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 23.11 Acres
LOCATION	5440 Plains Vista Court
EXISTING ZONING	General Agriculture District
SURROUNDING ZONING	
North:	General Agriculture District
South:	Park Forest District
East:	Low Density Residential District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	7/9/2004
REVIEWED BY	Vicki L. Fisher / Curt Huus

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install sidewalk, curb, gutter, street light conduit and sewer as per Chapter 16.16 of the Rapid City Municipal Code be **approved with the following stipulation:**

- 1. Prior to submittal of a Final Plat application, the applicant shall sign a waiver of right to protest any future assessments for the sidewalk, curb, gutter, street light**

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conduit and sewer improvements.

GENERAL COMMENTS:

(Update August 24, 2004. All revised and/or added text is shown in bold text.)

This report has been updated as of August 20, 2004. All revisions are shown in bold. The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and sewer. In addition, the applicant has submitted a Layout Plat to combine the subject property from four lots into one lot and to vacate a portion of the Plains Vista Court right-of-way. The applicant has also submitted a Rezoning request to change the zoning designation of the subject property from General Agriculture District to Medium Density Residential District. In addition, the applicant has submitted an Initial Planned Residential Development to allow an independent senior living community to be constructed on the property. The applicant has also submitted a Comprehensive Plan Amendment to change the future land use designation on the subject property from Low Density Residential to Medium Density Residential with a Planned Residential Development (See companion items #04CA031, 04PL098, 04RZ038 and 04PD041.)

The property is located at the southern terminus of Plains Vista Court. Currently, a single family residence is located on existing Tract D and Tract G, respectively.

STAFF REVIEW:

A correct legal description has been provided and the required notices published. An incorrect metes and bounds legal description was submitted with this item and the associated applications which require notice of hearing(s). As such, staff is recommending that all of the items be continued to the August 26, 2004 Planning Commission meeting to be heard in conjunction with each other and to allow notice to be published with the correct legal description.

This request was continued to the August 26, 2004 Planning Commission meeting to allow time for discussions with the South Dakota Department of Transportation staff as well as City staff regarding the access to the project. Based on those discussions and a proposed alternative access plan, the applicant along with a representative of the South Dakota Department of Transportation and a representative of the City of Rapid City will be meeting with the adjoining property owners on August 23, 2004. Updated information will be provided to the Planning Commission based on the outcome of that discussion.

The representatives as identified above met August 23, 2004 to discuss alternate access points to the subject property as well as securing a frontage road from Enchantment Road to connect with an existing frontage road in the US Highway 16 right-of-way. The adjacent property owner has requested a month to review the options with the applicant. However, the design standards of Enchantment Road will not be impacted based on the location of this alternate access point. As such, staff has reviewed the Variance to the Subdivision Regulations and has noted the

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following considerations:

Enchantment Road: Enchantment Road is located along the north lot line and is classified as a sub-collector street requiring that it be located in a minimum 52 foot wide right-of-way and constructed with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, Enchantment Road is located in a 66 foot wide right-of-way and constructed with a 27 foot wide paved surface. Sidewalk, curb, gutter, street light conduit and a sewer main have not been constructed along Enchantment Road. Requiring the improvement of Enchantment Road as it abuts the subject property will result in a discontinuous street section. The Planning Commission and the City Council have granted similar Variance requests when the proposed plat reduces and/or does not increase the number of lots. As identified above, the applicant is proposing to combine four lots into one lot. In addition, the applicant has indicated that a sewer main will be extended along Plains Vista Court. The applicant should be aware that as a part of the Initial and Final Planned Residential Development review and approval, a sidewalk within the project as well as one extending to the northeast corner of the property will be required in order to insure pedestrian walkways within the development and to Enchantment Road. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the improvements along Enchantment Road be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvement.

Legal Notification Requirement: The receipts from the certified mailings have not been returned as of this writing. Staff will notify the Planning Commission at the August 26, 2004 Planning Commission meeting if this requirement is not met. Staff has received several calls of inquiry and opposition regarding this proposal.