

STAFF REPORT  
December 9, 2004

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**No. 04SV053 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 55**

GENERAL INFORMATION:

PETITIONER	Sperlich Consulting, Inc. for Paul Reinke
REQUEST	<b>No. 04SV053 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and to improve pavement as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	Unplatted balance of the N1/2NE1/4 less Right-of-way, unplatted balance of the SE1/4NE1/4, SW1/4NE1/4 less the south 23 feet of the east 240 feet of the west 593 feet the of SW1/4NE1/4, less Copper Oaks, and Tract A less the east 350 feet of the north 900 feet of the Busted Five Development all located in Section 7, T1S, R7E, BHM, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 18 thru 20 of Copper Oaks No. 2, Lots 11 thru 13 Block 2, Lots 8 thru 12 of Block 3, Lots 1 thru 5 of Block 4, Lots 1 thru 8 of Block 5 and Lot A of Copper Oaks No. 3 Subdivision located in the NE1/4, Section 7, T1S, R7E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 90 Acres
LOCATION	Along Wild Turkey Way and Quartz Canyon Lane
EXISTING ZONING	Suburban Residential District (County)
SURROUNDING ZONING	
North:	Suburban Residential District (County)
South:	Highway Service District / General Agriculture District
East:	Low Density Residential District / General Agriculture District
West:	Suburban Residential District (County)
PUBLIC UTILITIES	Community water/private individual on-site wastewater
DATE OF APPLICATION	09/21/2004
REVIEWED BY	Vicki Fisher / Curt Huus

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RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to improve the section line highway with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer be denied;

That the Variance to the Subdivision Regulations to waive the requirement to provide a minimum 24 foot wide paved surface along the two un-named cul-de-sacs, Quartz Canyon Place and Wild Turkey Way be denied;

That the Variance to the Subdivision Regulations to waive the requirement to provide a minimum 20 foot wide paved surface along the emergency access easement be denied;

That the Variance to the Subdivision Regulations to waive the requirement to improve pavement along Wilderness Canyon Road and Quartz Canyon Lane from 24 feet to 27 feet be approved with the following stipulations:

1. Prior to submittal of a Final Plat application, the applicant shall sign a waiver of right to protest any future assessments for the pavement improvement along Wilderness Canyon Road and Quartz Canyon Lane; and,
2. A note prohibiting on-street parking shall be placed on the plat.

That the Variance to the Subdivision Regulations to waive the requirement to construct curb, gutter, sidewalk, street light conduit and sewer along the two un-named cul-de-sacs, Quartz Canyon Place, Quartz Canyon Lane and Wild Turkey Way 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 improvements;

That the Variance to the Subdivision Regulations to waive the requirement to provide curb, gutter, sidewalk, street light conduit, water and sewer along the emergency access easement be approved.

GENERAL COMMENTS:

**(Staff Report update as of November 24, 2004. All revised and/or added text is shown in bold print.) This item was recommended for approval in part and denial in part as identified above at the November 4, 2004 Planning Commission meeting. However, at the November 15 City Council meeting, several area property owners voiced concern with waiving sidewalks within the proposed development. As such, the City Council sent the Variance to the Subdivision Regulations request back to the Planning Commission for further consideration. Please note that no other part of this Staff Report has been revised.**

(Staff Report update as of October 26, 2004. All revised and/or added text is shown in bold print.) This item was continued at the October 21, 2004 Planning Commission meeting at

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the applicant's request. The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and to improve pavement along two un-named cul-de-sacs, Quartz Canyon Lane, Wild Turkey Way and Wilderness Canyon Road as they abut the subject property. In addition, the applicant has submitted a Layout Plat to subdivide the subject property into 24 residential lots. (See companion meeting #04PL135.)

The proposed lots are located in the Copper Oaks Subdivision, however, they are not completely contiguous to each other. In particular, eight of the lots are located along an un-named cul-de-sac extending south from Quartz Canyon Road. Three additional lots are located along the north side of Quartz Canyon Road. Eight lots are located along previously platted right-of-way known as Wild Turkey Way which, to date, has not been constructed. In addition, five additional lots are located on a second un-named cul-de-sac located within a section line highway extending north from Wilderness Canyon Road. Currently, the proposed lots are void of any structural development.

STAFF REVIEW:

Staff has identified that the legal description as shown on the application includes all properties within the northeast corner of Section 7. However, the applicant does not own all of the properties within the northeast corner. As such, all of the affected property owners must sign the application or the applicant must revise the legal description to include only that portion of the northeast corner of Section 7 currently under his ownership. The applicant has requested that this item be continued to the November 4, 2004 Planning Commission meeting in order to submit a revised legal description including only that portion of the northeast corner of Section 7 as shown on the Layout Plat. As such, staff is recommending that the Variance to the Subdivision Regulations be continued as requested by the applicant.

Wilderness Canyon Road: Wilderness Canyon Road extends off U.S. Highway 16 to serve the Copper Oaks Subdivision and the Quartz Canyon Subdivision. The Layout Plat identifies that two of the proposed lots abut Wilderness Canyon Road. In addition, Wilderness Canyon Road is classified as a sub-collector street requiring that the street be located in a minimum 52 foot wide right-of-way and constructed with a minimum 27 foot wide paved surface, curb, gutter, street light conduit, water and sewer. Currently, Wilderness Canyon Road is located in a 66 foot wide right-of-way and is constructed with a 24 foot wide paved surface and a community water main. Requiring the improvement of Wilderness Canyon 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 requirement to improve the street would result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer and to improve pavement along Wilderness Canyon Road be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

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Quartz Canyon Lane: Quartz Canyon Lane extends west from Wilderness Canyon Road. The Layout Plat identifies that five of the proposed lots abut Quartz Canyon Lane. In addition, Quartz Canyon Lane is classified as a sub-collector street requiring that the street be located in a minimum 52 foot wide right-of-way and constructed with a minimum 27 foot wide paved surface, curb, gutter, street light conduit, water and sewer. Currently, Quartz Canyon Lane is located in a 66 foot wide right-of-way and constructed with a 24 foot wide surface consisting of asphalt millings and a community water main. Staff is recommending that the street be improved with a 24 foot wide paved surface to accommodate the additional traffic generated by the proposed subdivision. In addition, the paved surface will require less maintenance than the existing asphalt millings. However, requiring the improvement of curb, gutter, sidewalk, street light conduit and sewer along Quartz Canyon 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 requirement to improve the street would result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and sewer along Quartz Canyon Road be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Quartz Canyon Place: Quartz Canyon Place extends south from Quartz Canyon Lane and abuts three of the proposed lots. Quartz Canyon Place is classified as a lane place street requiring that the street be located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, street light conduit, sidewalk, water, sewer and pavement. Currently, Quartz Canyon Place is located in a 33 foot wide right-of-way. In addition, the northern 350 feet of Quartz Canyon Place has been constructed with an approximate 18 foot wide graveled surface and a community water main. The southern 270 feet of Quartz Canyon Place has not been constructed. Requiring the pavement to be improved to a 24 foot wide surface will result in a continuous street design extending off Quartz Canyon Lane. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to improve paving be denied. However, requiring the installation of curb, gutter, street light conduit, sidewalk and sewer will result in a discontinuous street section. As noted above, the Planning Commission and the City Council have granted similar Variance requests when the requirement to improve the street would result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and sewer along Quartz Canyon Road be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Un-named Cul-de-sac: An un-named cul-de-sac extends east from Quartz Canyon Place and serves as access to eight of the proposed lots. The un-named cul-de-sac is classified as a lane place street requiring that the street be located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, street light conduit, water, sewer and pavement. In addition, the cul-de-sac bulb must be located in a

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minimum 110 foot wide diameter right-of-way with a minimum 90 foot wide diameter paved surface. Requiring the cul-de-sac street to be paved as identified will result in a continuous street design extending off Quartz Canyon Place. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to provide pavement be denied. However, requiring the installation of curb, gutter, street light conduit, sidewalk and sewer will result in a discontinuous street section. As noted above, the Planning Commission and the City Council have granted similar Variance requests when the requirement to improve the street would result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and sewer along the unnamed cul-de-sac be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Wild Turkey Way: Wild Turkey Way extends east from Wilderness Canyon Road and serves as access to eight of the proposed lots. Wild Turkey Way, a cul-de-sac street, is classified as a lane place street requiring that the road be located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, street light conduit, water, sewer and pavement. In addition, the cul-de-sac bulb must be located in a minimum 110 foot wide diameter right-of-way with a minimum 90 foot wide diameter paved surface. A previously dedicated 66 foot wide right-of-way exists for Wild Turkey Way but, to date, the road has not been constructed. Requiring that Wild Turkey Way be paved as identified will result in a continuous street design extending off Wilderness Canyon Road. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to provide pavement be denied. However, requiring the installation of curb, gutter, street light conduit, sidewalk and sewer will result in a discontinuous street section. As noted above, the Planning Commission and the City Council have granted similar Variance requests when the requirement to improve the street would result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and sewer along the Wild Turkey Way be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Section Line Highway: A section line highway is located along the east lot line of the subject property. The Layout Plat identifies a cul-de-sac street to be constructed in the west half of the section line highway to serve as access to five proposed lots. The east half of the section line highway is located on an adjacent property under different ownership from the subject property. The Subdivision Regulations states that "...where there exists a dedicated or platted half-street adjacent to the tract to be subdivided, the other half shall be platted. No new half-streets shall be permitted". As such, the adjacent property owner must participate in the platting of the east half of the section line right-of-way or a Variance to the Subdivision Regulations must be obtained to allow platting half a right-of-way. The applicant also has the option of vacating the section line highway. In the past, the Planning Commission and the City Council have taken the position that if the section line highway is not to be constructed then it must be vacated. As such, staff is recommending that the Variance to

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the Subdivision Regulations to waive improving the section line highway be denied. In addition, staff is recommending that the applicant work with the adjacent property owner and vacate the section line highway.

The Layout Plat also identifies an un-named cul-de-sac extending north from Wilderness Canyon Road within the southern portion of the section line highway. The un-named cul-de-sac is classified as a lane place street requiring that the street be constructed with a minimum 24 foot wide paved surface, curb, gutter, street light conduit, water, sewer and pavement. The cul-de-sac bulb must be located in a minimum 110 foot wide diameter right-of-way with a minimum 90 foot wide diameter paved surface. Requiring that the un-named cul-de-sac be paved as identified will result in a continuous street design extending off Wilderness Canyon Road. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to provide pavement be denied. However, requiring the installation of curb, gutter, street light conduit, sidewalk and sewer will result in a discontinuous street section. As noted above, the Planning Commission and the City Council have granted similar Variance requests when the requirement to improve the street would result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and sewer along the un-named cul-de-sac be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Emergency Access Road: At the October 21, 2004 Planning Commission meeting the applicant indicated that an access easement exits through an adjacent property to serve as an emergency access road for the residential development. On October 25, 2004 staff met with the applicant and his consultant on the site and inspected the emergency access road. Currently, the road is an approximate 10 foot wide dirt road. The Fire Department has indicated that the road must be improved with a 20 foot wide paved surface in order to provide access for emergency fire apparatus. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to pave the emergency access road be denied. However, requiring the installation of curb, gutter, street light conduit, sidewalk and sewer will result in a discontinuous street section. As noted above, the Planning Commission and the City Council have granted similar Variance requests when the requirement to improve the street would result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and sewer along the emergency access easement be approved.

Legal Notification Requirement: The receipts from the certified mailings have been returned. Staff has received three calls of inquiry regarding this request. One caller voiced opposition to the proposed Variance to the Subdivision Regulations request.