

STAFF REPORT  
March 10, 2005

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**No. 05SV017 - Variance to the Subdivision Regulations to waive the requirements 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 46**

GENERAL INFORMATION:

PETITIONER	D.C. Scott Co., Land Surveyors for Highmark Builders
REQUEST	<b>No. 05SV017 - Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalk, street light conduit, water and sewer as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	Lot 1, Lot B, Lot C and Well Lot of Miracle Place Subdivision located in the SE1/4 SE1/4 of Section 8, and in the SW1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lot AR, Lot BR, Lot Cr, Lot D and Revised Well Lot of Miracle Place Subdivision, located in the SE1/4 SE1/4 of Section 8, and in the SW1/4 of Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.682 acres
LOCATION	Along Miracle Place
EXISTING ZONING	Low Density Residential District
SURROUNDING ZONING	
North:	Low Density Residential District
South:	Low Density Residential District
East:	Low Density Residential District
West:	Low Density Residential District
PUBLIC UTILITIES	Private community water well and City sewer
DATE OF APPLICATION	2/11/2005
REVIEWED BY	Vicki L. Fisher / David L. Johnson

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install sewer be tabled and that the Variance to the Subdivision Regulations to waive their requirement to install curb, gutter, sidewalk, street light conduit and water along Cliff Drive and Miracle Place as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulation:

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1. Curb, gutter and sidewalk shall be constructed along the east side of Miracle Place.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install sidewalk, street light conduit, curb, gutter and water along Cliff Drive and Miracle Place as they abut the subject property. In addition, the applicant has submitted a Preliminary Plat to subdivide the existing three lots into four lots and to reconfigure a well lot. (See companion item #05PL031.)

On September 23, 2003 the City Council approved a Layout Plat subdividing the subject property into three lots. In addition, the City Council approved a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter sidewalk and water along Cliff Drive, to waive the requirement to install water along Miracle Place and to waive the requirement to install curb, gutter and sidewalk along the west side of Miracle Place with the stipulation that it be constructed along the east side of the street.

The property is located in the southwest corner of the intersection of Miracle Place and Cliff Drive. Currently, a single family residence is located on proposed Lot AR and Lot BR, respectively.

STAFF REVIEW:

Staff has reviewed the Variance to the Subdivision Regulations and has noted the following considerations:

Street Design(s): Currently, Cliff Drive and Miracle Place are constructed as approximate 24 foot wide paved street(s) and sewer but are currently void of curb, gutter, sidewalk and water. City water is currently located approximately a quarter mile northeast of the subject property. The applicant has indicated that the community on-site well will serve the proposed development.

As noted, sewer is currently located in Cliff Drive and Miracle Place. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install sewer be tabled.

As previously indicated, curb, gutter and sidewalk are not constructed along Cliff Drive. Requiring the improvement Cliff Drive as it abuts the subject property will result in a discontinuous street section. In the past, the Planning Commission and the City Council have granted similar variances when the adjacent sections of roadway are void of the improvement(s) and the applicant has signed a waiver of right to protest any future assessment for the improvement.

The previously submitted and approved construction plans for Miracle Place show the construction of curb, gutter and sidewalk along the east side of the road. Due to the slope of

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the road, curb, and gutter are needed to carry run-off into a drainage channel being designed as a part of the platting of the property. In addition, constructing a sidewalk along the east side of Miracle Place as shown on the previously submitted construction plans will accommodate the pedestrian traffic within the cul-de-sac. In particular, the sidewalk will provide a place for children to play outside of the paved street. Staff is recommending that the Variance to the Subdivision Regulations as requested be approved with the stipulation that curb, gutter and sidewalk be constructed along the east side of the street.

Please note that in 2003, the City Council granted the same Variance to the Subdivision Regulations request in conjunction with platting the subject property into three lots. At that time, the applicant signed a waiver of right to protest any future assessments for the improvements. As such, the City Attorney's Office has indicated that the applicant is not required to sign a new document since the Variance being requested is the same as the original Variance requested and obtained.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the March 10, 2005 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal