

STAFF REPORT
February 22, 2007

No. 07SV001 - Variance to the Subdivision regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line highway as per Chapter 16.16 of the Rapid City Municipal Code

ITEM 32

GENERAL INFORMATION:

PETITIONER

Sperlich Consulting, Inc. for Doeck, LLC

REQUEST

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EXISTING

LEGAL DESCRIPTION

A portion of the NE1/4 of the SE1/4, Section 13, T2N, R7E, BHM, and a portion of Tract 5 of Sletten Addition, located in the NW1/4 of the SW1/4, Section 18, T2N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the easterly 1/4 Corner of Section 13, T2N, R7E, common with the westerly 1/4 corner of Section 18, T2N, R8E, and common with the northwesterly corner of Tract 5 of Sletten Addition, and the Point of Beginning; Thence, first course: S89°38'53"E, along the northerly boundary of said Tract 5 of Sletten Addition, a distance of 33.00 feet, to a point on the easterly edge of the statutory section line right-of-way in said Section 18; Thence, second course: S00°07'25"W, along the easterly edge of said statutory section line right-of-way, a distance of 1090.65 feet, to a point of curve of Lot H-1 of Tract 5 of Sletten Addition; Thence, third course: northwesterly, curving along the northeasterly edge of the right-of-way of said Lot H-1 of Tract 5 of Sletten Addition, curving to the left on a curve with a radius of 285.79 feet, a delta angle of 27°48'23", an arc length of 138.70 feet, a chord bearing of N13°46'46"W, and a chord distance of 137.34 feet, to the northwesterly corner of said Lot H-1 of Tract 5 of Sletten Addition, and a point of compound curvature; Thence, fourth course: northwesterly, curving to the left on a curve with a radius of 253.40 feet, a delta angle of 14°54'34", an arc length of 65.94 feet, a chord bearing of N30°00'02"W, and a chord distance of 65.75 feet, to a point on the westerly edge of the statutory section line right-of-way in said Section 13; Thence, fifth course: N00°07'25"E, along the westerly edge of said statutory section line right-of-way, a distance of 900.49 feet, to a point on the Center 1/4 line of said Section 13; Thence,

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sixth course: N89°56'42"E, along said Center 1/4 line of said Section 13, a distance of 33.00 feet, to the easterly 1/4 Corner of Section 13, T2N, R7E, common with the westerly 1/4 Corner of Section 18, T2N, R8E, and common with the northwesterly corner of Tract 5 of Sletten Addition, and the Point of Beginning.

PARCEL ACREAGE	Approximately 1.460 acres
LOCATION	At the northern terminus of Cobalt Drive
EXISTING ZONING	Low Density Residential District (Planned Development Designation)
SURROUNDING ZONING	
North:	General Agriculture District (Pennington County)
South:	Low Density Residential District (Planned Development Designation)
East:	General Agriculture District (Pennington County)
West:	Low Density Residential District (Planned Development Designation)
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	1/26/2007
REVIEWED BY	Vicki L. Fisher / Emily Fisher

RECOMMENDATION:

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

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvement; and,
2. Prior to submittal of a Final Plat application, the section line highway shall be vacated.

GENERAL COMMENTS:

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 pavement along a section line highway as it abuts the east lot line of the subject property.

On November 9, 2005, the applicant submitted a Vacation of Section Line Highway request

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to vacate the section line highway located along the east lot line of the subject property. This item has been continued several times to allow the applicant to provide an alternate street access to the property located north of the subject property. (See companion item 05VR014.) On November 8, 2006, the applicant submitted a Preliminary Plat to subdivide the subject property into 52 residential lots as Phase Two of Brookfield Subdivision. On January 15, 2007 the applicant submitted a revised plat document identifying a street connection to the north lot line. On February 8, 2007, the Planning Commission recommended approval of the Preliminary Plat to subdivide the subject property into 52 residential lots. The City Council will consider the Preliminary Plat request at their February 19, 2007 City Council meeting. (See companion item #06PL133.)

The subject property is located north and west of the intersection of Cobalt Drive and W. Nike Road. Currently, the property is void of any structural development.

STAFF REVIEW:

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

Section Line Highway: A section line highway is located along the east lot line of the subject property. As noted above, the applicant has submitted a Vacation of Section Line Highway request to vacate the section line highway as it abuts the subject property. A stipulation of the associated Preliminary Plat requires that an alternate street providing access to the property located directly north of the subject property be provided prior to Vacation of the Section Line Highway. Once the Preliminary Plat and, subsequently, the Final Plat are approved, an alternate street connection to the north will be provided. However, the section line highway must be vacated or constructed or a Variance to the Subdivision Regulations obtained in order for the Preliminary Plat to be approved by the City Council. As such, the applicant has submitted this Variance request.

Staff typically would recommend that the Section Line Highway be vacated in lieu of a Variance to the Subdivision Regulations being obtained. However, as noted above, the Vacation of Section Line Highway request can not be approved until a Final Plat is approved securing an alternate street access to the north. As such, it becomes a timing issue. Since the associated Preliminary Plat identifies access to the adjacent properties and the existing gradient within the section line highway limits any future street construction, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to construct the section line highway be approved with the stipulation that prior to City Council approval, the applicant sign a waiver of right to protest any future assessment for the improvement. In addition, staff is recommending that prior to submittal of a Final Plat application, the section line highway be vacated.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the February 22, 2007 Planning Commission meeting if this requirement is not met. Staff has not received any calls or

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inquires regarding this proposal.