

STAFF REPORT  
March 27, 2008

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**No. 08SV007 - Variance to the Subdivision Regulations to waive the requirement to install, curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Sammis Trail and the Section Line Highway as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 62**

GENERAL INFORMATION:

APPLICANT/AGENT	Craig and Tamara Mestad
PROPERTY OWNER	Craig and Tamara Mestad
REQUEST	<b>No. 08SV007 - Variance to the Subdivision Regulations to waive the requirement to install, curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Sammis Trail and the Section Line Highway as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	Tract 20 of Highview Subdivision, NE1/4 SE1/4 of Section 35, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots A, B C and D of Tract 20 of Highview Subdivision, located in the SE1/4 NE1/4 SE1/4, Section 35, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 10.041 acres
LOCATION	1445 Sammis Trail
EXISTING ZONING	Limited Agriculture District (Pennington County)
SURROUNDING ZONING	
North:	Limited Agriculture District (Pennington County)
South:	Low Density Residential District (Planned Residential Development)
East:	General Agriculture District (Pennington County)
West:	Low Density Residential District (Planned Residential Development)
PUBLIC UTILITIES	None
DATE OF APPLICATION	2/8/2008
REVIEWED BY	Jonathan Smith / Mary Bosworth

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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 Sammis Trail as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulations:

1. Sammis Trail access easement shall be dedicated as right-of-way; and,
2. Prior to approval by City Council the applicant sign a waiver or right to protest future assessments.

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 be denied without prejudice and that the applicant vacate the section line highway.

GENERAL COMMENTS:

**(Update March 12, 2008. All revised and/or added text is shown in bold). This item was continued at the March 6, 2008 Planning Commission meeting. Because of concerns expressed by the adjacent property owner that the section line highway being inadvertently vacated, an additional stipulation of approval (#10) was added to the revised staff report distributed at the March 6, 2008 Planning Commission meeting to ensure the section line highway was properly identified on the forthcoming preliminary plat document. As the applicant was not in attendance and staff had not had an opportunity to review the revised stipulations with the applicant prior to the Planning Commission meeting, the Planning Commission continued the request to the March 27, 2008 Planning Commission meeting.**

The applicant has submitted a Variance to the Subdivision Regulations request to to waive the requirement to install, curb, gutter, sidewalk, street light conduit, water, sewer and pavement along a 66 foot wide access easement identified as Sammis Trail and the section line highway as per Chapter 16.16 of the Rapid City Municipal Code. The property is located 1.1 mile east of U.S. Highway 16 at the terminus of Sammis Trail. The property consists of a 10.44 acre tract that was platted as Tract 20 of Highview Subdivision on November 21, 1978. A Layout Plat (#08PL012) to subdivide the property into four lots, and a Petition for Annexation (#08OA002) has been filed in conjunction with this variance request. Currently a single family residence, an accessory building and a detached garage is located on proposed Lot D; the remaining proposed lots are currently void of any structural development. The property is currently zoned Limited Agriculture District by Pennington County.

STAFF REVIEW:

Staff has reviewed the applicant's Variance to the Subdivision request and noted the following considerations:

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ACCESS EASEMENT/ SAMMIS TRAIL

The applicant's plat document proposes to use 66 foot wide access easement identified as "Sammis Trail" to serve Tract 20 of Highview Subdivision. Currently the access easement on the property is a 43 foot wide gravel road. There is no pavement, curb, gutter, water, sewer, street light conduit and sidewalk currently installed in the easement. . The access easement is classified as a Lane/Place street requiring a minimum right-of-way width of 45 feet and a minimum pavement width of 20 feet.

Currently the Sammis Trail access easement is unpaved with no curb, gutter, sidewalk, or street light conduit adjacent to the proposed subdivision. Requiring the installation of pavement, curb, gutter, street light conduit, and sidewalks as a part of this plat would result in a discontinuous road section. In the past the Planning Commission and City Council have supported similar requests with the stipulation that the applicant sign a waiver to protest future assessments. However, a waiver of right to protest cannot be approved for an easement. Staff recommends approval of the variance to waive the requirement for the installation of curb, gutter, street light conduit, pavement and sidewalks with the following stipulations:

1. Sammis Trail access easement shall be dedicated as right-of-way; and,
2. Prior to City Council approval, the applicant enters into a waiver of right to protest future assessments for the improvements.

Currently city water and sewer are not available to the property. The applicant has indicated that a community well will provide water service, and each lot will have an on-site septic system for sewer service. In the past, the Planning Commission and City Council have granted similar variance requests when domestic flows are being provided and it is anticipated that City water and sewer service will not be available in the foreseeable future. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install water and sewer be approved with the stipulation that prior to City Council approval, the applicant sign a waiver of right to protest any future assessments for the improvements.

SECTION LINE HIGHWAY

A section line highway is located on the eastern boundary of the property. The section line highway is not identified on the Major Street Plan as a future collector or arterial street and the applicant is not proposing to use the section line highway as a means of access as part of the proposed subdivision of parcels. Currently an easement for an existing overhead electric transmission line is located on the 33 feet of section line highway on the adjacent property. Because the section line highway is not identified as a future collector street, not identified as part of the applicant's subdivision, and currently has a easement for an electric transmission line located on half of it, staff recommends that the applicant vacate the section line highway with the utility easements being retained.

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to

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install pavement, curb, gutter, sidewalk, street light conduit, water and sewer be denied without prejudice and that the applicant vacate the section line highway.

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