

STAFF REPORT  
August 21, 2008

**No. 08SV010 - Variance to the Subdivision Regulations to waive the requirement to construct curb, gutter, sidewalk, street light conduit, water, sewer and to waive the requirement to dedicate additional Right-of-way and pavement along Sturgis Road and the section line highway, Neiger Court, Zenker Place and in the access easements as per Chapter 16.16 of the Rapid City Municipal Code**

### ITEM 13

GENERAL INFORMATION:

**APPLICANT** Pete Lien and Sons

AGENT Renner & Associates

PROPERTY OWNER                      Pete Lien and Sons

REQUEST	<p><b>No. 08SV010 - Variance to the Subdivision Regulations to waive the requirement to construct curb, gutter, sidewalk, street light conduit, water, sewer and to waive the requirement to dedicate additional Right-of-way and pavement along Sturgis Road and the Section Line Right-of-way, Neiger Court, Zenker Place and in the access easements as per Chapter 16.16 of the Rapid City Municipal Code</b></p>
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EXISTING LEGAL DESCRIPTION	
	<p>The unplatted balance of the NW1/4 of the NE1/4; Lot 1 of Limestone Tunnel Subdivision; Lot B of the NW1/4 of the NE1/4; Lots 1 thru 3 of Block 1 and vacated Feist Road of Feist Addition; Lots 1 thru 4 of Lot 1 of the NE1/4 of the NE1/4; Lot A, Lots 1 thru 6 of Lot B, and a Subdivision of Lot1C; Lot X and Y, a Subdivision of Lot 1D: Lots A, B, and C of Keller Subdivision, located in the S1/2 of the SE1/4 and the SE1/4 of the SW1/4, Section 17 and NE1/4 of Section 20, T2N, R7E, BHM, Pennington County, South Dakota</p>

PROPOSED LEGAL DESCRIPTION	Lots 1 and 2 of Keller Subdivision and Tract 1 of Schaeferville Subdivision, located in the S1/2 of the SE1/4 and the SE1/4 of the SW1/4, Section 17 and NE1/4 of Section 20, T2N, R7E, BHM, Pennington County, South Dakota
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PARCEL ACREAGE Approximately 84.041 Acres

LOCATION Universal Drive and Sturgis Road

EXISTING ZONING Limited Agriculture District (Pennington County) Highway Services District (Pennington County), Heavy Industrial

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District (Pennington County), and Low Density Residential District (Pennington County).

**SURROUNDING ZONING**

North: Heavy Industrial District (Pennington County)  
South: Heavy Industrial District (Pennington County)  
East: Highway Services District - Low Density Residential District - Suburban Residential District (Pennington County)  
West: Limited Agriculture District (Pennington County)

**PUBLIC UTILITIES** None

**DATE OF APPLICATION** 2/7/2008

**REVIEWED BY** **Travis Tegethoff** / Jonathan Smith / Ted Johnson

**RECOMMENDATION:**

**Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to construct curb, gutter, sidewalk, street light conduit, water, sewer and to waive the requirement to dedicate additional Right-of-way and pavement along Sturgis Road and the section line highway, Neiger Court, Zenker Place and in the access easements as per Chapter 16.16 of the Rapid City Municipal Code be continued to the September 4, 2008 Planning Commission meeting.**

**GENERAL COMMENTS:**

**(Update: August 12, 2008. All revised and/or added text is shown in bold). This item was continued to the August 21, 2008 Planning Commission meeting at the applicant's request. On July 21, 2008 staff met with the applicant about submitting a revised plat application and Variance to the Subdivision Regulations. As such, staff recommends that this item be continued to the September 4, 2008 Planning Commission meeting.**

The applicant has submitted a request to waive the requirement to construct curb, gutter, sidewalk, street light conduit, water, sewer and to waive the requirement to dedicate additional right-of-way and pavement along Sturgis Road, the section line highway, Neiger Court, Zenker Place, a north-south 33 foot access and utility easement and a 66 foot wide north-south "easement for roadway" as per Chapter 16.16 of the Rapid City Municipal Code. The property is located north and south of Universal Drive and west of Sturgis Road. Currently, the property is being used for surface mining operations. Two accessory buildings associated with mining operations, a conveyor belt system and a portion of a former dog racing track are located on the property. The property is not located within the

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municipal limits of the City of Rapid City; however, the property is located within the City of Rapid City's Three Mile Platting Jurisdiction. A Preliminary Plat application (#08PL016) to replat 24 lots into three lots identified as Lot 1 and Lot 2 of Keller Subdivision and Tract 1 of Schaeferville Subdivision has been submitted in conjunction with this request.

A Vacation of Right-of-way request (#06VR011) to vacate Feist Road was approved by the City Council on February 5, 2007. The property is currently zoned Limited Agricultural District, Highway Services District, Heavy Industrial District, and Low Density Residential District by Pennington County.

STAFF REVIEW:

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

STURGIS ROAD:

The property abuts Sturgis Road on the eastern boundary. Sturgis Road is classified as a principal arterial street requiring a minimum 100 feet of right-of-way and a minimum 12 feet per lane of pavement width. Sturgis Road, where it abuts the property, currently is located in 130 feet of right-of-way with a pavement width of 38 feet for three lanes. Currently, Sturgis road meets the right-of-way and pavement width requirements for an arterial street. As a Variance is not required, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install additional pavement be denied without prejudice.

Requiring curb, gutter, sidewalk, street light conduit, water and sewer along Sturgis Road where it abuts the property will create a discontinuous section of street. In the past, the Planning Commission and City Council have approved similar requests when the improvement would create a discontinuous section of street. In addition, the City does not anticipate water or sewer service in this area until the year 2030 per the draft Master Utility System Plan for Rapid City. In the past, the Planning Commission and City Council have not required dry sewer be installed when the City's Master Plan did not show service in the area for 15 years or more. Staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Sturgis Road be approved with the stipulation that prior to City Council approval, the applicant sign a waiver of right to protest future assessments for the improvements.

ZENKER PLACE

The proposed Preliminary Plat abuts Zenker Place for approximately 19 feet at the western terminus of the road. Because any improvements of this section of road would result in a discontinuous road section, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit,

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water, sewer and additional pavement be approved. Additionally, platting a small corner of the road as right-of-way or easement will create an irregular easement or right-of way. For this reason, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate right-of-way along Zenker Place be approved.

**NEIGER COURT**

Neiger Court is a 17 foot wide right-of-way abutting proposed Tract 1 of Schaeferville Subdivision. Currently, Neiger Court is an unpaved right-of-way without pavement, curb, gutter, street light conduit, sidewalk, water and sewer. Neiger Court is classified as a lane/place street requiring a minimum 45 feet of right-of-way and a minimum pavement width of 20 feet. In the past, the Planning Commission and City Council have granted similar variance requests when there was no increase in density and the minimum required right-of-way is provided. Since the plat reduces the amount of density, 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 be approved with the stipulation that the applicant sign a waiver of right to protest future assessments of improvements. Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate right-of-way along Neiger Court be denied.

**SECTION LINE HIGHWAY**

Proposed Lot 2 of Keller Subdivision and proposed Tract 1 of Schaeferville Subdivision are currently separated by a section line highway. Currently, the section line highway is unimproved except for a small portion extending off of Sturgis Road that is currently paved for a width of 20 feet. The Major Street Plan identifies a portion of the section line highway as a proposed collector street. The Major Street Plan identifies the proposed collector street as extending along the section line highway a distance of 730 feet in a westerly manner before traversing in a more northwesterly route. The remainder of the section line highway not identified as a proposed collector street is classified as a subcollector street by the Street Design Criteria Manual. As noted, this portion of the section line highway is void of any improvements. The collector street portion of the section line highway requires a minimum right-of-way width of 60 feet for a street with no on-street parking. The remainder of the section line highway is classified as a subcollector street requiring a minimum right-of-way width of 47 feet. As there are 66 feet of section line right-of-way presently, staff recommends that the portion of road identified on the Major Street Plan be dedicated and the balance be dedicated or vacated. Since no Variance to the right-of-way width is required for this portion, staff recommends that this Variance be denied without prejudice.

Since the section line right-of-way is not currently built to City street standards and there is no increase in density, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement along the section line highway be approved with the stipulation that the

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applicant sign a waiver of right to protest future assessments for the improvements.

**ACCESS EASEMENTS:**

The associated Preliminary Plat document identifies a portion of a 33 foot wide access easement that provides access to 12 lots. All of these lots except one lot, identified as Lot A of NW 1/4 NE 1/4 of Section 20, Township 2 North, Range 7 East, are being replatted as a part of proposed Tract 1 of Schaeferville Subdivision. The access easement is classified as a lane/place street requiring 45 feet of right-of-way and 20 feet of pavement width. In the past, the Planning Commission and City Council have granted similar variance requests when there was no increase in density. Since there is no increase in density, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement be approved. Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate right-of-way be denied and the applicant dedicate the additional 12 feet of right-of-way`.

In addition, the plat document identifies an additional 66 foot wide access easement that is located at the former terminus of Feist Road. The access easement is classified as a lane/place street requiring 45 feet of right-of-way and 20 feet of pavement width. In the past, the Planning Commission and City Council have granted similar variance requests when there was no increase in density. Since there is no increase in density, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement be approved. Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate right-of-way be denied without prejudice as adequate right-of-way is provided.

**LEGAL NOTIFICATION REQUIRMENTS:**

The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the March 6, 2008 meeting if this requirement has not been met.