

STAFF REPORT
October 9, 2008

No. 08SV050 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk, water, sewer and pavement and to waive the requirement to dedicate right-of-way as per Chapter 16.16 of the Rapid City Municipal Code

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GENERAL INFORMATION:

APPLICANT	Robert Schmitz for U Lazy Two, LLC
AGENT	Janelle Finck for Fisk Land Surveying & Consulting Engineers
PROPERTY OWNER	Robert Schmitz for U Lazy Two, LLC
REQUEST	No. 08SV050 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk, water, sewer and pavement and to waive the requirement to dedicate right-of-way as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	A parcel of land located in the SW1/4 SE1/4, that portion of the SE1/4 SW1/4 lying north of Nemo Road and the unplatted portion of the NE1/4 NW1/4 lying east of Nemo Road, Section 23, T2N, R6E, BHM, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 and 2 of U Lazy Two Ranch Estates Subdivision, located in the SW1/4 SE1/4, that portion of the SE1/4 SW1/4 lying north of Nemo Road and the unplatted portion of the NE1/4 NW1/4 lying east of Nemo Road, Section 23, T2N, R6E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 160.14 acres
LOCATION	8970 Nemo Road
EXISTING ZONING	General Agriculture District (Pennington County)
SURROUNDING ZONING	
North:	General Agriculture District (Pennington County)
South:	Low Density Residential District (Pennington County)
East:	General Agriculture District (Pennington County)
West:	General Agriculture District (Pennington County)

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PUBLIC UTILITIES	Private water and wastewater
DATE OF APPLICATION	9/12/2008
REVIEWED BY	Vicki L. Fisher / Mary Bosworth

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water, sewer and additional pavement along Nemo Road, to install curb, gutter, street light conduit, water, sewer and pavement along the existing section line highways and to waive the requirement to dedicate the section line highways as right-of-way be approved with the following stipulations:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water, sewer and additional pavement along Nemo Road, to install curb, gutter, street light conduit, water, sewer and pavement along the existing section line highways and to waive the requirement to dedicate the section line highways as right-of-way. In addition, the applicant has submitted a Preliminary Plat (File #08PL133) to plat three unplatted parcels of property into two platted lots. The proposed development is to be known as Lots 1 and 2 of U Lazy Two Ranch Estates.

On May 5, 2008, the City Council approved a Layout Plat (File #08PL044) of the property to create two lots leaving a 40 acre unplatted balance. The associated Preliminary Plat includes the same property but incorporates the 40 acre unplatted parcel into proposed Lot 1, resulting in two lots with no unplatted balance.

On May 5, 2008, the City Council also approved a Variance to the Subdivision Regulations (File #08SV021) to install curb, gutter, street light conduit, water, sewer and additional pavement along Nemo Road, to install curb, gutter, street light conduit, water and sewer and pavement along the existing section line highways, to install curb, gutter, street light conduit, water, sewer and pavement along a proposed 50 foot wide private access and utility easement and to waive the requirement to dedicate the section line highways as right-of-way. The Variance to the Subdivision Regulations was approved in conjunction with the Layout Plat. Since this Preliminary Plat has been revised to include an additional 40 acres, the applicant has submitted a new Variance to the Subdivision Regulations request to waive the requirement to improve Nemo Road and the section line highways as they abut the property. Please note that the Preliminary Plat no longer shows a private access and utility easement on the property.

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The property is located north and east of the intersection of Schmitz Trail and Nemo Road. Currently, a single family residence and accessory structures are located on proposed Lot 2. The balance of 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:

Nemo Road: Nemo Road is located along the west lot line of the subject property and is classified as a principle arterial street on the City's Major Street Plan requiring that the street be located in a minimum 100 foot wide right-of-way and constructed with a minimum 36 foot wide paved surface, curb, gutter, street light conduit, water and sewer. Currently, Nemo Road is located in a 66 foot wide right-of-way and constructed with an approximate 24 foot wide paved surface. The associated Preliminary Plat identifies the dedication of 17 additional feet of right-of-way along Nemo Road as it abuts the property. However, requiring the construction of the additional improvements along Nemo Road as it abuts the subject property will result in a discontinuous street section. In addition, the Planning Commission and the City Council have granted similar Variance requests when the associated plat did not result in any increase in density. As such, staff is recommending that the Variance to the Subdivision Regulations be approved as requested with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Section Line Highway: A north-south section line highway is located along the east lot line and an east-west section line highway is located between proposed Lots 1 and 2. The section line highways are classified as lane place streets requiring that they be constructed with a minimum 20 foot wide paved surface, curb, gutter, street light conduit, water and sewer. In addition, the 66 foot wide section line highway must be dedicated as right-of-way. To date, the section line highways are unimproved. As such, the applicant has requested a 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 highways and to waive the requirement to dedicate the section line highways as right-of-way. Typically, the City requires that section line highways be vacated in lieu of granting a Variance to the Subdivision Regulations to waive the requirement to improve the section line highways. However, these two section line highways serve as access to the United States Forest Service property located directly east of the property. South Dakota Codified Law precludes the vacation of a section line highway that may serve as access to public property. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk, water, sewer and pavement along the section line highways and to dedicate the section line highways as right-of-way be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Legal Notification Requirement: As of this writing, the receipts from the certified mailings have

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not been returned. Staff will notify the Planning Commission at the October 9, 2008 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.