

STAFF REPORT  
September 24, 2009

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**No. 09PL034 - Layout Plat**

**ITEM 30**

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GENERAL INFORMATION:

APPLICANT	Walter J. Bradsky
AGENT	Janelle Finck for Fisk Land Surveying & Consulting Engineers
PROPERTY OWNER	Walter Bradsky
REQUEST	<b>No. 09PL034 - Layout Plat</b>
EXISTING LEGAL DESCRIPTION	Lot 5 of Aspen Estates Subdivision, located in the SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 5A and 5B of Aspen Estates Subdivision, located in the SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximatey 10.06 acres
LOCATION	7800 Elkhart Road
EXISTING ZONING	Limited Agriculture District (Pennington County)
SURROUNDING ZONING	
North:	Limited Agriculture District (Pennington County)
South:	General Agriculture District - Limited Agriculture District (Pennington County)
East:	Limited Agriculture District (Pennington County)
West:	Limited Agriculture District (Pennington County)
PUBLIC UTILITIES	Private on-site water and wastewater
DATE OF APPLICATION	6/10/2009
REVIEWED BY	Vicki L. Fisher / Ted Johnson

RECOMMENDATION:

Staff recommends that the Layout Plat be **approved with the following stipulations:**

- 1. Prior to submittal of a Preliminary Plat application, an Exception shall be obtained to allow an easement to serve more than four lots or the plat document shall be revised to show Canterbury Road, Kenosha Road and Elkhart Road as rights-of-way;**
- 2. Prior to submittal of a Preliminary Plat application, the plat document shall be**

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- revised to include the previously recorded note as follows: "Prior to obtaining a permit or constructing any structure, petitioner, his heirs, assigns or successors in interest agree to install a total wastewater containment system for each lot. Prior to installation of such system, plans stamped by a Registered Professional Engineer shall be submitted for review and approval by the City of Rapid City and Pennington County. Notwithstanding the foregoing and in lieu thereof, plans for a conventional or alternative on-site wastewater system may be approved by the City and County subject to the review and approval of a complete report of the soils and geological investigation performed by a qualified Professional Engineer to demonstrate that the proposed conventional or alternative system meets all state, county, and local regulations."
3. Upon submittal of a Preliminary Plat application, construction plans for S.D. Highway 44 shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with curb, gutter, water and sewer or Variance to the Subdivision Regulations shall be obtained. In addition, an Exception must be obtained to waive the requirement to provide street light conduit along S.D. Highway 44 as it abuts the property;
  4. Upon submittal of a Preliminary Plat application, construction plans for Canterberry Road, Kenosha Road and Elkhart Road shall be submitted for review and approval. In particular, the construction plans shall show the street located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
  5. Upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. If a private water system is utilized as proposed, then an on-site water plan prepared by a Professional Engineer shall be submitted for review and approval. In addition, the water plans shall demonstrate that adequate fire and domestic flows are being provided. The plat document shall also be revised to provide utility easements as needed;
  6. Upon submittal of a Preliminary Plat application, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. If individual on-site wastewater systems are utilized, then a "total" wastewater containment system shall be designed by a Registered Professional Engineer and submitted for review and approval by the City and Pennington County. Alternatively, plans for a conventional or alternative on-site wastewater system may be approved by the City and Pennington County subject to the review and approval of a complete report of the soils and geological investigation performed by a qualified Professional Engineer to demonstrate that the proposed conventional or alternate system meets all state, county and local regulations. In addition, prior to Preliminary Plat approval by the City Council, a wastewater permit, which includes the design of the proposed non-conventional system(s), shall be reviewed and approved by South Dakota Department of Environment and Natural Resources, the City and Pennington County;
  7. Upon submittal of a Preliminary Plat application, an Erosion and Sediment Control

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- Plan in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval for any required subdivision improvements;
8. Upon submittal of a Preliminary Plat application, a drainage plan in compliance with Drainage Criteria Manual shall be submitted for review and approval for any subdivision improvements;
  9. Upon submittal of a Preliminary Plat application, a cost estimate of the required subdivision improvements shall be submitted for review and approval if any subdivision improvements are required;
  10. Prior to submittal of a Final Plat application, the covenant agreement submitted to demonstrate road maintenance for Canterbury Road, Kenosha Road and Elkhart Road shall be revised if and as determined by the City Attorney's Office;
  11. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid;
  12. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and,
  13. The approved Layout Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired. However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council.

GENERAL COMMENTS:

(Update, September 15, 2009. All revised and/or added text is shown in bold print.) This item was continued at the September 10, 2009 Planning Commission meeting to allow the applicant to meet with staff to discuss the outstanding issues. On September 15, 2009, staff met with the applicant and his consultants to discuss the issues and to review recently submitted information. Staff is recommending that the Layout Plat be approved with the stipulations of approval as identified above.

(Update, August 31, 2009. All revised and/or added text is shown in bold print.) This item was continued at the August 27, 2009 Planning Commission meeting to allow staff to review recently submitted information. The applicant has subsequently requested a meeting with staff to discuss the outstanding issues. The meeting has been scheduled for September 15, 2009. As such, staff recommends that this item be continued to the September 24, 2009 Planning Commission meeting to allow the applicant to meet with staff as requested and to address outstanding issues as needed. The applicant is in concurrence with the recommendation to continue the application to the September 24, 2009 Planning Commission meeting.

(Update, August 19, 2009. All revised and/or added text is shown in bold print.) This item was continued at the July 23, 2009 Planning Commission meeting to allow the applicant to submit additional information and to allow the Pennington County Zoning Board of Adjustment to consider a lot size Variance for the property. On August 4, 2009, the Pennington County Board of Adjustment approved a Variance to reduce the minimum lot size requirement in the Limited Agriculture District from ten acres to 7.01 and 3.05 acres, respectively.

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The applicant has recently submitted drainage information addressing street drainage, documentation on proposed total containment wastewater systems to replace the existing on-site system and for a proposed system to be located on the additional proposed lot, well data for the existing well, a Master Utility Plan showing the extension of sewer to the property and along S.D. Highway 44 and a revised site plan showing the location of the existing on-site wastewater system. The information was submitted over several days from August 7 through August 18. To date, the City and County staff have not had sufficient time to review all of the information. As such, staff recommends that the Layout Plat be continued to the September 10, 2009 Planning Commission meeting to allow staff to review the recently submitted information. The applicant is in concurrence with the recommendation to continue the application to the September 10, 2009 Planning Commission meeting.

(Update, July 9, 2009. All revised and/or added text is shown in bold print.) This item was continued at the July 9, 2009 Planning Commission meeting to allow the applicant to submit additional information and to allow the Pennington County Zoning Board of Adjustment to consider a lot size Variance for the property. To date, the additional information has not been submitted for review and approval. In addition, the Pennington County Board of Adjustment has continued the lot size Variance request to their July 21, 2009 meeting. As such, staff recommends that this item be continued to the August 27, 2009 Planning Commission meeting with the applicant's concurrence.

The applicant has submitted a Layout Plat to subdivide a 10.06 acre parcel into two lots sized 3.05 acres and 7.01 acres, respectively. In addition, the applicant has submitted a Variance to the Subdivision Regulations (File #09SV014) to waive the requirement to install curb, gutter, street light conduit, water and sewer along S.D. Highway 44, to waive the requirement to install curb, gutter, street light conduit, water, sewer, to reduce the pavement width from 24 feet to 22 feet and to waive the requirement to dedicate right-of-way along Elkhart Road, Kenosha Road, and Canterbury Road as they abut the property.

The property was originally platted in 1999 as a part of the Aspen Estates Subdivision.

The property is located approximately 1 ½ miles west of the City limits of Rapid City on the north side of S.D. Highway 44 and west of Elkhart Road. Currently, a single family residence is located on proposed Lot 5B. Proposed Lot 5A is void of any structural development.

The Layout Plat is an informal preliminary review of a proposed subdivision to identify any major issues prior to platting. It is intended to provide the subdivider with an informal process where major issues may be identified and general agreements may be reached with Rapid City as to the form of the plat. Comments regarding the Layout Plat are based on the level of detail provided. All specific details of the subdivision may not be addressed as part of the Layout Plat approval but the major concerns and issues are identified based on the information provided. All applicable Subdivision Regulations, Zoning Regulations, Street Design Criteria Manual, and any other applicable regulations will need to be met as part of the Preliminary and Final Plat. Any waiver from the Rapid City Municipal Code or the Street Design Criteria Manual will require a formal variance request or a special exception whichever is applicable.

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STAFF REVIEW:

Staff has reviewed the Layout Plat and has noted the following considerations:

Zoning: The property is currently zoned Limited Agriculture District by Pennington County which requires a minimum ten acre lot size. On July 7, 2009, the Pennington County Zoning Board of Adjustment will consider a Variance request to reduce the minimum lot size requirement in the Limited Agriculture District from ten acres to 7.01 and 3.05 acres, respectively. The Pennington County Planning Department has indicated concern with the proposed Variance request since the property is located within the Madison Aquifer Recharge Area. In the past, the County has required a minimum 10 acre lot size when the property being subdivided is located within the Madison Aquifer Recharge Area. As such, staff recommends that the Layout Plat be continued to the July 23, 2009 Planning Commission meeting to allow the Pennington County Zoning Board of Adjustment to consider the Variance request.

**(Update: September 15, 2009) On August 4, 2009, the Pennington County Board of Adjustment approved a Variance to reduce the minimum lot size requirement in the Limited Agriculture District from ten acres to 7.01 and 3.05 acres, respectively.**

Sewer: The applicant has indicated that the existing residence is currently served by a septic tank and drainfield. However, the site plan does not show the location of the on-site wastewater system. As such, staff recommends that the septic tank and drainfield be shown on the site plan to insure that it meets all design location requirements and that easements are secured as needed.

The applicant has submitted soil percolation tests for a future drainfield site to be located on proposed Lot 5A. However, a note on the original plat for Aspen Estates Subdivision states that a "total" wastewater containment system must be installed for each lot. The total containment wastewater system must be designed by a Registered Professional Engineer or a conventional or alternative system may be submitted for review if supported by a complete soils report and geotechnical investigation prepared by a qualified Professional Engineer. All wastewater system designs and plans must be reviewed and approved by the City and Pennington County. To date, the applicant has not submitted a complete soils report and/or a geotechnical investigation prepared by a qualified Professional Engineer to support the proposed on-site wastewater system. There is also concern that additional drainfields within this area could contaminate drinking water since the property is located within the Madison Aquifer Recharge Area. As previously indicated, the County and City have required a minimum ten acre lot size when the property being subdivided is located within the Madison Aquifer Recharge Area. In addition, the Rapid City's Master Utility Plan identifies the property within "Tier One" which implies that the area is an anticipated near term development project in lieu of a long range development project. As such, dry sewer must be provided even if on-site wastewater systems are proposed to be utilized in the interim.

**(Update: September 15, 2009) The applicant has submitted a site plan showing the existing location of the septic tank and drainfield located on proposed Lot 5B. The applicant has indicated that the existing septic system will be replaced with a non-conventional system to reduce the possibility of contaminating source water. In**

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addition, the applicant has submitted documentation identifying several non-conventional systems that have been previously approved by South Dakota Department of Environment and Natural Resources. The applicant has indicated that one of these systems will be utilized on each of the two properties. Prior to Preliminary Plat approval by the City Council, a wastewater permit which includes the design of the proposed non-conventional system(s) must be reviewed and approved by South Dakota Department of Environment and Natural Resources, the City and Pennington County.

The applicant should be aware that dry sewer must be provided even if on-site wastewater systems are proposed to be utilized in the interim in accordance with the provisions of Chapter 16.16.050 of the Rapid City Municipal Code. The recently completed Source Water Protection Study recommends the installation of dry sewer mains in accordance with the adopted City Standards rather than approving Variances to waive the requirement to insure connection to a central sewer system once the adjacent properties develop and the dry sewer can be connected to the City's system. In addition, the Rapid City's Master Utility Plan identifies the property within "Tier One" which implies that the area is an anticipated near term development project in lieu of a long range development project.

To date, the applicant has not submitted a Master Utility Plan demonstrating sewer service to the property. Staff recommends that the Layout Plat be continued to allow the applicant to address the wastewater issues as identified.

**(Update: September 15, 2009) A Master Utility Plan has been submitted for review and approval showing the future extension of sewer mains to serve Aspen Estates. Staff has reviewed and approved the plan.**

Water: A well and cistern currently provide water service to the existing residence on proposed Lot 5B. The applicant has not indicated whether the existing well will also serve the future development on Lot 5A or if a new well will be drilled. In addition, no water data has been submitted demonstrating that the existing well can provide adequate domestic and fire flows.

Upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the extension of water mains must be submitted for review and approval or a Variance to the Subdivision Regulations must be obtained. If a private water system is utilized, then an on-site water plan prepared by a Professional Engineer must be submitted for review and approval. In addition, the water plans must demonstrate that adequate fire and domestic flows are being provided.

Drainage: As part of the Preliminary Plat application, a grading plan, including cut and fill quantities, and an erosion and sediment control plan for all improved areas must be submitted for review and approval. In addition, a drainage plan must be submitted for review and approval. In particular, the drainage facilities must be designed in compliance with the Drainage Criteria Manual. The drainage plan must also demonstrate that the design flows do not exceed pre-developed flows or on-site detention must be provided. If on-site detention is required, then design calculations and details for the detention must be submitted for review and approval.

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**(Update: September 15, 2009) The applicant has submitted a drainage plan showing the existing conditions to demonstrate that the existing street design(s) can accommodate the drainage flows. However, if any subdivision improvements are needed, than additional drainage information must be submitted for review and approval to address the improvements as required. As such, staff recommends that upon submittal of a Preliminary Plat application, a drainage plan in compliance with Drainage Criteria Manual be submitted for review and approval for any subdivision improvements.**

West S.D. Highway 44: West S.D. Highway 44 is located along the south lot line of the 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, sidewalk, water and sewer. Currently, West S.D. Highway 44 is located in a 150 foot wide right-of-way with an approximate 36 foot wide paved surface. Staff recommends that upon submittal of a Preliminary Plat application, construction plans for West S.D. Highway 44 providing curb, gutter, water and sewer be submitted for review and approval or a Variance to the Subdivision Regulations must be obtained. In addition, an Exception must be obtained to waive the requirement to provide street light conduit along S.D. Highway 44 as it abuts the property.

Elkhart Road/Kenosha Road/Canterberry Road: Elkhart Road is located along the east lot line, Kenosha Road is located along the northeast lot line and Canterberry Road is located along the north lot line of the property. All three streets are classified as lane place streets requiring that they be located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, street light conduit, water and sewer. Currently, the streets are located within a 50 foot wide private roadway easement and constructed with an approximate 22 foot wide paved surface.

Staff recommends that upon submittal of a Preliminary Plat application, road construction plans for the three streets must be submitted for review and approval showing the streets located within a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, street light conduit, water and sewer or a Variance to the Subdivision Regulations must be obtained.

In addition, an Exception must be obtained to allow the private roadway easements to serve more than four lots or the streets must be dedicated as right-of-way.

Stormwater Management Plan: The City Council recently adopted a Stormwater Quality Manual which provides a set of criteria and technical guidance for erosion and sediment control at construction sites. Because site conditions will affect the suitability and effectiveness of erosion control measures, a plan specific to each site is required. Staff recommends that upon submittal of a Preliminary Plat application, an Erosion and Sediment Control Permit in compliance with the adopted Stormwater Quality Manual be submitted for review and approval if any subdivision improvements are required.

Note on Plat: The original plat of the property included a note that stated:

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“Prior to obtaining a permit or constructing any structure, petitioner, his heirs, assigns or successors in interest agree to install a total wastewater containment system for each lot. Prior to installation of such system, plans stamped by a Registered Professional Engineer shall be submitted for review and approval by the City of Rapid City and Pennington County. Notwithstanding the foregoing and in lieu thereof, plans for a conventional or alternative on-site wastewater system may be approved by the City and County subject to the review and approval of a complete report of the soils and geological investigation performed by a qualified Professional Engineer to demonstrate that the proposed conventional or alternative system meets all state, county, and local regulations.”

Upon submittal of the Preliminary Plat, the plat document must be revised to include the previously recorded note or the plat document must be revised to note the elimination of the note.

Inspection Fees and Surety: Chapter 16.20.080 of the Rapid City Municipal Code states that before any Final Plat is approved, an additional fee shall be paid to the City to cover the costs of inspection of the subdivision improvements required by the Ordinance. In addition, surety for any required subdivision improvements that have not been completed must be posted. Upon submittal of a Final Plat application, surety must be posted and subdivision inspection fees be paid as required.

Warranty Surety: On June 19, 2006, the City Council adopted a resolution establishing a formal warranty process for subdivision improvements. In particular, the resolution requires that the developer provide an acceptable Warranty Surety for the required public improvements. In particular, the Warranty Surety must be in force for a period of two years after the required final inspection and the City has accepted the improvements. Prior to the City's acceptance of any public improvements, a Warranty Surety must be submitted for review and approval if subdivision improvements are required as a part of any future platting of the property.

**The proposed plat generally complies with all applicable Zoning and Subdivision Regulations assuming compliance with the stated stipulations.**