

STAFF REPORT  
February 10, 2011

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**No. 11SV001 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer, including dry sewer, and to reduce the pavement width along Nemo Road from 36 feet to 24 feet as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 13**

GENERAL INFORMATION:

|                               |   |
|-------------------------------|---|
| APPLICANT                     | Ian and Amanda Vidinha  |
| AGENT                         | Bryan Vulcan for FourFront Design, Inc.   |
| PROPERTY OWNER                | Ian and Amanda Vidinha  |
| REQUEST                       | <b>No. 11SV001 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer, including dry sewer, and to reduce the pavement width along Nemo Road from 36 feet to 24 feet as per Chapter 16.16 of the Rapid City Municipal Code</b> |
| EXISTING<br>LEGAL DESCRIPTION | A portion of Common Area 1 of Block 1 of Canyon Springs Preserve located in the NE1/4 SW1/4 of Section 23, T2N, R6E, BHM, Pennington County, south Dakota   |
| PROPOSED<br>LEGAL DESCRIPTION | Lot 89 of Canyon Springs Preserve   |
| PARCEL ACREAGE                | Approximately 5.11 acres  |
| LOCATION                      | 8885 Nemo Road  |
| EXISTING ZONING               | Low Density Residential District (Pennington County)  |
| SURROUNDING ZONING            |   |
| North:                        | Planned Unit Development (Pennington County)  |
| South:                        | Planned Unit Development (Pennington County)  |
| East:                         | Planned Unit Development (Pennington County)  |
| West:                         | Planned Unit Development (Pennington County)  |
| PUBLIC UTILITIES              | Community water system and private on-site wastewater   |
| DATE OF APPLICATION           | 1/12/2011   |
| REVIEWED BY                   | Vicki L. Fisher / Ted Johnson   |

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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 and sewer, including dry sewer, and to reduce the pavement width along Nemo Road from 36 feet to 24 feet as per Chapter 16.16 of the Rapid City Municipal Code be approved.

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 and sewer, including dry sewer, and to reduce the pavement width along Nemo Road from 36 feet to 24 feet as it abuts the property. In addition, the applicant has submitted a Preliminary Plat (File #11PL002) to subdivide the property creating a 5.11 acre lot, leaving a 10.19 acre non-transferable balance. The subdivision is to be known as "Lot 89 of Block 1 of Canyon Springs Preserve".

On January 18, 2011, the City Council approved a Layout Plat for the property to create a 5.11 acre lot as currently proposed. In addition, on January 4, 2011, the Pennington County Board of Commissioners approved a Rezoning request to change the zoning designation of the 5.11 acres from a Planned Unit Development to Low Density Residential District.

The property is located approximately 300 feet north of the intersection of North Emerald Ridge Road and Nemo Road on the west side of Nemo Road. Currently, a single family residence, a detached garage, a barn, a chicken coop and a pump house are located on proposed Lot 89. The balance of the property is currently 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 east 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, water and sewer. Currently, Nemo Road is located within a 100 foot wide right-of-way and constructed with an approximate 24 foot wide paved surface.

The applicant has submitted a ditch detail demonstrating that the existing ditch is designed to accommodate drainage along the street. The applicant has also submitted water plans for the existing water service provided by Canyon Springs Preserve LLC demonstrating that adequate domestic flows are being provided in compliance with the Planned Unit Development previously approved by Pennington County.

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The Pennington County Fire Department has indicated support for the Variance request to waive the requirement to provide water along Nemo Road. The Rapid City Fire Department has also indicated support for the Variance request since the existing water service to the site provides domestic flows and is in compliance with the previously approved Planned Unit Development. However, since fire flows are not being provided, the Rapid City Fire Department strongly encourages a residential fire sprinkler system be installed as a part of the renovation of the existing residence located on the property.

In the past, the Planning Commission and City Council have granted similar Variance requests when the existing water system provides domestic flows and when the street improvement would create a discontinuous street section as is the case with this Preliminary Plat. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water and additional pavement be approved.

Sewer: Chapter 16.16.050 of the Rapid City Municipal Code states that “sewer collection systems shall be installed in each subdivision within Rapid City and surrounding platting jurisdictions in accordance with City specifications”. The applicant has indicated that the existing home is currently served by a “Class I Wastewater Treatment Plant manufactured by Ecological Tanks, Inc.”. The applicant has submitted a copy of an On-site Wastewater System Inspection Verification Form identifying that Pennington County has reviewed and approved the wastewater facility.

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. The Source Water Protection Study recommends the installation of dry sewer mains in accordance with the adopted City Standards within Tier One 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.

The closest existing sewer main is located approximately 4.5 miles east of the property within the South Canyon Drive right-of-way at the City Limit boundary. The Public Works Department has indicated that it may be 20 or more years before City sewer is extended into this area. In addition, there is no design for sewer services into this area to determine the size and depth of a sewer main along this portion of Nemo Road as it abuts the property. Based on this information, the Public Works Department does not oppose the Variance request to waive the requirement to provide a sewer and/or dry sewer main along Nemo Road as it abuts the property.

Sidewalk: The property is a part of Canyon Springs Preserve which has been developed with 88 residential lots and several common areas. As a part of the Planned Unit Development for Canyon Springs Preserve, pedestrian access has been secured throughout the common areas. Public Works Department staff has noted that a bridge located within Nemo Road

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right-of-way at the northern lot line of the proposed lot precludes the future extension of a sidewalk along this section of Nemo Road. Since pedestrian access has been secured through the common areas within Canyon Springs Preserve and since the bridge precludes the future extension of a sidewalk along this section of Nemo Road, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to provide a sidewalk along Nemo Road as it abuts the property be approved.

Waiver of Right to Protest: In the past, the City Council has required that a waiver of right to protest any future assessment for the improvements be signed by the property owner in consideration of granting the requested Subdivision Variance(s). However, before the waiver of right to protest any future assessment document can be enacted, the property must be annexed into the City limits of Rapid City and the City Council must approve an assessment for the improvements. The property is located outside of the City's Long Term Priority Annexation Plan. As such, staff is not recommending that the applicant sign a waiver of right to protest as a stipulation of granting the Subdivision Variances.

Legal Notification Requirement: As of this writing, the white slips and green cards from the certified mailings have not been returned. Staff will notify the Planning Commission at the February 10, 2011 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquiries regarding this proposal.