

STAFF REPORT  
February 23, 2012

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**No. 12SV002 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement and to reduce the easement width from 45 feet to 40 feet along the existing 40 foot wide private access and utility easement; to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement and to reduce the easement width from 45 feet to 28 feet along the proposed 28 foot wide private access and utility easement; to waive the requirement to provide curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line highway and to dedicate the section line highway as right-of-way; to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the H-Lot; and to waive the requirement to provide sewer and a sidewalk along the north side of Vineyard Lane as per Chapter 16.16 of the Rapid City Municipal Code**

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GENERAL INFORMATION:

APPLICANT Phil Olsen - Olsen Development Company, Inc.

AGENT Lawrence M. Kostaneski, PE - Centerline, Inc.

PROPERTY OWNER Olsen Development Company, Inc.

REQUEST **No. 12SV002 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement and to reduce the easement width from 45 feet to 40 feet along the existing 40 foot wide private access and utility easement; to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement and to reduce the easement width from 45 feet to 28 feet along the proposed 28 foot wide private access and utility easement; to waive the requirement to provide curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line highway and to dedicate the section line highway as right-of-way; to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the H-Lot; and to waive the requirement to provide sewer and a sidewalk along the north side of Vineyard Lane as per Chapter 16.16 of the Rapid City Municipal Code**

EXISTING LEGAL DESCRIPTION The south 495 feet of the NE1/4 SE1/4 and the SE1/4 SE1/4 less Lot 1 of Bendert Subdivision and less right-of-

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	way all located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 and 2 of Skyline Village Subdivision and Tracts A and B of Canyon Pines Subdivision
PARCEL ACREAGE	Approximately 54 acres
LOCATION	At the current western terminus of Promise Road
EXISTING ZONING	Office Commercial District (Planned Unit Development - Planned Development Designation)
SURROUNDING ZONING	
North:	Park Forest District (Planned Residential Development)
South:	General Agriculture District
East:	General Commercial District (Planned Commercial Development) - Office Commercial District (Planned Development Designation) - Public District - Business Park District
West:	Low Density Residential District (Planned Residential Development) - General Agriculture District - Public District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	1/27/2012
REVIEWED BY	Vicki L. Fisher / Nicole Lecy

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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 and to reduce the easement width from 45 feet to 40 feet along the existing 40 foot wide private access and utility easement; to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement and to reduce the easement width from 45 feet to 28 feet along the proposed 28 foot wide private access and utility easement; to waive the requirement to provide curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line highway and to dedicate the section line highway as right-of-way; to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the H-Lot; and to waive the requirement to provide sewer and a sidewalk along the north side of Vineyard Lane as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulations:

1. The north half of the section line highway located along the south lot line shall be dedicated as right-of-way; and,
2. Pedestrian access shall be secured within each lot to accommodate pedestrian traffic as a part of the review and approval of the Initial and Final Planned Unit Development application(s).

**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, sewer and pavement and to reduce the easement width from 45 feet to 40 feet along the existing 40 foot wide private access and utility easement; to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement and to reduce the easement width from 45 feet to 28 feet along the proposed 28 foot wide private access and utility easement; to waive the requirement to provide curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line highway and to dedicate the section line highway as right-of-way; to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the H-Lot; and to waive the requirement to provide sewer and a sidewalk along the north side of Vineyard Lane. In addition, the applicant has

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submitted a Preliminary Plat (File #12PL004) to create four lots to be known as Lots 1 and 2 of Skyline Village Subdivision and Tracts A and B of Canyon Pines Subdivision.

On November 6, 2006, the City Council approved a Layout Plat (File #06PL160) for the Skyline Village development to create 67 townhome lots and six larger lots. On October 6, 2008, the City Council approved a one year extension of the approval for the Layout Plat.

On January 22, 2009, the Planning Commission approved an Initial Planned Unit Development (File #08PD067) to allow the construction of 46 townhome units and two single family residences as a part of Phase One and all of Phase Two of Skyline Village.

On January 22, 2009, the Planning Commission also approved a SDCL 11-6-19 Review (File #09SR001) to authorize the acquisition of a public utility easement for the future construction of a sewer main across the adjacent City owned property to serve the development.

On February 2, 2009, the City Council approved a Variance to the Subdivision Regulations (File #08SV059) as follows:

- 1) to waive the requirement to install sewer along a portion of Vineyard Lane with the stipulation that the applicant sign a waiver of right to protest any future assessments for the improvement;
- 2) to waive the requirement to install sidewalk along the north side of Vineyard Lane with the stipulation that a pedestrian access connection be provided between the proposed townhome development and the sidewalk along the south side of Vineyard Lane and that the applicant sign a waiver of right to protest any future assessments for the improvement;
- 3) to waive the requirement to dedicate the section line highway as right-of-way located along the east lot line as it abuts Tract B of Tract 1 of W1/2SW1/4 less IGT Subdivision and less right-of-way located in Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along this portion of the section line highway with the stipulation that the west half of the section line highway be dedicated

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as right-of-way and that the applicant sign a waiver of right to protest any future assessments for the improvements; and,

- 4) to waive the requirement to dedicate the section line highway as right-of-way located along the south lot line and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line highway with the stipulation that the north half of the section line highway be dedicated as right-of-way and that the applicant sign a waiver of right to protest any future assessments for the improvements.

On February 20, 2009, the City Council approved a Vacation of Section Line Highway request (File #09VR002) to vacate three feet of section line highway located along the west side of Promise Road. In addition, the City Council approved a Vacation of Section Line Highway request (File #09VR003) to vacate approximately 295 of the section line highway located along the east lot line, approximate 450 feet north of Promise Road. The City Council also approved a Vacation of Section Line request (File #09VR004) to vacate approximately 430 feet of section line highway located along the south lot line between Sections 22 and 27.

On September 21, 2009, the City Council approved a Preliminary Plat (09PL018) to subdivide a portion of the property into 51 lots, leaving an unplatted non-transferable balance. In addition, the City Council approved a Variance to the Subdivision Regulations (File #09SV010) to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer within the H Lot located along the west lot line of the property.

The property is located at the western terminus of Promise Road. Currently, 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:

Vineyard Lane: The applicant is requesting to waive the requirement to install a sewer main

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along a portion of Vineyard Lane as it extends through the property. The City's Master Utility Plan does not identify a sewer main within this area of the street right-of-way. In addition, the applicant has submitted a Master Utility Plan showing an alternate sewer service to the properties along Vineyard Lane. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install sewer along this portion of Vineyard Lane be approved. Please note that a waiver of right to protest any future assessment for the improvement has previously been signed and recorded.

The applicant has submitted a Variance to the Subdivision Regulations request to waive the requirement to install a sidewalk along the north side of Vineyard Lane. In addition, the applicant has submitted topographic information demonstrating topographic constraints along the north side of the street for the construction of a sidewalk.

A sidewalk is required within a development to provide a pedestrian access for the adjacent land uses and between land uses. Constructing a sidewalk along the south side of Vineyard Lane will provide a pedestrian access along the street. In addition, the applicant has indicated that pedestrian access will be provided within each lot as a part of the development of the property and secured as a part of the review and approval of an Initial and Final Planned Unit Development application for the property. Based on these reasons staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install a sidewalk along the north side of Vineyard Lane be approved with the stipulation that pedestrian access be secured within each lot to accommodate pedestrian traffic as a part of the review and approval of the Initial and Final Planned Unit Development application(s). Please note that a waiver of right to protest any future assessment for the improvement has previously been signed and recorded.

H Lot: A previously platted H Lot is located along the west lot line of the property. Catron Boulevard, a principal arterial street, currently extends through the western portion of the H Lot. Chapter 16.12.030.E of the Subdivision Regulations states that subdivisions which abut, or include within the proposed area to be subdivided, any highway or arterial street, a marginal access street shall be provided. A marginal access street is usually constructed as a rearage road and/or a frontage road to limit direct access onto the arterial street and to

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direct traffic to the preferred access points. In this case, the marginal access street will provide access from that portion of Vineyard Lane located within the H Lot to a property located directly south of this development owned by Jerald L. Johnson. The marginal access street is classified as a lane place street requiring that it be constructed with a minimum 20 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer as per the Street Design Criteria Manual.

The H Lot is a 6.662 acre parcel which is significantly larger than most H Lots secured for street purposes. As such, the City has discussed possible future development of a portion of the H Lot. The area of the development and the type of development has yet to be determined. Subsequently, the location of the future street from Vineyard Lane to the adjacent property cannot be determined at this time. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to construct a marginal access street to lane place standards within the H Lot be approved.

Typically, the City would require that the applicant sign a waiver of right to protest any future assessment for the improvements in consideration of granting the Variance request. However, the Catron Boulevard H Lot has an unusual configuration as previously noted. It appears that it was oversized to eliminate an un-usable remnant on the north side of the road. This creates an unusual circumstance unique to this site. Additionally, there is a significant grade differential between the Catron Boulevard surface and the balance of the H Lot lying to the north. As such, the viability and need for constructing a marginal access street is severely limited. Due to the unusual circumstances associated with this property, staff is not recommending that the applicant be required to sign a waiver of right to protest for the future assessment for the improvement of the marginal access street.

Section Line Highway(s): As previously noted, portions of the section line highway(s) located along the east property line and the south property line have been vacated. The remaining section line highway(s) located along these two lot lines are classified as sub-collector streets requiring that they be located within a minimum 59 foot wide right-of-way and constructed with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The applicant has requested a Variance to the Subdivision

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Regulations to waive the requirement to dedicate the section line highway(s) as right-of-way and to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line highway(s).

The City's Major Street Plan does not identify a street within either section line highway. In addition, access currently exists to the adjacent properties. Requiring the section line highways to be improved to City Street Design Standards would create a discontinuous street section. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to improve the section line highways be approved. Please note that a waiver of right to protest any future assessment for the improvements has previously been signed and recorded.

Staff has reviewed the request to waive the requirement to dedicate right-of-way for the two section line highways. It is unlikely that a street will be needed and/or constructed within the remaining section line highway located along the east lot line. However, the City has not seen a Master Plan for the property located south of the section line highway currently owned by Jerald Johnson to determine if a street may be needed within this area of the section line highway when development occurs. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate the section line highway as right-of-way be approved with the stipulation that the north half of the section line highway located along the south lot line be dedicated as right-of-way.

Easements: The plat document identifies a proposed 28 foot wide private access and utility easement extending north from Promise Road along the common lot line of proposed Lots 1 and 2. In addition, an existing 40 foot wide private access and utility easement extends west from Promise Road through a portion of proposed Lots 1 and 2. The easements are classified as lane place street(s) requiring that they be a minimum 45 feet in width and constructed with a minimum 20 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The applicant has submitted a Variance to the Subdivision Regulations request to waive the requirement to improve the easements to City Street Design Standards noting that the easements will serve as access aisles within future parking lots to be constructed as a part of the future development of the property. Since the



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property is located within a Planned Unit Development, the review and approval of an Initial and Final Planned Unit Development application will serve as a tool to ensure that utility and pedestrian corridors are being provided as needed to serve the development. In addition, the applicant has submitted a utility plan demonstrating water and sewer service to the property. Based on these reasons, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to improve the easements to City Street Design Standards be approved with the stipulation that pedestrian access be secured within each lot to accommodate pedestrian traffic as a part of the review and approval of the Initial and Final Planned Unit Development application(s).

Legal Notification Requirement: The white slips from the certified mailings have been returned. As of this writing the green cards from the certified mailings have not been returned. Staff will notify the Planning Commission at the February 23, 2012 Planning Commission meeting if this requirement is not met.