

STAFF REPORT

March 7, 2002

No. 01PD061 - Major Amendment to a Planned Residential Development to allow a zero foot front yard setback for the existing deck from the east property line, to allow a 4 foot front yard setback for the existing residence from the east property line, to allow a 1 foot front yard setback for the proposed garage from the east property line, to allow a 6 foot front yard setback for the proposed garage from the north property line, to allow a 16.3 foot front yard setback for the existing residence from the west property line, to allow a 12.4 foot rear yard setback for the existing residence from the south property line and to allow for 32.5% lot coverage

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GENERAL INFORMATION:

PETITIONER	Patrick D. Coady
REQUEST	No. 01PD061 - Major Amendment to a Planned Residential Development to allow a zero foot front yard setback for the existing deck from the east property line, to allow a 4' front yard setback for the existing residence from the east property line, to allow a 1' front yard setback for the proposed garage from the east property line, to allow a 6' front yard setback for the proposed garage from the north property line, to allow a 16.3' front yard setback for the existing residence from the west property line, to allow a 12.4' rear yard setback for the existing residence from the south property line and to allow for 32.5% log coverage
EXISTING LEGAL DESCRIPTION	Lot 2P, Block 2, Chapel Lane Village, Section 8, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	
PARCEL ACREAGE	Approximately .12 acres
LOCATION	3054 Lodgepole Place
EXISTING ZONING	Low Density Residential District (PRD)
SURROUNDING ZONING	
North:	Low Density Residential District
South:	Low Density Residential District (PRD)
East:	Low Density Residential District (PRD)
West:	Low Density Residential District

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by 20 foot addition to the north side of the existing residence located on the subject property. In addition, approval of the Major Amendment will bring the existing building into compliance with the requirements of the Low Density Residential Zoning District. A plat of the subject property was filed with the Register of Deeds in December, 1972. This plat identified all the streets and open space as common area and noted that all the common area identified on the plat was to be used for utilities, surface drainage and access. The subject property is bounded on the west by Morningside Drive, the east by Lodgepole Place and the north by common area. Based on the fact that the plat identified that the common area was to be used for access, the subject property has three front yards and one rear yard.

A Building Permit was issued by the Pennington County Planning and Zoning Department for the construction of a single family dwelling on the subject property on June 16, 1976. The site plan that was submitted with the Building Permit request in 1976 noted that the northeast corner of the building would be setback from the east property line five feet and the southeast corner would be setback 18 feet from the east property line. The site plan also shows a ten foot by twelve foot deck attached to the west side of the residence.

On April 4, 1978 the City of Rapid City annexed the Chapel Lane Village and Chapel Valley Subdivision. The Chapel Village Subdivision was zoned Low Density Residential with a Planned Residential Development overlay on June 19, 1978. It is unclear when but at some time another deck was add to the east side of the residence. Staff was unable to locate records indicating that either the City of Rapid City Building Inspection Department or Pennington County Planning and Zoning issued a building permit for the deck attached to the east side of the residence. The applicant has indicated that the site survey showed that the deck on the east side of the residence was constructed across the property line and encroaches into the adjacent common area.

In October, 2001 the applicant obtained a Building Permit to remodel a portion of the existing residence and construct a twelve foot by seventeen foot eight inch addition to the north side of the residence, a permit to work in the right of way and a Building Permit to construct a driveway approach from Morningside Road. The site plan submitted with the Building Permit request showed that the addition would be constructed eight feet from the east property line (Lodgepole Place) and approximately 25 feet from the north property line (common area). At the time these permits were issued staff did not recognize that the common area was designated as access and required a minimum setback of 25 feet.

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Further, staff was not aware that a portion of the structure actually encroached into the common area. Therefore, based on the determination that all property lines adjacent to common area are front property lines, the Building Permit for the addition was issued in error.

STAFF REVIEW: This request for a Major Amendment to the Planned Residential Development to allow for reduced setbacks includes the review of existing building setbacks that do not comply with the Zoning Ordinance as well as consideration of the reduction of setbacks for the construction of an addition to the existing residence.

As mentioned previously, the existing residence was constructed while under the jurisdiction of Pennington County and the existing deck that is attached to the east side of the residence was constructed by a previous owner. The existence of access easements, requiring a minimum setback of 25 feet, on three sides of the lot also contribute to the applicant's difficulty in complying with the minimum setback requirements of the Rapid City Municipal Code. Because these encroachments were beyond the control of the current owner, staff is recommending that the request to allow a zero foot front yard setback for the existing deck from the east property line, to allow a 4 foot front yard setback for the existing residence from the east property line, to allow a 16.3 foot front yard setback for the existing residence from the west property line and to allow a 12.4 foot rear yard setback for the existing residence from the south property line be approved.

The applicant has recently completed an interior remodel and expansion of the existing residence that included converting the existing two-car garage to living space and making the remainder of the home handicap accessible to accommodate the applicant and his elderly parent. The site plan shows that the applicant wishes to attach a 12 foot by 20 foot garage to the north side of the residence to replace the garage that was converted to living space. The garage addition would be within six feet of the applicant's north property line and one foot of the east property line. As mentioned previously, the applicant's lot abuts common area on the north, east and west. The common area adjacent to the applicant's north property line is 20 feet wide and is currently the location of a drainage channel. The common area adjacent to the east side of the property is 12 feet wide. Because the lots surrounding the subject property are developed with single family dwellings that take access from either Morningside Drive or Lodgepole Place it is unlikely that the common area on the north or east side of the property would ever be used for access. Staff finds that the applicant's request to reduce the setbacks from the north and east property line to allow for

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a single stall garage a minimal adjustment and that the 20 foot wide common area on the north side of the property and the 12 foot wide common area located on east side of the property provides a buffer between the garage and the adjacent properties.

The Chapel Valley Homeowner's Association has expressed concern about the construction of a driveway across the drainage channel located along the frontage of the subject property. The applicant met with the Rapid City Drainage Engineer who approved an approach permit with the condition that the driveway be constructed to incorporate the existing drain pan profile into the new driveway, that the drain pan be continually maintained, that any repair of the drain pan would be the home owner's responsibility and that the drainage channel always be kept clear of any obstructions.

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Setbacks: The applicant is requesting the reduction of required setbacks for all of the property's lot lines. The residence was constructed while under the jurisdiction of Pennington County and complied with the County's area regulations at the time of construction. In addition, the deck that was attached to the east side of the residence was constructed prior to the purchase of the residence by the applicant. The applicant has identified that the portion of the deck that encroaches onto the adjacent common area will be reconstructed and is requesting a zero foot setback for the deck. Staff is recommending approval of the request to reduce the nonconforming setbacks for the existing structure and for the addition that was permitted in October, 2001. These setbacks include a zero foot front yard setback for the existing deck from the east property line, a 4' front yard setback for the existing residence from the east property line, a 16.3' front yard setback for the existing residence from the west property line, and a 12.4' rear yard setback for the existing residence from the south property line.

and to allow for 32.5% lot coverage be that are non-conforming front Upon annexation into the City of Rapid City's corporate limits the existing residence became a legal nonconforming structure. Section 17.52.020 of the Rapid City Municipal Code states that "A legal nonconforming building or structure shall not be added to or enlarged in any manner unless the building or structure, including additions and enlargements, is made to conform to all of the regulations of the district in which it is located..." required setbacks have changed