

STAFF REPORT

January 8, 2004

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**No. 03SV049 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sewer, water, pavement and to provide a planting screen as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 26**

GENERAL INFORMATION:

PETITIONER	Centerline for Magheramore, LLC
REQUEST	<b>No. 03SV049 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sewer, water, pavement and to provide a planting screen as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	That portion of NE1/4 lying west of railroad right-of-way; N1/2 NW1/4; SE1/4 NW1/4; NE1/4 SW1/4, Section 34, T1N, R8E, BHM, Pennington County, South Dakota; that portion of the NE1/4 NE1/4 lying east of Old Folsom Road, Section 33, T1N, R8E, BHM, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 thru 10, Block 1, Darlington Estates, Section 34, T1N, R8E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 106 acres
LOCATION	Southeast of the intersection of Lamb Road and Old Folsom Road
EXISTING ZONING	General Agriculture District (County)
SURROUNDING ZONING	
North:	General Agriculture District (County)
South:	General Agriculture District (County)
East:	General Agriculture District (County)/Limited Agriculture District (County)
West:	General Agriculture District (County)/Limited Agriculture District (County)
PUBLIC UTILITIES	Private on-site water and wastewater
DATE OF APPLICATION	12/11/2003
REPORT BY	Vicki L. Fisher

RECOMMENDATION:

## STAFF REPORT

January 8, 2004

---

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---

**ITEM 26**

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install a 24 foot wide paved surface, curb, gutter, street light conduit, water and sewer along the section line highway be denied; that the Variance to the Subdivision Regulations to waive the requirement to pave Old Folsom Road, the private access easement and the "52 foot wide right-of-way" cul-de-sac be denied; that the Variance to the Subdivision Regulations to provide a planting screen easement be denied; and, that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sewer and water along Old Folsom Road, Lamb Road, the private access easement and the "52 foot wide right-of-way" cul-de-sac" be approved with the following stipulations:

Engineering Division Recommendations:

1. Prior to City Council approval, road construction plans showing Old Folsom Road being constructed with a minimum 24 foot wide paved surface shall be submitted for review and approval;
2. Prior to City Council approval, road construction plans showing the "52 foot wide right-of-way" cul-de-sac being constructed with a minimum 20 foot wide paved surface shall be submitted for review and approval. In addition, the bulb of the cul-de-sac shall be located within a minimum 110 diameter right-of-way and constructed with a minimum 92 foot wide paved surface;
3. Prior to City Council approval, road construction plans showing the private access easement being constructed with a minimum 20 foot wide paved surface shall be submitted for review and approval;
3. Prior to City Council approval, the applicant shall sign a waiver of right to protest a future assessment for the curb, gutter, street light conduit, sewer and water improvements along Old Folsom Road, Lamb Road, the private access easement and the "52 foot wide right-of-way" cul-de-sac; and,

Pennington County Highway Department Recommendation:

4. Prior to City Council approval, the section line highway shall be vacated or relocated.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to construct curb, gutter, street light conduit, water, sewer and pavement along a private access easement and a "52 foot wide right-of-way" cul-de-sac; to waive the requirement to construct curb, gutter, sidewalk, street light conduit, water, sewer and improve pavement along Old Folsom Road and Lamb Road; to waive the requirement to improve a section line highway to City Street Design Standards; and, to waive the requirement to provide a ten foot wide planting screen easement along Old Folsom Road and Lamb Road. These variance requests have been submitted in conjunction with a Layout Plat application proposing to subdivide the subject property into 10 lots. The lots range in size from 10.0003 acres to 13.06 acres and, as such, the applicant has submitted the Layout Plat as a rural subdivision (See companion item #03PL122.)

## STAFF REPORT

January 8, 2004

---

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---

**ITEM 26**

The property is located in the southeast corner of the Old Folsom Road/Lamb Road intersection and is currently void of any structural development.

**STAFF REVIEW:**

Staff has reviewed the Variance to the Subdivision Regulations and has noted the following considerations:

**Old Folsom Road:** Old Folsom Road is classified as a principal arterial street on the City's Major Street Plan requiring that the street be constructed with a minimum 100 foot wide right-of-way and a 36 foot wide paved surface, curb, gutter, street light conduit, water and sewer. Currently, Old Folsom Road, as it abuts the subject property, is located in a 66 foot wide right-of-way with an approximate 30 foot wide graveled surface. However, Old Folsom Road located directly north of the subject property is currently paved with an approximate 24 foot wide paved surface. As such, staff can not support the request to waive the requirement to pave Old Folsom Road as it abuts the subject property since the improvements will result in a continuous road improvement. The improvement of this section of road will provide for the natural extension of the paved road network.

Curb, gutter, street light conduit, water and sewer improvements have not been constructed along Old Folsom Road. The property is located outside of the City sewer and water service boundaries. The Engineering Division has indicated that the City water and sewer is currently located approximately one mile north of the subject property. The Engineering Division has also indicated that it may be 15 years before City utilities are available to the site. In addition, no current or proposed design plans for the extension of the utilities exist. As such, requiring the improvement at this time may not coordinate with the actual design elevation for the sewer and water. The installation of curb, gutter and street light conduit along this section of Old Folsom Road will result in a discontinuous street design. The rural road section design existing on the site adjacent to this site appears appropriate for the current density of development and vehicular traffic levels. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water and sewer be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements along Old Folsom Road.

**Lamb Road:** Lamb Road is classified as a principal 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, Lamb Road is located in a 66 foot wide right-of-way and has been constructed with an approximate 30 foot wide paved surface. Curb, gutter, street light conduit, water and sewer improvements have not been constructed along Lamb Road. The property is located outside of the City sewer and water service boundaries. The Engineering Division has indicated that the City water and sewer is currently located approximately one mile north of the subject property. The Engineering Division has also

## STAFF REPORT

January 8, 2004

---

**No. 03SV049 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sewer, water, pavement and to provide a planting screen as per Chapter 16.16 of the Rapid City Municipal Code**

---

**ITEM 26**

indicated that it may be 15 years before City utilities are available to the site. In addition, no current or proposed design plans for the extension of the utilities exist. As such, requiring the improvement at this time may not coordinate with the actual design elevation for the sewer and water. The installation of curb, gutter and street light conduit along this section of Lamb Road will result in a discontinuous street design. The rural road section design existing on the site adjacent to this site appears appropriate for the current density of development and vehicular traffic levels. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water and sewer be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements along Lamb Road.

Private Access Easement/ "52 Foot Wide Right-of-way" Cul-de-sac: The Layout Plat proposes an approximate 600 foot long cul-de-sac located in a private access easement, serving as access to four lots. (The Street Design Criteria Manual allows an easement to serve four lots.) The private access easement is classified as a lane place street requiring that the street be located with a minimum 45 foot wide right-of-way and constructed with a minimum 20 foot wide paved surface, curb, gutter, street light conduit, water and sewer. The Layout Plat also proposes a "52 foot wide right-of-way" cul-de-sac serving as access to five lots. The cul-de-sac is also classified as a lane place street requiring that the street be located in a minimum 45 foot wide right-of-way and constructed with a 20 foot wide paved surface, curb, gutter, street light conduit, water and sewer. The Layout Plat proposes that the cul-de-sac will be located in a 52 foot wide right-of-way and constructed with a 22 foot wide graveled surface.

The applicant has indicated that the development is being proposed as a "rural subdivision" and, as such, is proposing to construct the private access easement and the "52 foot wide right-of-way" cul-de-sac with a 45 foot wide easement and a 20 foot wide graveled surface and a 52 foot wide right-of-way with a 20 foot wide graveled surface, respectively. The Subdivision Regulations states that "a parcel divided into five or more lots shall not be deemed a rural subdivision. A division of any parcel of land for agricultural purposes only and not involving any new streets or easements shall be deemed a rural subdivision." As previously indicated, the applicant is proposing to subdivide the subject property into ten lots. In addition, the Layout Plat identifies the dedication of two new streets. As such, the development does not qualify as a "rural subdivision". In addition, the Subdivision Regulations states that "a proposed gravel road will serve only the lots within the rural subdivision and there will be no necessity to extend the road in the future". The Layout Plat proposes that the "five foot wide right-of-way" cul-de-sac will terminate onto a 106 acre unplatted parcel allowing for the potential extension of the street upon development of the unplatted parcel. With three exceptions, the City has only waived the paving requirement for a street when the majority of the property is located outside of the City's platting jurisdiction or when requiring the improvement would result in a discontinuous street design. The subject property is locate entirely within the City's three mile platting jurisdiction and requiring that the two proposed streets be paved would not create a discontinuous street

## STAFF REPORT

January 8, 2004

---

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---

**ITEM 26**

design. As the proposed development does not comply with the standards for a rural subdivision, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to pave private access easement and the "52 foot wide right-of-way" cul-de-sac be denied.

The Pennington County Highway Department has indicated that the construction of ditches along the two streets will serve to accommodate drainage flows from the proposed development. In addition, due to the size of the lots ranging from approximately 10 acres to 13 acres, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter and street light conduit be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements along the two streets.

As previously indicated, the property is located outside of the City sewer and water service boundaries. The Engineering Division has indicated that the City water and sewer is currently located approximately one mile north of the subject property. The Engineering Division has also indicated that it may be 15 years before City utilities are available to the site. In addition, no current or proposed design plans for the extension of the utilities exist. As such, requiring the improvement at this time may not coordinate with the actual design elevation for the sewer and water. Staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install water and sewer be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the sewer and water improvements along the two streets.

Section Line Highway: A north-south section line highway is located in the western portion of the subject property. The section line highway must be improved to City Street Design standards or a Variance to the Subdivision Regulations must be obtained to waive the street improvement or the section line highway must be vacated or re-located. Due to the close proximity of the section line highway to Old Folsom Road and Lamb Road, the Pennington County Highway Department has indicated that they would support a request to relocate the section line highway to these two road locations. As such, staff is recommending that the variance request be denied and the section line highway be constructed to City Street Design Standards or the section line highway must be relocated as identified. The applicant also has the option of vacating the section line highway.

Planting Screen Easement: The Subdivision Regulations requires that a 10 foot wide planting screen easement be provided along all arterial streets. As previously indicated, Old Folsom Road and Lamb Road are identified as principal arterial streets on the City's Major Street Plan. The planting screen easement will serve as a reserve area for future landscaping to serve as a buffer between the residential development and the principal arterial streets. The applicant has not demonstrated that a physical hardship exists to support precluding the dedication of the planting screen easement. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to provide a planting

## STAFF REPORT

January 8, 2004

---

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---

**ITEM 26**

screen easement be denied.

Notification Requirement: As of this writing, the receipts for the certified mailing requirement have not been returned. Staff will notify the Planning Commission at the January 8, 2004 Planning Commission meeting if this requirement has not been met. Staff has not received any calls or inquires regarding this proposal.