

STAFF REPORT

April 24, 2008

No. 08SV021 - Variance to the Subdivision Regulations to waive the ITEM 54 requirement to install curb, gutter, street light conduit, sidewalk, water, sewer and pavement and to waive the requirement to dedicate right-of-way as per Chapter 16.16 of the Rapid City Municipal Code

GENERAL INFORMATION:

APPLICANT	Robert Schmitz for U Lazy Two, LLC
AGENT	Janelle Finck for Fisk Land Surveying & Consulting Engineers
PROPERTY OWNER	Robert Schmitz
REQUEST	No. 08SV021 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk, water, sewer and pavement and to waive the requirement to dedicate right-of-way as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	That portion of the SE1/4 SW1/4 lying north of Nemo Road, Section 14, T2N, R6E, BHM, and; the N1/2 NE1/4 less Lot 1 of Barbara Subdivision, and the unplatted portion of the NE1/4 NW1/4 lying east of Nemo Road, Section 23, T2N, R6E, BHM, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 and 2 of U Lazy Two Ranch Estates Subdivision and dedicated right-of-way located in, and formerly all of, that portion of the SE1/4 SW1/4 lying north of Nemo Road, Section 14, T2N, R6E, BHM, and; the N1/2 NE1/4 less Lot 1 of Barbara Subdivision, and the unplatted portion of the NE1/4 NW1/4 lying east of Nemo Road, Section 23, T2N, R6E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 120.5 acres
LOCATION	8970 Nemo Road
EXISTING ZONING	General Agriculture District (Pennington County)
SURROUNDING ZONING	
North:	Suburban Residential District - General Agriculture District (Pennington County)
South:	General Agriculture District (Pennington County)
East:	Suburban Residential District - General Agriculture

STAFF REPORT
April 24, 2008

No. 08SV021 - Variance to the Subdivision Regulations to waive the ITEM 54 requirement to install curb, gutter, street light conduit, sidewalk, water, sewer and pavement and to waive the requirement to dedicate right-of-way as per Chapter 16.16 of the Rapid City Municipal Code

West:	District (Pennington County) General Agriculture District (Pennington County)
PUBLIC UTILITIES	Private on-site water and wastewater
DATE OF APPLICATION	3/28/2008
REVIEWED BY	Vicki L. Fisher / Mary Bosworth

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk, water, sewer and additional pavement along Nemo Road be approved with the following stipulations:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements;
2. Upon submittal of a Preliminary Plat, the plat document shall be revised to show the dedication of 17 feet of right-of-way in lieu of 7 feet;

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk, water, sewer and pavement along the section line highways and to dedicate the section line highways as right-of-way be approved with the following stipulation:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements;

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk, water and sewer along the 50 foot wide private access and utility easement be approved; and,

That the Variance to the Subdivision Regulations to waive the requirement to improve the 50 foot wide private access and utility easement with a minimum 20 foot wide paved surface be denied.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water, sewer and additional pavement along Nemo Road, to install curb, gutter, street light conduit, water, sewer and pavement along the existing section line highways and the proposed 50 foot wide private access and utility easement and to waive the requirement to dedicate the section line highways as right-of-way. The applicant has also submitted a Layout Plat (#08PL044) to subdivide three parcels into two lots leaving a 40 acre unplatted balance.

The property is located north and east of the intersection of Schmitz Trail and Nemo Road. Currently, a single family residence and accessory structures are located on proposed Lot 2. The balance of the property is void of any structural development.

STAFF REPORT
April 24, 2008

No. 08SV021 - Variance to the Subdivision Regulations to waive the ITEM 54 requirement to install curb, gutter, street light conduit, sidewalk, water, sewer and pavement and to waive the requirement to dedicate right-of-way as per Chapter 16.16 of the Rapid City Municipal Code

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 west lot line of the subject 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 in a 66 foot wide right-of-way with an approximate 24 foot wide paved surface. Requiring the construction of the additional improvements along Nemo Road as it abuts the subject property will result in a discontinuous street section. In addition, the Planning Commission and the City Council have granted similar Variance requests when the associated plat did not result in any increase in density. As such, staff is recommending that the Variance to the Subdivision Regulations be approved as requested with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements and that the plat document be revised to show the dedication of 17 additional feet of right-of-way.

Section Line Highway: A north-south section line highway is located along the east lot line and an east-west section line highway is located between proposed Lots 1 and 2. The section line highways are classified as lane place streets requiring that they be constructed with a minimum 20 foot wide paved surface, curb, gutter, street light conduit, water and sewer. In addition, the 66 foot wide section line highway must be dedicated as right-of-way. To date, the section line highways are unimproved. As such, the applicant has requested a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along the section line highways and to waive the requirement to dedicate the section line highways as right-of-way. Typically, the City requires that section line highways be vacated in lieu of granting a Variance to the Subdivision Regulations to waive the requirement to improve the section line highways. However, these two section line highways serve as access to the United States Forest Service property located directly east of the property. South Dakota Codified Law precludes the vacation of a section line highway that may serve as access to public property. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk, water, sewer and pavement along the section line highways and to dedicate the section line highways as right-of-way be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

50 foot wide Private Access and Utility Easement: The Layout Plat identifies a 50 foot wide private access and utility easement extending east from Nemo Road to serve as access to proposed Lot 1 and the unplatted balance. The easement is classified as a lane place street requiring that it be located within a minimum 45 foot wide easement and constructed with a minimum 20 foot wide paved surface, curb, gutter, street light conduit, water and sewer. The applicant has indicated that the easement will be constructed with a 20 foot wide graveled surface. In the past, the Planning Commission and the City Council have granted

STAFF REPORT
April 24, 2008

No. 08SV021 - Variance to the Subdivision Regulations to waive the ITEM 54 requirement to install curb, gutter, street light conduit, sidewalk, water, sewer and pavement and to waive the requirement to dedicate right-of-way as per Chapter 16.16 of the Rapid City Municipal Code

similar Variance requests when the associated plat did not result in any increase in density, with the exception of pavement when the proposed street would connect to an existing paved street. Currently, Nemo Road is paved. Requiring that the access and utility easement be constructed with a minimum 20 foot wide paved surface would provide a contiguous paved street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk, water and sewer along the 50 foot wide private access and utility easement be approved and that the Variance to the Subdivision Regulations to waive the requirement to improve the 50 foot wide private access and utility easement with a minimum 20 foot wide paved surface be denied.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the April 24, 2008 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.