

STAFF REPORT  
August 6, 2009

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**No. 09SR025 - SDCL 11-6-19 Review to allow an access road to cross a section line highway**      **ITEM 9**

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GENERAL INFORMATION:

APPLICANT/AGENT	Cody Schad
PROPERTY OWNER	Cody Schad, Pat Hall/Spring Creek Jewel Property, LLC
REQUEST	<b>No. 09SR025 - SDCL 11-6-19 Review to allow an access road to cross a section line highway</b>
EXISTING LEGAL DESCRIPTION	Lot 2 of Bighorn Sheep Preserve of Section 7, T1S, R7E, BHM and Government Lot 6 of Section 6, T1S, R7E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 48.55
LOCATION	At the northern terminus of Strato Bowl Road
EXISTING ZONING	General Agriculture District - General Agriculture District (Pennington County)
SURROUNDING ZONING	
North:	General Agriculture District - General Agriculture District (Pennington County)
South:	Suburban Residential District - Limited Agriculture District (Pennington County)
East:	Low Density Residential District - General Agriculture District (Pennington County)
West:	General Agriculture District (Pennington County)
PUBLIC UTILITIES	Private water and sewer
DATE OF APPLICATION	3/27/2009
REVIEWED BY	Jared Ball / Mary Bosworth/ <b>Vicki L. Fisher</b>

RECOMMENDATION:

**Staff recommends that the SDCL 11-6-19 Review to allow an access road to cross a section line highway be denied.**

GENERAL COMMENTS:

**(Update: July 31, 2009. All revised and/or added text is shown in bold print.) This item was continued at the July 9, 2009 Planning Commission meeting to allow the applicant to submit drainage information, an Erosion and Sediment Control Plan, a site plan stamped and signed by a licensed surveyor and/or a Professional Engineer showing the proposed road to be constructed as a part of this application, and a**

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**reclamation plan for that portion of the road that was erroneously constructed within another area of the section line highway and/or onto an adjacent property. It was also noted that if the information was not submitted by July 10, 2009, staff will recommend that this item be denied at the August 6, 2009 Planning Commission meeting. As of July 31, 2009, the information has not been submitted for review and approval. As such, staff recommends that the SDCL 11-6-19 Review to allow an access road to cross a section line highway be denied.**

**A new SDCL 11-6-19 Review application can be submitted for review and approval once the applicant has addressed all of the outstanding issues.**

(Update: June 29, 2009. All revised and/or added text is shown in bold print.) This item was continued at the June 25, 2009 Planning Commission meeting to allow the applicant to submit drainage information and an Erosion and Sediment Control Plan. As of this writing, the information has not been submitted for review and approval.

To date the applicant has not submitted a site plan stamped by a licensed surveyor and/or Registered Professional Engineer showing the exact location of the road within the section line highway. In addition, questions have been raised by area property owners as to whether the balance of the road is located entirely on the applicant's property outside of the section line highway or if the road was partially constructed within another portion of the section line highway and possibly on an adjacent property. The applicant has subsequently constructed an alternate road outside of this area of the section line highway and off the adjacent property. However, to date, a reclamation plan for that portion of the road that was erroneously constructed has not been submitted for review and approval.

Staff recommends that this item be continued to the August 6, 2009 Planning Commission meeting to allow the applicant to submit the following information:

- drainage information;
- an Erosion and Sediment Control Plan;
- a site plan stamped and signed by a licensed surveyor and/or a Professional Engineer showing the proposed road to be constructed as a part of this application; and,
- a reclamation plan for that portion of the road that was erroneously constructed within another area of the section line highway and/or onto an adjacent property.

Staff also recommends that the information be submitted no later than July 10, 2009. If the information is not submitted by July 10, 2009, staff will recommend that this item be denied at the August 6, 2009 Planning Commission meeting.

(Update: June 12, 2009. All revised and/or added text is shown in bold print.) This item was continued at the June 4, 2009 Planning Commission meeting to allow the applicant to submit drainage information and an Erosion and Sediment Control Plan. As of this writing, the information has not been submitted for review and approval. As such, staff is recommending that the SDCL 11-6-19 Review be continued to the July 9, 2009 Planning Commission meeting to allow the applicant to submit a drainage plan sealed and signed by

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a Professional Engineer and an Erosion and Sediment Control Plan as required.

(Update: May 22, 2009. All revised and/or added text is shown in bold print.) This item was continued at the May 21, 2009 Planning Commission meeting to allow the applicant to submit drainage information and an Erosion and Sediment Control Plan. As of this writing, the information has not been submitted for review and approval. As such, staff is recommending that the SDCL 11-6-19 Review be continued to the June 25, 2009 Planning Commission meeting to allow the applicant to submit a drainage plan sealed and signed by a Professional Engineer and an Erosion and Sediment Control Plan as required.

(Updated May 12, 2009. All revised and/or added text is shown in bold print.) This item was continued at the May 7, 2009 Planning Commission meeting at the applicant's request. In particular, the applicant requested that the item be continued to allow him to submit drainage information. As of this writing, the drainage information has not been submitted for review and approval. In addition, an Erosion and Sediment Control Plan has not been submitted for review and approval. As such, staff is recommending that the SDCL 11-6-19 Review be continued to the June 4, 2009 Planning Commission meeting to allow the applicant to submit a drainage plan sealed and signed by a Professional Engineer as required.

(Updated April 27, 2009. All revised and/or added text is shown in bold print.) This item was continued at the April 23, 2009 Planning Commission meeting because the applicant had not submitted the required drainage plan.

The property is located in Pennington County northwest of Quartz Canyon Lane and west of Silver Fox Spur. The property is zoned General Agricultural District in Pennington County. The property to the north is zoned General Agricultural District in Pennington County. The properties to the south are zoned Suburban Residential District and Limited Agricultural District in Pennington County. The properties to the east are zoned Low Density Residential District and General Agricultural District in Pennington County and the property to the west is zoned General Agricultural District in Pennington County. The Rapid City Comprehensive Plan identifies the future zoning for the properties as Park Forest District. The applicant is proposing to construct an access road across a section line in order to access a future cabin. The City of Rapid City is only reviewing the portion of the access road that crosses the section line.

On August 7, 2008 the Rapid City Planning Commission denied an SDCL 11-6-19 Review to allow the construction of an access road accross a section line highway. The previous application was denied because the applicant had not obtained a Flood Plain Development Permit for work that has already been done in the Federally Designated Flood Plain, the applicant had not submitted the required Grading Plan, an Erosion and Sediment Control Plan or a Drainage Plan. In addition, the applicant had an outstanding violation with the Army Corp of Engineers regarding fill materials in the stream.

South Dakota Codified Law 11-6-19 states that "whenever any such municipal council shall have adopted the comprehensive plan of the municipality or any part thereof, then and

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thenceforth, no street, park, or other public way, ground, place, space, no public building or structure, no public utility, whether publicly or privately owned, if covered by the comprehensive plan or any adopted part thereof, shall be constructed or authorized in the municipality or within its subdivision jurisdiction as defined in § 11- 6-26, until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". The proposed access road is located within the area covered by the Rapid City Comprehensive Plan requiring that the improvements be reviewed and approved by the Rapid City Planning Commission.

STAFF REVIEW: Staff has reviewed the SDCL 11-6-19 and has noted the following considerations:

Flood Plain Development Permit: On October 7, 2008 the applicant obtained a Flood Plain Development Permit from Pennington County. The applicant submitted a copy of the approved permit with this application.

Army Corp of Engineers: On January 29, 2009 the applicant obtained a letter from the Army Corp of Engineers stating that the issues had been resolved regarding the former violation of fill materials in the stream. The applicant submitted a copy of the letter with this application.

Drainage Plan

The applicant submitted a Storm Water Pollution Prevention Plan with this application. However, the applicant has not submitted a Drainage Plan that is signed and sealed by a registered Professional Engineer. Prior to Planning Commission approval, the applicant must submit a Drainage Plan that is signed and sealed by a registered Professional Engineer. In particular, the Drainage Plan must include calculations demonstrating that runoff from the trail does not flow directly into the creek and is retained in a sediment pond.

(Updated April 27, 2009.) On April 27, 2009 staff met with the applicant to discuss the required Drainage Plan. During that meeting, the applicant requested that the 11-6-19 Review to allow an access road to cross a section line be continued to the May 21, 2009 Planning Commission meeting.

(Update: May 12, 2009.) As of this writing, the drainage plan has not been submitted for review and approval. In addition, an Erosion and Sediment Control Plan has not been submitted for review and approval. As such, staff is recommending that the SDCL 11-6-19 Review be continued to the June 4, 2009 Planning Commission meeting to allow the applicant to submit the information as required.

(Update: May 22, 2009.) As of this writing, the drainage plan has not been submitted for review and approval. In addition, an Erosion and Sediment Control Plan has not been submitted for review and approval. As such, staff is recommending that the SDCL 11-6-19 Review be continued to the July 9, 2009 Planning Commission meeting to allow the applicant to submit the information as required.

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Emergency Access: The applicant should be aware that if any residential construction takes place in the future, the access road must be constructed to accommodate emergency vehicles.

Staff recommends that the SDCL 11-6-19 Review to allow an access road to cross a section line be **denied as the applicant has not submitted all of the information as outlined above.**