

STAFF REPORT
August 6, 2009

No. 09SR063 - SDCL 11-6-19 review to construct street improvements on the Section Line Highway and extend a public utility **ITEM 12**

GENERAL INFORMATION:

APPLICANT	Larry and Lisa Hermanson
AGENT	Hermanson Egge Engineering, Inc.
PROPERTY OWNER	Larry and Lisa Hermanson
REQUEST	No. 09SR063 - SDCL 11-6-19 review to construct street improvements within a section line highway and to extend a public utility
EXISTING LEGAL DESCRIPTION	E1/2SE1/4NW1/4, W1/2W1/2SW1/4NE1/4, Government Lots 1 and 2 and Tract A of Westberry Trails, all located in Section 6, T1N, R7E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximatley 119.0 acres
LOCATION	At the southern terminus of Westberry Drive
EXISTING ZONING	Suburban Residential District - General Agriculture District (Pennington County)
SURROUNDING ZONING	
North:	Suburban Residential District (Pennington County)
South:	General Agriculture District (Pennington County)
East:	Low Density Residential District
West:	Limited Agriculture District - General Agriculture District (Pennington County)
PUBLIC UTILITIES	Private on-site water and wastewater
DATE OF APPLICATION	6/26/2009
REVIEWED BY	Vicki L. Fisher / Ted Johnson

RECOMMENDATION:

Staff recommends that the SDCL 11-6-19 Review to construct street improvements within a section line highway and to extend a public utility be continued to the **August 27, 2009** Planning Commission meeting to allow the applicant to submit additional information.

GENERAL COMMENTS:

(Update, July 24, 2009. All revised and/or added text is shown in bold print.) This

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item was continued at the July 23, 2009 Planning Commission meeting to allow the applicant to submit additional information. To date, the additional information has not been submitted for review and approval. As such, staff is recommending that this item be continued to the August 27, 2009 Planning Commission meeting.

The applicant has submitted a SDCL 11-6-19 Review to construct a 16 foot wide graveled street within the western half of the section line highway located along the east lot line of Government Lot 2 and Tract A of Westberry Trails for a distance of approximately, 2,175 feet. In addition, the applicant is proposing to extend an underground electric distribution line approximately 3,000 feet from the South Dakota National Guard property through Government Lots 1 and 2 and Tract A of Westberry Trails. The applicant has indicated that the street and utilities are being constructed to serve future residential building site(s) proposed on the property.

The property is located in Pennington County, adjacent to the City limits of Rapid City. The property is currently zoned General Agriculture District by Pennington County with the exception of Tract A which is zoned Suburban Residential District by Pennington County. The property to the north is zoned Suburban Residential District by Pennington County and is the location of Westberry Trails, a single family residential development. The property to the west is zoned Limited Agriculture District and General Agriculture District by Pennington County and is the location of a single family residence. The property to the south is zoned General Agriculture District by Pennington County and is the location of the South Dakota National Guard complex. The property to the east is zoned Low Density Residential District by Rapid City and is the location of Pinedale Heights, a single family residential development. Currently, a barn is located on Government Lot 2. The balance of the property is void of any structural development.

South Dakota Codified Law 11-6-19 states that "...whenever any such municipal council has adopted a comprehensive plan, then 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 until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". The proposed street is located within a section line highway and the proposed utility is a public utility requiring that the Planning Commission review and approve the proposed construction of the street and the installation of the utility.

STAFF REVIEW:

Staff has reviewed the SDCL 11-6-19 Review to construct street improvements within a section line highway and to extend a public utility and has noted the following considerations:

Electric Line: As previously indicated, the applicant is proposing to extend an underground electrical distribution line approximately 3,000 feet from the South Dakota National Guard property through Government Lots 1 and 2 and Tract A of Westberry Trails. In addition, the

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applicant submitted copies of signed utility easements to allow the extension of the Black Hills Power electric line across the properties as proposed. Prior to Planning Commission approval, the easements must be recorded at the Register of Deed's Office and copies of the recorded easements must be submitted to the Growth Management Office.

Street: As previously indicated, the applicant is proposing to construct a 16 foot wide graveled street within the western half of the section line highway located along the east lot line of Government Lot 2 and Tract A of Westberry Trails for a distance of approximately 2,175 feet. The street is classified as a lane place street requiring that it be constructed with a minimum 24 foot wide paved surface, curb, gutter, street light conduit, water and sewer as per the City's Street Design Criteria Manual. The Pennington County Planning Department has indicated that a Construction Permit must also be obtained from the Pennington County Board of Commissioners for the proposed street within the section line highway. The County's minimum design standards for a street within a section line highway require a minimum 24 foot wide graveled street with four inches of gravel.

The applicant has requested that an Exception be granted to waive the requirement to construct the street as per the Street Design Criteria Manual and to allow a 16 foot wide graveled street. The applicant did submit drainage information; however, it does not include information demonstrating that the proposed street design can accommodate drainage flows. As such, staff cannot determine if the request to waive curb and gutter along the street can be supported. In addition, the drainage information identifies that the sub-basin delineation shows an area between the two sub-basins that will flow to the street. The typical section of the proposed street will force the water from this area to one sub-basin or the other. However, transferring water from one basin to the next is not allowed. As such, staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to submit additional and/or revised drainage information as identified.

The Rapid City's Master Utility Plan identifies the property within "Tier One" which implies that the area is an anticipated near term development project in lieu of a long range development project. To date, the applicant has not submitted a Master Utility Plan for the property to determine if dry sewer lines should be constructed along the street in order to serve the property in the future. As such, staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to submit a Master Utility Plan.

To date, ditch sections have not been provided for portions of the road alignment located in cut sections. In addition, the applicant is proposing to utilize plastic culverts which are not an acceptable culvert design in the City. As such, staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to submit the ditch section data and to revise the construction plans as needed for the proposed culverts.

The proposed street section and street alignment indicate that rip rap will be installed within the eastern portion of the section line highway located on the adjacent property owned by Susan L. Messinger. As such, the application must be revised to include the adjacent property in the legal description and the adjacent property owner must sign the application

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or the applicant must revise the plans demonstrating that the rip rap will not encroach onto the adjacent property. Staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to address the issue.

Cul-de-Sac Design: The applicant had previously worked with the South Dakota National Guard to construct a 16 foot wide graveled road from the southern terminus of S. Berry Pine Road approximately one mile to the existing barn located on Government Lot 2. The applicant is proposing to extend a street from the existing 16 foot wide graveled road along the western half of the section line highway which will result in an approximate 6,175 foot long street. The property is located in a high wildfire hazard area limiting the length of the street to 500 feet as per the Street Design Criteria Manual. In addition, the Street Design Criteria Manual requires that a turnaround be constructed at the end of the street and that intermediate turnarounds be provided every 600 feet along the street. Staff recommends that the construction plans be revised to show the turnaround at the end of the street and intermediate turnarounds as required for that portion of the street located within the section line highway or an Exception must be obtained to waive the requirement. In addition, an Exception must be obtained to allow a 6,175 foot long street in lieu of a 500 foot long street in a high wildfire hazard area as per the Street Design Criteria Manual.

Easement: South Dakota Codified Law Title 31.25.1.1 states that access along a section line highway shall be protected. Constructing the street as proposed will result in a portion of the street located outside of the section line highway due to the slope of the fill along this portion of the street. As such, in order to provide contiguous public access and protect the section line highway, a public access easement must be recorded for the section of the street location outside of the section line highway. In particular, the public access easement must be a minimum width of 49 feet as per the Street Design Criteria Manual. Staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to record the public access easement as identified and to submit a copy of the recorded document to the Growth Management Department.

Staff recommends that the SDCL 11-6-19 Review be continued to the **August 27, 2009** Planning Commission meeting to allow the applicant to submit the additional information as identified above. The applicant should be aware that if the drainage information and the Master Utility Plan information is submitted and supports the exception request(s) to waive the construction of curb, gutter, water and sewer at this time, then staff will recommend that the construction plans be revised to show the street constructed with a minimum 24 foot wide graveled surface and four inches of gravel. In addition, the applicant must sign a waiver of right to protest any future assessment for the installation of pavement, curb, gutter, street light conduit, water and sewer for that portion of the street located within the section line highway. Since a waiver of right to protest document can only address those improvements located within right-of-way and/or a section line highway, a covenant agreement must also be signed and recorded for these improvements for that portion of the street located outside the section line highway.