

STAFF REPORT  
November 19, 2009

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**No. 09SV012 - Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code**

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**ITEM 13**

GENERAL INFORMATION:

APPLICANT	William M. Jobgen
AGENT	D.C. Scott Co. Land Surveyors
PROPERTY OWNER	William and Dorothy Jobgen
REQUEST	<b>No. 09SV012 - Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 and 2 of Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 2.78 acres
LOCATION	South of Miracle Lane between Carlin Street and Crane Drive
EXISTING ZONING	Suburban Residential District (Pennington County)
SURROUNDING ZONING	
North:	Suburban Residential District (Pennington County)
South:	Suburban Residential District (Pennington County)
East:	Suburban Residential District (Pennington County)
West:	Suburban Residential District (Pennington County)
PUBLIC UTILITIES	Private water and septic system
DATE OF APPLICATION	5/29/2009
REVIEWED BY	Travis Tegethoff / Ted Johnson / <b>Vicki L. Fisher</b>

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RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code be continued to the **January 7, 2010** Planning Commission meeting to be heard in conjunction with the associated Preliminary Plat.

GENERAL COMMENTS:

**(Update, November 6, 2009. All revised and/or added text is shown in bold print.) This item was continued at the November 5, 2009 Planning Commission meeting to allow the applicant to submit additional information. To date, the information has not been submitted for review and approval. As such, staff recommends that the Preliminary Plat be continued to the January 7, 2010 Planning Commission meeting to allow the applicant to address the outstanding issues.**

(Update, October 23, 2009. All revised and/or added text is shown in bold print.) This item was continued at the October 22, 2009 Planning Commission meeting to allow the applicant to submit additional information. To date, the information has not been submitted for review and approval. As such, staff recommends that the Variance to the Subdivision Regulations be continued to the November 19, 2009 Planning Commission meeting to allow the applicant to address the outstanding issues.

(Update, October 9, 2009. All revised and/or added text is shown in bold print.) This item was continued at the October 8, 2009 Planning Commission meeting to allow the applicant to submit additional information. To date, the information has not been submitted for review and approval. As such, staff recommends that the Variance to the Subdivision Regulations be continued to the November 5, 2009 Planning Commission meeting to allow the applicant to address the outstanding issues.

(Update, September 30, 2009. All revised and/or added text is shown in bold print.) This item was continued to the October 8, 2009 Planning Commission meeting to allow the applicant to submit additional information. On September 23, 2009, the applicant submitted well data for existing wells in the area, a construction plan sheet for Carlin Drive showing a 20 foot wide graveled road with a hammerhead turnaround along the eastern 109 feet of proposed Lot 1 and drainage calculations. Staff has reviewed the information and noted that complete construction plans for Carlin Street must be submitted showing a minimum 20 foot wide graveled road from the street intersection located approximately 200 feet west of the property, east along the north lot line of the property to the 15 foot wide access easement located along the northwest corner of the property. In addition, a turnaround must be provided at the eastern terminus of the street as it abuts the 15 foot wide access easement. The drainage information must also be revised to include the entire street section and to address any current or future drainage on the remainder of the site as well as on-site detention and/or downstream capacity.

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A septic tank and drainfield currently serve the existing residence located on proposed Lot 2. The applicant has indicated that proposed Lot 1 will eventually be served by a septic tank and drainfield. However, to date the applicant has not submitted a soil analysis or percolation information demonstrating that the soils on proposed Lot 1 will support the proposed on-site wastewater system. Until this information is submitted, staff cannot support platting the property to create additional densities.

Staff recommends that the Variance to the Subdivision Regulations be continued to the October 22, 2009 Planning Commission meeting to allow the applicant to address the outstanding issues as identified. Please note that the applicant's consultant is in concurrence with the continuance.

(Update, September 12, 2009. All revised and/or added text is shown in bold print.) This item was continued to the September 10, 2009 Planning Commission meeting to allow the applicant to submit the required information. On August 31, 2009, staff met with the applicant's consultant to discuss the additional information needed in order to review the Preliminary Plat application. As of this writing the information has not been submitted for review and approval. As such, staff recommends that this item be continued to the October 8, 2009 Planning Commission meeting.

(Update, August 31, 2009. All revised and/or added text is shown in bold print.) This item was continued to the August 27, 2009 Planning Commission meeting to allow the applicant to submit the required information. On August 31, 2009, staff met with the applicant's consultant to discuss the additional information needed in order to review the Preliminary Plat application. As of this writing the information has not been submitted for review and approval. As such, staff recommends that this item be continued to the September 24, 2009 Planning Commission meeting with the consultant's concurrence.

(Update, July 29, 2009. All revised and/or added text is shown in bold print.) This item was continued to the August 6, 2009 Planning Commission meeting to allow the applicant to submit the required information. To date, no additional information has been submitted. As such, staff recommends that this item be continued to the September 10, 2009 Planning Commission meeting.

(Update, July 14, 2009. All revised and/or added text is shown in bold print.) This item was continued to the July 23, 2009 Planning Commission meeting to allow the applicant to submit the required information. To date, no additional information has been submitted. As such, staff recommends that this item be continued to the August 6, 2009 Planning Commission meeting.

(Update, June 26, 2009. All revised and/or added text is shown in bold print.) This item was continued to the July 9, 2009 Planning Commission meeting to allow the applicant to submit the required information. To date, no additional information has been submitted. As such,

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staff recommends that this item be continued to the July 23, 2009 Planning Commission meeting.

The applicant has submitted a Variance to the Subdivision Regulations (#09SV012) to waive the requirement to dedicate additional right-of-way and install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code. In addition, the applicant has submitted a Preliminary Plat (#09PL024) application to create two lots from a 2.78 acre parcel. The property is located north of Long View Road between Carlin Street and Crane Drive. Currently a single family house and an accessory structure are located on the property.

**STAFF REVIEW:**

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

**Miracle Lane/Carlin Drive:** Miracle Lane is located along a portion of the northern lot line and is classified as a subcollector street requiring that the street be located in a minimum 52 foot wide right-of-way and constructed with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, a portion of Miracle Lane is located in a 66 foot wide right-of-way and constructed with an approximate 20 foot wide paved surface. The northeast portion of Miracle Lane is currently located in a 15 foot wide access easement. The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code. However, the City Council and the Planning Commission have routinely required that the additional right-of-way be dedicated as a part of the review and approval of a plat even when other variances are granted to waive public infrastructure improvements. In particular, obtaining the right-of-way as required at the time the property is subdivided precludes the taxpayers from having to purchase the right-of-way when it is needed in the future. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to dedicate the additional right-of-way be denied. In addition, the applicant has not submitted water, sewer, and drainage information for the proposed development for staff to adequately review the variance requests.

(Update: September 30, 2009) Staff has reviewed the recorded easement document for the 15 foot wide access easement located on the abutting property. The easement was not created to provide access to this property. In addition, the easement document does not grant the applicant the right to improve the easement. The dedication of any future right-of-way for the access easement should be dedicated from the abutting property so that it aligns with the existing street right-of-way for Carlin Drive located directly west of the easement. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and to improve the easement to City Street Design Standards be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

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To date, adequate sewer and drainage information has not been submitted for review and approval to determine if the Variance to the Subdivision Regulations requested along the balance of Carlin Drive can be supported. Staff recommends that this item be continued to allow the applicant to submit the additional information as identified.

Crane Drive: Crane Drive is located along the eastern lot line and is classified as a lane/place requiring that the street be located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, Crane Drive is located in a 50 foot wide right-of-way and constructed with an approximate 20 foot wide paved surface. As such, staff is recommending that prior to Preliminary Plat approval by the City Council, road construction plans for Crane Drive be submitted as identified or a Variance to the Subdivision Regulations must be obtained. The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code. However, the applicant has not submitted water, sewer, and drainage information for the proposed development for staff to adequately review the variance requests.

(Update: September 30, 2009) To date, adequate sewer and drainage information has not been submitted for review and approval to determine if the Variance to the Subdivision Regulations requested along the balance of Crane Drive can be supported. Staff recommends that this item be continued to allow the applicant to submit the additional information as identified.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the June 25, 2009 Planning Commission meeting if the legal notification requirements have not been met. As of this writing, the required receipts from the certified mailing have been returned. (Revised 7-29-09) The receipts from the certified mailings have been returned. (Revised 8-31-09)

**Staff recommends that the Variance to the Subdivision Regulations be continued to the January 7, 2010 Planning Commission meeting to allow the applicant to address the outstanding information as identified above.**