

STAFF REPORT  
May 26, 2011

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**No. 11SV009 - Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Croyle Avenue and the Section Line Highway and to dedicate additional right-of-way along the Section Line Highway**

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**ITEM 14**

GENERAL INFORMATION:

APPLICANT	Colonial Pine Hills Sanitary District
AGENT	Ted Schultz for CETEC Engineering Services, Inc.
PROPERTY OWNER	Colonial Pine Hills Sanitary District
REQUEST	<b>No. 11SV009 - Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Croyle Avenue and the Section Line Highway and to dedicate additional right-of-way along the Section Line Highway</b>
EXISTING LEGAL DESCRIPTION	Lot 1 of Block 1 of Whispering Pines Subdivision located in Section 32, T1N, R7E, BHM, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lot 1A and Lot 1B of Block 1 of Whispering Pines Subdivision
PARCEL ACREAGE	Approximately 1.3 acres
LOCATION	7804 Croyle Avenue
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	Colonial Pine Hills Sanitary District Water Facility/Private on-site wastewater system
DATE OF APPLICATION	4/29/2011
REVIEWED BY	Vicki L. Fisher / Karley Halsted

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RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Croyle Avenue and the Section Line Highway and to dedicate additional right-of-way along the Section Line Highway be approved with the following stipulation:

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

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Croyle Avenue and the Section Line Highway and to dedicate additional right-of-way along the Section Line Highway as they abut the property. In addition, the applicant has submitted a Preliminary Plat (File #11PL027) to subdivide one lot into two lots. The lots will be sized 0.8 acres and 0.5 acres, respectively, and will be known as Lots 1A and 1B of Lot 1 of the Whispering Pines Subdivision.

The property is located approximately 750 feet south of the intersection of Sheridan Lake Road and Croyle Avenue on the east side of Croyle Avenue. Currently, the Colonial Pine Hills Sanitary District water facility is located on proposed Lot 1A. Proposed Lot 1B is currently void of any structural development.

STAFF REVIEW:

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

Croyle Avenue: Croyle Avenue is located along the west lot line of the property and is classified as a sub-collector street requiring that it 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, Croyle Avenue is located within a 66 foot wide right-of-way and constructed with an approximate 20 foot wide paved surface. In the past, the developer has not generally been required to improve the existing road when it is an existing constructed and improved (paved) road; rather they have been required to sign a waiver of right to protest an assessment project. The waiver of right to protest an assessment project insures that the property owners will participate in future improvements. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement be approved with the stipulation that prior to City Council approval, the applicant sign a waiver of right to protest any future assessment for the improvements.

Section Line Highway: A section line highway is located along the north lot line and currently serves as access to properties located north and east of the applicant's property. The

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section line highway is classified as a lane place street requiring that it be located within a 49 foot wide dedicated right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The 66 foot wide section line highway has not been dedicated as right-of-way and is currently constructed with an approximate 13 foot to 23 foot wide graveled road. In the past, the Planning Commission and the City Council have required that a section line highway be vacated in lieu of granting a Variance to the Subdivision Regulations to waive the requirement to improve the street. Exceptions have been made when the section line highway serves as access to adjacent properties, as in this case.

Since the section line highway cannot be vacated and since the section line highway does not serve as access to the applicant's property, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate the right-of-way and to improve this portion of the section line highway be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvement.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the May 26, 2011 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.