

STAFF REPORT
May 26, 2005

No. 05SV015 - Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along a Section Line Highway and an access easement and to waive the requirements to install street light conduit and sidewalks along West Chicago Street as per Chapter 16.16 of the Rapid City Municipal Code

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GENERAL INFORMATION:

PETITIONER	Renner Associates, LLC for BB&R Properties
REQUEST	No. 05SV015 - Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along a Section Line Highway and an access easement and to waive the requirements to install street light conduit and sidewalks along West Chicago Street as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	Lot B of Shoenhard Subdivision and Lot 6 of Mann Subdivision, a portion of Vacant Section Line Right-of-Way, and Lot A of NE1/4 of the SE1/4 of Section 33, located in the N1/2 of SE1/4, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lot BR of Shoenhard Subdivision and Lot 6R of Mann Subdivision located in the N1/2 of SE1/4, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 10.436 acres
LOCATION	3400 West Chicago Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Mining District / Public District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	2/11/2005
REVIEWED BY	Vicki L. Fisher / Bob Dominicak

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RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along a Section Line Highway and an access easement and to waive the requirements to install street light conduit and sidewalks along West Chicago Street as per Chapter 16.16 of the Rapid City Municipal Code be **approved with the following stipulation:**

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessments for the improvements along West Chicago Street and the Section Line Highway as they abut the subject property.

GENERAL COMMENTS:

(This Staff Report has been updated on May 26, 2005. All revised and or/added text is shown in bold print.) This item was continued at the May 5, 2005 Planning Commission meeting at the applicant's request.

(This Staff Report has been updated on April 22, 2005. All revised and or/added text is shown in bold print.) This item was continued at the April 21, 2005 Planning Commission meeting at the applicant's request. The applicant has again requested that this item be continued to the May 26, 2005 Planning Commission meeting to allow him additional time to review the option of vacating the section line highway with the adjacent property owner(s). As such, staff is recommending that the Variance to the Subdivision Regulations be continued to the May 26, 2005 Planning Commission meeting at the applicant's request.

(This Staff Report has been updated on April 10, 2005. All revised and or/added text is shown in bold print.) This item was continued at the April 7, 2005 Planning Commission meeting at the applicant's request. The applicant has again requested that this item be continued to the May 5, 2005 Planning Commission meeting to allow him additional time to review the option of vacating the section line highway with the adjacent property owner(s). As such, staff is recommending that the Variance to the Subdivision Regulations be continued to the May 5, 2005 Planning Commission meeting at the applicant's request.

This Staff Report has been updated on March 27, 2005. All revised and or/added text is shown in bold print.) This item was continued at the March 24 2005 Planning Commission meeting at the applicant's request. The applicant has again requested that this item be continued to the April 21, 2005 Planning Commission meeting to allow him additional time to review the option of vacating the section line highway with the adjacent property owner(s). As such, staff is recommending that the Variance to the Subdivision Regulations be continued to the April 21, 2005 Planning Commission meeting at the applicant's request.

(This Staff Report has been updated on March 12, 2005. All revised and or/added text is shown in bold print.) This item was continued at the March 10 2005 Planning Commission

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meeting at the applicant's request. The applicant has again requested that this item be continued to the April 7, 2005 Planning Commission meeting to allow him additional time to review the option of vacating the section line highway with the adjacent property owner(s). As such, staff is recommending that the Variance to the Subdivision Regulations be continued to the April 7, 2005 Planning Commission meeting at the applicant's request.

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along a Section Line Highway and an access easement and to waive the requirement to install street light conduit and sidewalk along West Chicago Street as they abut the subject property. In addition, the applicant has submitted a Preliminary Plat to subdivide the subject property into two lots. (See companion item #05PL028.)

On December 6, 2004, the City Council approved a Layout Plat to subdivide the subject property into two lots as shown on this Preliminary Plat.

The subject property is located along West Chicago Street near the Sturgis Road intersection. Currently, a car sales lot is located on proposed Lot BR. The balance of the site is void of any structural development.

STAFF REVIEW:

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

West Chicago Street: West Chicago Street is located along the south lot line of the subject property. Currently, a sidewalk has not been constructed along this section of West Chicago Street. Requiring the construction of a sidewalk along West Chicago Street as it abuts the subject property will result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the construction of a sidewalk along West Chicago Street be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvement.

Private Access Easement: The Preliminary Plat identifies a 40 foot wide private access easement located across proposed Lot BR to an existing lot located directly west of the subject property. The access easement is classified as an industrial street requiring that it be located in a minimum 59 foot wide easement and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The access easement is currently paved as a part of the adjacent parking lot. However, the balance of the improvements have not been constructed along this portion of the access easement or the balance of the easement located on the adjacent property. Requiring the improvement of the private access easement as it abuts the subject property will result in a discontinuous street section. As such, staff is recommending that the Variance to the

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Subdivision Regulations to waive the improvements along the private access easement be approved.

Section Line Highway: A section line highway is located along the east lot line of the subject property. The east half of the section line highway is located on an adjacent property under different ownership from the subject property. In the past, the City Council has indicated that a section line highway should be vacated if a street is not to be constructed within the highway. The applicant has indicated that he has not contacted the adjacent property owner to determine if they would support vacating the section line highway. **The applicant has recently submitted a letter from the adjacent property owner indicating that they oppose vacating the section line highway, and, subsequently, will not sign the Vacation of Section Line Highway Petition. As such, staff is recommending that the 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 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 been returned. Staff has received one telephone call regarding this proposal. The caller did not voice any opposition to the request.