

STAFF REPORT

May 25, 2000

ORDINANCE AMENDMENT #00OA004 - Ordinance amending Section 16.04.320 of Chapter 16.04 of the Rapid City Municipal Code

ITEM 26

GENERAL INFORMATION:

PETITIONER	City of Rapid City
REQUEST	ORDINANCE AMENDMENT #00OA004 - Ordinance amending Section 16.04.320 of Chapter 16.04 of the Rapid City Municipal Code
DESCRIPTION	To allow the transfer of parcels from which a highway tract has been platted without requiring that the parcels be replatted
REPORT BY	Marcia Elkins

RECOMMENDATION: Staff recommends that the Ordinance amending Section 16.04.320 of Chapter 16.04 of the Rapid City Municipal Code be approved.

GENERAL COMMENTS: In March 2000, Pennington County requested that the City amend the provisions of the Subdivision Regulations to allow the transfer of "balance" parcels created by the recording of Highway Use deeds. A copy of the letter from Pennington County requesting the change is attached.

Currently, parcels of land exceeding 40 acres in size, or property which has been properly platted, or parcels transferred by identical description as recorded prior to June 30, 1990 can be transferred and recorded without further subdivision review. Additionally, federal, state, county or municipal authorities may record Highway Use deeds without subdivision review if the property is being acquired for highway purposes. The difficulty arises when the owner of the balance of the property from which the "H" lot has been acquired is ready to transfer their property. The property no longer has the same description and can not legally be transferred without subdivision review.

As an example, a property owner has a 10 acre unplatted parcel described as the N1/2 of the NE1/4 of the NE1/4 of the NE1/4 all located in Section X, T2N, R7E, BHM, Pennington County, South Dakota. The property was transferred by identical description and a deed was recorded prior to June 30, 1990. As such, the owner can transfer the property and record a deed without subdivision review. Pennington County acquires two acres of the property as an "H" lot for future highway construction. Pursuant to State law, the County's action to create the "H" lot is exempt from subdivision review and the Highway Use deed for the "H" lot can be recorded. Subsequently, the owner of the eight acre unplatted parcel seeks to sell the property. However, it is now described as the N1/2 of the NE1/4 of the NE1/4 of the NE1/4 of Section X, less H-1 all located in T2N, R7E, BHM, Pennington County, South Dakota. As such it is not the same parcel as previously transferred and it is not being transferred by identical description.

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Thus, the owner must obtain approval of a plat for the remaining eight acre parcel, which may or may not require the installation of subdivision improvements.

STAFF REVIEW: Attached is a copy of a draft ordinance amending Section 16.04.320 of the City's Subdivision Regulations. The draft ordinance would provide an exception allowing the balance parcel resulting from the recording of a highway use deed to be recorded without subdivision review. The proposed revision would provide equity to the landowner from which a governmental agency must obtain land for highway purposes as it would allow the transfer of the balance without the landowner incurring any additional expense.

The proposed amendment would appear to be in the public interest as well. The proposed amendment would not result in an increase in the number of potential development sites as no additional lots could be created, only the remaining balance could be transferred. The change would assist governmental agencies in the negotiation for land needed for roadway improvements and expansions. The amendment could potentially reduce the cost of obtaining such land as the landowners avoid the costs associated with platting. Thus the proposed amendment could make it easier and cheaper for governmental agencies to obtain land needed for important road construction projects.

The attached draft ordinance has been submitted to the City Attorney's Office for review. Staff will provide any revisions to the Planning Commission at the May 25, 2000 meeting, if necessary. Staff recommends approval of the proposed amendment to the Subdivision Regulations.