

## STAFF REPORT

April 8, 2004

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**No. 04SV016 - Variance to the Subdivision Regulations to waive the requirement to install street light conduit as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 42**

GENERAL INFORMATION:

PETITIONER

Fisk Land Surveying & Consulting Engineers, Inc. for  
Dan O'Brien

REQUEST

**No. 04SV016 - Variance to the Subdivision Regulations to waive the requirement to install street light conduit and to dedicate additional right-of-way as per Chapter 16.16 of the Rapid City Municipal Code**

EXISTING  
LEGAL DESCRIPTION

A tract of land located within the Southwest One Quarter (SW  $\frac{1}{4}$ ) of Section Fifteen (15) of Township One North (T1N), Range Seven East (R7E) of the Black Hills Meridian (BHM), Rapid City, Pennington County, South Dakota, more fully described as follows: Beginning at the northwest corner of Lot Six (6) of Block Nine (9) of Fairway Hills P.R.D., located in the Southwest One Quarter (SW  $\frac{1}{4}$ ) of Section Fifteen (15) of Township One North (T1N), Range Seven East (R7E) of the Black Hills Meridian (BHM), Rapid City, Pennington County, South Dakota, as shown on the plat recorded on August 22, 1997 and filed in Plat Book 28 of Plats on Page 41, said corner being marked with a rebar and cap marked "Davis Eng 3095"; thence, southwesterly along the westerly edge of said Lot Six, South 18 degrees 28 minutes 52 seconds West (more or less) a distance of 111.80 feet (more or less), to a corner of said Lot Six, said corner being marked with a rebar and cap marked "Davis Eng 3095"; thence, continuing southeasterly along the westerly edge of said Lot Six, South 19 degrees 43 minutes 55 seconds East (more or less) a distance of 106.84 feet (more or less), to the southerly corner of said Lot Six and the northwesterly corner of Lot Two (2) of Block Nine (9) of Fairway Hills P.R.D., as shown on the plat recorded on November 18, 1993 and recorded in Plat Book 25 on Page 181, said corner being marked with a rebar and cap marked "LS 2554"; thence, continuing southwesterly along the westerly edge of said Lot Two, South 10 degrees 57 minutes 41 seconds West (more or less) a distance of 143.39 feet (more or less) to a corner on the west line of said Lot Two, said corner being marked with a rebar and cap marked "LS 2554";

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thence, continuing southeasterly along the westerly edge of said Lot Two, South 32 degrees 59 minutes 10 seconds East (more or less) a distance of 189.09 feet (more or less) to the southwest corner of said Lot Two, said corner being marked with a rebar and cap marked "LS 2554" and located along the northerly edge of Lot Six (6) of Block One (1) of Spring Brook Acres, as shown on the plat recorded on July 26, 1972 and recorded in Plat Book 12 on Page 59; thence, continuing westerly along the northerly edge of said Lot Six, South 89 degrees 44 minutes 54 seconds West (more or less) a distance of 248.12 feet (more or less) to the northwest corner of said Lot Six and the northeast corner of Lot Five (5) of Block One (1) of Spring Brook Acres, said corner being marked with a rebar; thence, continuing westerly along the northerly edge of said Lot Five, South 89 degrees 42 minutes 57 seconds West (more or less) a distance of 73.08 feet (more or less) to the northwest corner of said Lot Five and the northeast corner of Lot Four (4) of Block One (1) of Spring Brook Acres, said corner being marked with a rebar; thence, continuing westerly along the northerly edge of said Lot Four and along the northerly edge of Lot Three (3) of Block One (1) of Spring Brook Acres, South 89 degrees 42 minutes 57 seconds West (more or less) a distance of 217.92 feet (more or less) to the northwest corner of said Lot Three and the northeast corner of Lot A of Lot Two (2) of Block One (1) of Spring Brook Acres, as shown on the plat recorded on March 20, 1997 and filed in Plat Book 27 on Page 189, said corner being marked with a rebar; thence, continuing westerly along the northerly edge of said Lot A of Lot Two, South 89 degrees 43 minutes 51 seconds West (more or less) a distance of 263.57 feet (more or less) to a point along the easterly edge Sheridan Lake Road right-of-way and the southeasterly corner of Lot H1 of the unplatted portion of the Northwest One Quarter (NW  $\frac{1}{4}$ ) of the Southwest One Quarter (SW  $\frac{1}{4}$ ) of Section Fifteen (15) Township One North (T1N), Range Seven East (R7E) of the Black Hills Meridian (BHM), City of Rapid City, Pennington County, South Dakota as shown on the plat recorded on May 21, 1993 and recorded in Plat Book 8 of Highway Plats on Page 54; thence, curving to the left and continuing northeasterly along the easterly edge of said Lot H1 on a curve with a radius of 672.62 feet, a

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delta of 17 degrees 57 minutes 06 seconds, an arc length of 210.74 feet and a chord bearing of North 47 degrees 59 minutes 42 seconds East (more or less) and chord distance of 209.88 feet, more or less; thence, continuing along the easterly edge of said Lot H1, South 51 degrees 09 minutes 05 seconds East (more or less) a distance of 4.00 feet (more or less); thence, continuing along the easterly edge of said Lot H1, North 38 degrees 50 minutes 55 seconds East (more or less) a distance of 4.00 feet (more or less); thence, continuing along the easterly edge of said Lot H1, North 51 degrees 09 minutes 05 seconds West (more or less) a distance of 4.00 feet (more or less); thence, curving to the left and continuing along the easterly edge of said Lot H1, on a curve with a radius of 672.62 feet, a delta of 1 degree 38 minutes 38 seconds, an arc length of 19.30 feet and a chord bearing of North 37 degrees 51 minutes 23 seconds East (more or less) and a chord distance of 19.30 feet (more or less); thence, continuing along the same curve and along the easterly edge of said Lot H1, on a curve with a radius of 672.62 feet, a delta of 11 degrees 54 minutes 54 seconds, an arc length of 139.88 feet and a chord bearing of North 31 degrees 04 minutes 36 seconds East (more or less) and a chord distance of 139.63 feet (more or less); thence, continuing along the same curve and along the easterly edge of said Lot H1, on a curve with a radius of 672.62 feet, a delta of 6 degrees 58 minutes 05 seconds, an arc length of 81.80 feet and a chord bearing of North 21 degrees 38 minutes 06 seconds East (more or less) and a chord distance of 81.75 feet (more or less); thence, continuing along the easterly edge of said Lot H1, South 72 degrees 01 minute 10 seconds East (more or less) a distance of 4.00 feet (more or less); thence, continuing along the easterly edge of said Lot H1, North 17 degrees 58 minutes 50 seconds East (more or less) a distance of 4.00 feet (more or less); thence, continuing along the easterly edge of said Lot H1, North 72 degrees 01 minute 10 seconds West (more or less) a distance of 4.00 feet (more or less); thence, curving to the left and continuing along the easterly edge of said Lot H1 on a curve with a radius of 672.62 feet, a delta of 0 degrees 58 minutes 08 seconds, an arc length of 11.38 feet and a chord bearing of North 17 degrees 19 minutes 33 seconds East (more

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or less) and a chord distance of 11.38 feet (more or less); thence, continuing along the same curve and the easterly edge of said Lot H1 on a curve with a radius of 672.62 feet, a delta of 2 degrees 03 minutes 55 seconds, an arc length of 24.25 feet and a chord bearing of North 15 degrees 48 minutes 30 seconds East (more or less) and a chord distance of 24.25 feet (more or less), to a point of tangent; thence, northeasterly along the easterly edge of said Lot H1 North 14 degrees 46 minutes 33 seconds East (more or less) a distance of 186.27 feet (more or less); thence, continuing along the easterly edge of said Lot H1, South 75 degrees 13 minutes 27 seconds East (more or less) a distance of 4.00 feet (more or less); thence, continuing along the easterly edge of said Lot H1, North 14 degrees 46 minutes 33 seconds East (more or less) a distance of 4.00 feet (more or less); thence, continuing along the easterly edge of said Lot H1, North 75 degrees 13 minutes 27 seconds West (more or less) a distance of 4.00 feet (more or less); thence, continuing northeasterly along the easterly edge of said Lot H1, North 14 degrees 46 minutes 33 seconds East (more or less) a distance of 22.45 feet (more or less); thence, continuing along the easterly edge of said Lot H1 along a curve to the right, said curve having a radius of 5693.58 feet, a delta of 0 degrees 28 minutes 02 seconds, an arc length of 46.44 feet and a chord bearing of North 14 degrees 51 minutes 53 seconds East (more or less) and chord distance of 46.44 feet (more or less); thence, continuing along the same curve along the easterly edge of said Lot H1, said curve having a radius of 5693.58 feet, a delta of 1 degree 09 minutes 02 seconds, an arc length of 114.34 feet and a chord bearing of North 15 degrees 40 minutes 43 seconds East (more or less) and chord distance of 114.33 feet (more or less), to a point along the easterly edge of Lot H2 of Lot 3A of Fairway Hills P.R.D., as shown on the plat recorded on May 21, 1993 and filed in Plat Book 8 of Highway Plats on Page 56; thence, continuing along the same curve along the easterly edge of said Lot H2 of Lot 3A, said curve having a radius of 5693.58 feet, a delta of 0 degrees 40 minutes 07 seconds, an arc length of 66.45 feet and a chord bearing of North 16 degrees 35 minutes 18 seconds East (more or less) and a chord distance of 66.45 feet (more or

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less); thence, continuing along the easterly edge of said Lot H2 of Lot 3A, South 73 degrees 03 minutes 26 seconds East (more or less) a distance of 4.00 feet (more or less); thence, continuing along the easterly edge of said Lot H2 of Lot 3A, North 16 degrees 56 minutes 34 seconds East (more or less) a distance of 4.00 feet (more or less); thence, continuing along the easterly edge of said Lot H2 of Lot 3A, North 73 degrees 03 minutes 26 seconds West (more or less) a distance of 4.00 feet (more or less); thence, continuing along the easterly edge of said Lot H2 of Lot 3A, along a curve to the right, said curve having a radius of 5693.58 feet, a delta of 0 degrees 39 minutes 34 seconds, an arc length of 65.56 feet and a chord bearing of North 17 degrees 17 minutes 34 seconds East (more or less) and a chord distance of 65.56 feet (more or less) to the northeasterly corner of said Lot H2 of Lot 3A, said point also being located on the southerly line of Lot 3B of Fairway Hills P.R.D., as shown on the plat recorded July 9, 1980 and filed in Plat Book 17 of Plats on Page 189, said point marked by a rebar with survey cap "RW FISK 6565"; thence, continuing northeasterly along the southerly line of said Lot 3B, North 87 degrees 25 minutes 20 seconds East (more or less) a distance of 256.09 feet (more or less) to the southeast corner of said Lot 3B, said corner being marked by a rebar with survey cap "1019"; thence, South 25 degrees 09 minutes 50 seconds East (more or less) a distance of 132.38 feet (more or less); thence, South 14 degrees 38 minutes 21 seconds West (more or less) a distance of 186.02 feet (more or less); thence, curving to the right on a curve with a radius of 230.00 feet, a delta of 16 degrees 30 minutes 34 seconds, an arc length of 66.27 feet, and a chord bearing of South 66 degrees 39 minutes 30 seconds East (more or less) and chord distance of 66.04 feet (more or less) to a point along the northerly edge of previously platted Fairway Hills Drive right-of-way; thence, South 18 degrees 35 minutes 19 seconds West (more or less) a distance of 62.17 feet (more or less) to the point of beginning; said tract of land contains 9.0 acres, more or less

PARCEL ACREAGE

Approximately 9.0 acres

LOCATION

Along Sheridan Lake Road, Heidiway Lane and Fairway

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	Hills Drive
EXISTING ZONING	Medium Density Residential w/PRD
SURROUNDING ZONING	
North:	Medium Density Residential W/PRD
South:	Low Density Residential District
East:	Medium Density Residential w/PRD
West:	Low Density Residential District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	02/27/2004
REPORT BY	Vicki L. Fisher

### RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install street light conduit and to waive the requirement to dedicate additional right-of-way as per Chapter 16.16 of the Rapid City Municipal Code be denied.

### GENERAL COMMENTS:

**(This Staff Report was revised on March 28, 2004. All revised and/or added text is shown in bold text.)** This item was continued at the March 25, 2004 Planning Commission meeting at the applicant's request. Staff is meeting with the applicant on April 1, 2004 to discuss this item as well as an associated Preliminary Plat. Staff will notify the Planning Commission at the April 8, 2004 meeting if the staff recommendation is revised as a result of the meeting. The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to waive the requirement to install street light conduit and to waive the requirement to dedicate additional right-of-way along Sheridan Lake Road as it abuts the subject property. In addition, the applicant has submitted a Preliminary Plat to subdivide the subject property into 16 residential Lots. The applicant has indicated that the lots will eventually be replatted into 32 townhome lots. The applicant has also submitted a Major Amendment to the Fairway Hills Planned Residential Development to allow a townhome development in lieu of a garden home development. Lastly, the applicant has submitted a Fence Height Variance to allow an eight foot high fence in the front yard setback along Sheridan Lake Road. (See companion items #04PL023, 04PD018 and 04FV002.)

On October 6, 2003, the City Council approved a Layout Plat to subdivide the subject property as identified on this Preliminary Plat.

The property is located east of the intersection of Heidiway Lane and Sheridan Lake Road and is a part of the Fairway Hills Planned Residential Development. Currently, the property

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is void of any structural development.

**STAFF REVIEW:**

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

**Sheridan Lake Road:** Sheridan Lake Road is located along the west lot line of the subject property and is classified as a principal arterial street on the City's Major Street Plan requiring a minimum 100 foot wide right-of-way. Currently, Sheridan Lake Road is located within a 72 foot wide right-of-way. As such, the plat document must be revised to show the dedication of 14 additional feet along Sheridan Lake Road. The Preliminary Plat identifies the dedication of a 14 foot wide public right-of-way easement in lieu of right-of-way. The applicant has indicated that the easement is being proposed in lieu of right-of-way in order to construct a fence along the west lot line as it abuts Sheridan Lake Road. However, staff has noted that a fence is not permitted in a public right-of-way easement similar to the restrictions imposed with allowing structures in right-of-way. In addition, the right-of-way has consistently been obtained on other previous platting requests along Sheridan Lake Road. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to dedicate the additional right-of-way as requested be denied.

**Street Light Conduit:** The applicant has submitted an alternate street light design to allow yard lights in lieu of street lights. In particular, the lights will be located on the individual lots in lieu of right-of-way. The applicant is proposing to maintain the street lights through covenants imposed by a Home Owners Association. However, the City has experienced problems with allowing street lights outside of right-of-way. In particular, Home Owners Association have failed to maintain the lights over an extended period leaving subdivision(s) with inadequate lighting. It becomes problematic for the City to require the maintenance when the lights are located on private property. In addition, it is an expense for the City to maintain the lights since they vary from the standard design. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install street light conduit be denied. The applicant could request that the City not install the street lights at this time if it can be demonstrated that lights are not needed. However, if at some point it becomes unsafe without lights, the conduit would already be in the ground limiting any disturbance of landscaping to place the street lights.

**Legal Notification Requirement:** The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the March 25, 2004 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.