

STAFF REPORT

April 8, 2004

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**No. 04SV019 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter and sidewalk as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 36**

GENERAL INFORMATION:

|                            |   |
|----------------------------|---|
| PETITIONER                 | Franklin Simpson for Fountain Springs Development   |
| REQUEST                    | <b>No. 04SV019 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter and sidewalk as per Chapter 16.16 of the Rapid City Municipal Code</b>  |
| EXISTING LEGAL DESCRIPTION | On a parcel of land described by metes and bounds as beginning at the southwest corner of Tract L of the Fountain Springs Business Park: Thence first course: N89°23'38"E - 203.63 feet; thence second course: S00°36'37"E - 555.42 feet; thence third course: S89°25'48"W - 124.89 feet; thence fourth course: N08°41'27"W - 560.92 feet; said parcel located in the SW1/4 NE1/4 and NW1/4 SE1/4 of Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, containing 2.0949 acres, more or less and to be further described in platting as: Tract N of the Fountain Springs Business Park formerly a portion of Tract C-R-3 of Fountain Springs Golf Course and Gardens located in the SW1/4 NE1/4 and NW1/4 SE1/4 of Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE             | Approximately 2.0949 acres  |
| LOCATION                   | Along Fountain Plaza Drive between N. Plaza Drive and South Plaza Drive   |
| EXISTING ZONING            | General Agriculture District  |
| SURROUNDING ZONING         |   |
| North:                     | Light Industrial District   |
| South:                     | General Commercial District   |
| East:                      | General Agriculture District  |
| West:                      | General Agriculture District  |
| PUBLIC UTILITIES           | City sewer and water  |
| DATE OF APPLICATION        | 03/11/2004  |
| REPORT BY                  | Vicki L. Fisher   |

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RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter and sidewalk as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulation:

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

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb and gutter along Fountain Plaza Drive as it abuts the subject property. In addition, the applicant has submitted a Layout and Preliminary Plat to subdivide the subject property creating a 2.0949 acre lot and leaving a non-transferable balance. The applicant has also submitted a Rezoning request to change the zoning designation of the subject property from General Agriculture District to Light Industrial District. (See companion items #04PL036 and 04RZ018.)

The subject property is located approximately 210 feet south of the N. Plaza Drive/Fountain Plaza Drive intersection on the west side of Fountain Plaza Drive. Currently, the subject property is void of any structural development.

STAFF REVIEW:

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

Fountain Plaza Drive: Fountain Plaza Drive is located along the east lot line of the subject property and is classified as an industrial street requiring a minimum 59 foot wide right-of-way with a minimum 26 foot wide paved surface, curb, gutter, street light conduit, water and sewer. Currently, curb and gutter are not constructed along Fountain Plaza Drive. Requiring the improvement of Fountain Plaza Drive 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 improvements along Fountain Plaza Drive be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the April 8, 2004 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.