



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

## Growth Management Department

300 Sixth Street

Vicki Fisher, Urban Planner III  
Growth Management Department  
city web: [www.rcgov.org](http://www.rcgov.org)

Phone: 605-394-4120  
Fax: 605-394-6636  
e-mail: [vicki.fisher@rcgov.org](mailto:vicki.fisher@rcgov.org)

### MEMORANDUM

TO: Rapid City Council

FROM: Vicki L. Fisher, Urban Planner III

DATE: July 7, 2004

RE: To waive the requirement to provide proof of legal entity which will provide the mechanism for street maintenance and snow removal on all proposed subdivision dedicated right-of-ways for proposed Lots 1 and 2 of Steen Subdivision

On May 17, 2004, the City Council approved a Preliminary Plat to subdivide approximately 80 acres into two parcels, leaving an approximate 30 acre non-transferable balance. The two lots are proposed to be identified as Lot 1 and 2 of Steen Subdivision and are located southeast of the intersection of Anderson Road and South Side Drive, directly south of the City's waste-water treatment plant.

On June 24, 2004, the applicant's consultant submitted a letter requesting a waiver of the requirement to provide proof of a legal entity which will provide the mechanism for street maintenance and snow removal as stipulated by Chapter 16.20.040.P of the Subdivision Regulations. (A copy of the letter is attached for your review.) In addition, the letter states that the Pennington County Highway Department engineer has approved the road maintenance agreement and, as such, the applicant's consultant is requesting that the City waive the requirement.

The Subdivision Regulations states "that proof of legal entity which will provide the mechanism for street maintenance and snow removal on all proposed subdivision dedicated right-of-ways shall be submitted for all plats within the extraterritorial jurisdiction of the city". The applicant has submitted a copy of a proposed road maintenance agreement; however, the City Attorney's Office has indicated that the proposed agreement does not provide provisions for snow removal or a financial guarantee to insure maintenance of the street(s). The Subdivision Regulations also state



EQUAL HOUSING  
OPPORTUNITY

EQUAL OPPORTUNITY EMPLOYER

that a Home Owners Association or a Road District are alternatives to a road maintenance agreement to insure road maintenance and snow removal as well as secure financial guarantee for the cost of the maintenance. Without proof of a legal entity to provide the mechanism for street maintenance and snow removal as well as a financial guarantee, there is no assurance that the streets will be maintained while located outside of the City limits. Upon annexation, it then becomes the responsibility of the City to maintain and/or repair the streets.

**Recommendation:** Staff is recommending that the request to waive the requirement to provide proof of a legal entity which will provide the mechanism for street maintenance and snow removal as stipulated by Chapter 16.20.040.P of the Subdivision Regulations be denied.



SPERLICH  
Consulting, Inc.  
821 1/2 Columbus St.  
Rapid City, SD 57701

June 24, 2004

Honorable Mayor and Common Council  
City of Rapid City  
300 Sixth Street  
Rapid City, SD 57701

RE: SW 1/4 NE 1/4 and W 66' of NW 1/4 NE 1/4  
Steen Subdivision

We are respectfully requesting a waiver of the requirement that "proof of a legal entity which will provide the mechanism for street maintenance and snow removal on all proposed subdivision dedicated right of ways shall be submitted for all plats within the extra territorial jurisdiction of the City" on the above referenced plat. There are unique circumstances which we feel justify the waiver. They are:

Two large lots are being platted. One with an existing house and the other to be sold to the City as part of their wastewater treatment facility. The alternatives outlined in Section 16.20.040P (5) do not appear to appropriately address this situation. A Homeowners Association or Road District are not options.

The property straddles the extraterritorial 3 mile limit line and needed to be approved by Rapid City and Pennington County. Pennington County has approved our Road Maintenance Agreement (see attached) and it will be filed in conjunction with the plat. The County's approved agreement is just as binding as the alternatives in Section 16.20 040P (5).

It seems redundant to have a County approved Road Maintenance Agreement and a separate City approved "mechanism."

We are asking to be on the July 13<sup>th</sup>, 2004 Public Works Committee agenda to request this waiver. Thank you for your consideration.

Sincerely,

Douglas Sperlich, PE

DS/ar

Cc: Gordon Howie

Telephone: (605) 721-4040 • Fax: (605) 721-4048 • E-mail: dougsperlich@rushmore.com

Engineering • Surveying • Planning

PREPARED BY:

Sperlich Consulting, Inc.  
821½ Columbus Street  
Rapid City, SD 57701  
Ph: (605) 721-4040  
June 10, 2004

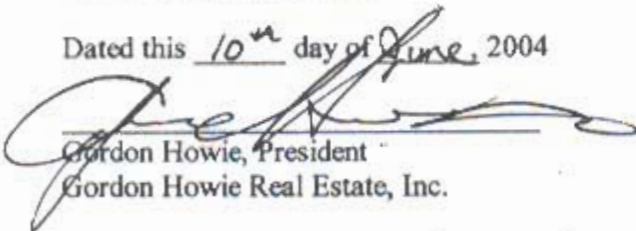
**MAINTENANCE GUARANTEE  
SUBDIVISION IMPROVEMENTS**

WE THE UNDERSIGNED HEREBY GUARANTEE that the improvements shown on the Plat of the property legally described as:

Lot 1 and Lot 2 Less Dedicated Right-Of-Way, Steen Subdivision, Located in the E1/2 of Section 25,  
T1N, R8E, BHM, Pennington County, South Dakota

said Plat dated \_\_\_\_\_, 2004, and approved by the Pennington County Board of Commissioners on \_\_\_\_\_, 2004, shall be maintained in accordance with the design standards of Ordinance 34, the Pennington County Subdivision Regulations, and shall continue to conform to all aspects of the construction plans approved by the Pennington County Board of Commissioners until such time as an appropriate entity, approved by Pennington County Board of Commissioners, is established to assume such maintenance.

Dated this 10<sup>th</sup> day of June, 2004

  
Gordon Howie, President  
Gordon Howie Real Estate, Inc.

Signed, subscribed and sworn to before me a Notary Public, on this 10<sup>th</sup> day of June, 2004, at Rapid City, South Dakota, by the person or persons known to me to be as described in the foregoing instrument

Anna M. Oatis  
Notary Public for the State of South Dakota

My Commission Expires: 1-23-2009 (SEAL)