

STAFF REPORT  
September 23, 2004

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**No. 04SV051 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and improve pavement as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 25**

GENERAL INFORMATION:

PETITIONER	FMG, Inc. for Bill Freytag
REQUEST	<b>No. 04SV051 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and improve pavement as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	Lots 12 and 13 of Madisons Subdivision located in the SW1/4 of Section 13, T2N, R7E, BHM and the unplatted balance of the NE1/4 of the NW1/4 of Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 11.1 acres
LOCATION	West of Haines Avenue and north of Mallridge Subdivision
EXISTING ZONING	Medium Density Residential District
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	Low Density Residential District
East:	Low Density Residential District
West:	Pennington County Zoning
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	8/27/2004
REVIEWED BY	Vicki L. Fisher / David L. Johnson

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and improve pavement along Haines Avenue as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulation:

1. Prior to submittal of a Final Plat application, the applicant shall sign a waiver of right to protest any future assessments for the installation of curb, gutter, sidewalk, street light

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conduit, water, sewer and pavement improvements.

**GENERAL COMMENTS:**

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water and sewer and improve pavement along Haines Avenue as it abuts the subject property. In addition, the applicant has submitted a Layout Plat to subdivide the subject property into 43 single family residential and/or townhome lots. The applicant has also submitted an Initial Planned Residential Development request to allow a combination of single family residential and townhome development on the subject property. (See companion items #04PL121 and 04PD054.)

On January 5, 2004, the City Council approved a Comprehensive Plan Amendment to the Major Street Plan to relocate Country Road approximately 100 feet north of the section line highway as shown on this Layout Plat.

The property is located in the northwest corner of the Country Road/Haines Avenue intersection. Currently, a mobile home is located on the west half of the property.

**STAFF REVIEW:**

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

**Haines Avenue:** Haines Avenue is located along the east lot line and is classified as a principal arterial street requiring that it be located in a minimum 100 foot wide right-of-way. In addition, it is the responsibility of the developer to construct an arterial street to a collector street standards with a minimum 40 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, Haines Avenue is located in a 100 foot wide right-of-way and constructed with an approximate 24 foot wide paved surface. Sidewalk, curb, gutter, street light conduit water and sewer main have not been constructed along this section of Haines Avenue. Requiring the improvement of Haines Avenue as it abuts the subject property will result in a discontinuous street section. The Planning Commission and the City Council have granted similar Variance requests when the requirement to improve the street would result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the improvements along Haines Avenue 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 not been returned as of this writing. Staff will notify the Planning Commission at the September 23, 2004 Planning Commission meeting if this requirement is not met.