

STAFF REPORT  
January 5, 2006

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**No. 05SV078 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer and water and additional pavement and to waive the requirement to dedicate additional Right-of-Way as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 40**

GENERAL INFORMATION:

PETITIONER

BFA, Inc. for Wal-Mart Stores, Inc.

REQUEST

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EXISTING

LEGAL DESCRIPTION

A tract of land located in Sections 34 and 35, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the northeast corner of the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 35, T1N, R7E, BHM, Pennington County, South Dakota, a  $\frac{1}{2}$  inch pipe, thence S00°02'58"E along the section 1/16 line, a distance of 868.95 feet to the Point of Beginning; Thence first course: S00°02'58"E along the section 1/16 line, a distance of 467.74 feet to the southeast corner of the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 35, T1N, R7E, BHM, a 5/8" rebar w/cap "4225"; Thence second course: S00°02'58"E along the section 1/16 line a distance of 1331.33 feet to a 5/8" rebar w/cap "4225", which is the southeast corner of the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 35, T1N, R7E, BHM; Thence third course: N89°24'46"W along the east-west Section  $\frac{1}{4}$  line of same Section 35, a distance of 1326.32 feet to a 5/8" rebar w/cap "4225" which is the west Section  $\frac{1}{4}$  corner of Section 35, T1N, R7E, BHM; Thence fourth course: S89°42'51"W, a distance of 104.64 feet along the east-west Section  $\frac{1}{4}$  line of Section 34, T1N, R7E, BHM to a 5/8" rebar w/cap "4225" located on the east right of way line of South Dakota Highway 16 and the beginning of a nontangent curve, concave to the northwest, having a radius of 2492.00 feet, a delta angle of 15°55'17", a chord bearing of N15°16'33"E, and a chord length of 690.25 feet; Thence fifth course: Northeasterly along said curve and the east right of way of South Dakota Highway 16, through an angle of 15°55'17", and an arc length of 692.47 feet to a 5/8" rebar w/cap "4225" which is the beginning of a nontangent line; Thence sixth course: N82°41'04"W

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along the east right of way of South Dakota Highway 16, a distance of 50.00 feet to a 5/8" rebar w/cap "4225"; Thence seventh course: N07°18'56"E along the east right of way line of South Dakota Highway 16, a distance of 658.85 feet to a 5/8" rebar w/cap "4225"; Thence eighth course: N07°18'56"E, along the east right of way line of South Dakota Highway 16, a distance of 598.55 feet; Thence ninth course: S83°18'29"E a distance of 1144.76 feet to the Point of Beginning, all located in the W½ of the NW¼ of Section 35, T1N, R7E, BHM, and in the SE¼ of the NE¼ of Section 34, T1N, R7E, BHM, Pennington County, South Dakota. Said parcel contains 53.717 acres, more or less.

PARCEL ACREAGE	Approximately 53.717 acres
LOCATION	East of U.S. Highway 16 and north of Sammis Trail
EXISTING ZONING	General Agriculture District
SURROUNDING ZONING	
North:	General Commercial District (Planned Commercial Development)
South:	Highway Services District - General Agriculture District (Pennington County)
East:	General Agriculture District - Limited Agriculture District (Planned Commercial Development)
West:	General Commercial District (Planned Commercial Development)
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	11/14/2005
REVIEWED BY	Vicki L. Fisher / Bob Dominicak

**RECOMMENDATION:**

**Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to provide additional pavement along U.S. Highway 16 be tabled;**

**That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along U.S. Highway 16 be approved with the following stipulation:**

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1. **Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements;**

**That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer and to dedicate additional right-of-way along the internal access easement be approved with the following stipulation:**

1. **Upon submittal of a Final Commercial Development Plan, pedestrian access shall be provided through the site, lighting shall be provided throughout the parking lot and along the access easement as needed, a separation shall be provided between the access easement and the parking area and utilities shall be extended as needed to serve proposed Lot 2 as well as adjacent Lots 1, 3 and 4;**

**That the Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the existing Sammis Trail be approved with the following stipulations:**

1. **The first 220 feet of Sammis Trail as it extends south from the intersection of the new Sammis Trail and the rearage road shall be constructed with a minimum 26 foot wide paved surface; and,**
2. **Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the balance of the improvements;.**

**GENERAL COMMENTS:**

**(Update, December 26, 2005. All revised and/or added text is shown in bold print.) This item was continued at the December 8, 2005 Planning Commission meeting to allow the applicant to submit a correct legal description of the subject property and to submit additional information specific to the associated Layout Plat. On December 8, 2005, staff met with several of the applicant's representatives to discuss these outstanding issues. On December 12, 2005, the applicant submitted a revised Layout Plat, a revised conceptual landscaping plan and revised structural elevations of the proposed commercial building. In addition, on December 19, 2005, a revised traffic analysis was submitted for review and approval.**

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer, and additional pavement and to dedicate additional right-of-way. In addition, the applicant has submitted an Initial Planned Commercial Development to allow a 217,572 square foot department store and a convenience store to be constructed on the subject property. (See companion item 05PD077.)

On October 27, 2005, the Planning Commission and, subsequently, the City Council, continued a Layout Plat to subdivide the subject property into six commercial lots and a Rezoning request to change the zoning designation of the subject property from General Agriculture District to General Commercial District. In particular, these items were continued

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to allow the applicant to address traffic and utility concerns. (See companion items 05PL129 and 05RZ047.)

As noted above, on December 12, 2005, the applicant submitted a revised Layout Plat expanding the boundaries to include the property located between the existing Sammis Trail right-of-way and the new Sammis Trail right-of-way. In particular, the revised Layout Plat identifies the subdivision of 53.17 acres into six commercial lots leaving a 59.75 acre unplatted balance. In addition, the applicant has submitted a Planned Development Designation application for 7.947 acres of the property located south of the new Sammis Trail right-of-way and a revised Rezoning request to include the entire 53.17 acres. The applicant has also submitted a Variance to the Subdivision Regulations to waive the requirement to install additional pavement, curb, gutter, sidewalk, water and sewer along U.S. Highway 16, to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the existing Sammis Trail and to install curb, gutter, sidewalk, street light conduit, water and sewer and to dedicate additional right-of-way along the proposed access easement. In addition, the applicant has submitted an Initial Planned Commercial Development for the 45.77 acres located north of the new Sammis Trail right-of-way. In particular, the Initial Planned Commercial Development proposed to allow the construction of a 217,572 square foot "Wal-Mart Supercenter" to be located on proposed Lot 2. (See companion items #05RZ057, 05PD077, 05PD090 and 05PL129.)

The property is located in the northeast corner of the intersection of Moon Meadows Drive and U.S. Highway 16 and is currently void of any structural development.

STAFF REVIEW:

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

**U.S. Highway 16:** U.S. Highway 16 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. A principal arterial street must be located in a minimum 100 foot wide right-of-way and constructed with a minimum 40 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, U.S. Highway 16 is located in a 300 foot wide right-of-way and constructed with northbound and southbound lanes consisting of two 12 foot wide lanes on each leg. However, the Traffic Impact Study, submitted by the applicant, identifies additional lanes must be provided along U.S. Highway 16 to accommodate the traffic generated by the proposed use(s). As such, the applicant concurs that the Variance to the Subdivision Regulations to waive the requirement to install additional pavement be tabled.

Requiring the installation of curb, gutter, sidewalk, street light conduit, water and sewer along this section of U.S. Highway 16 as it abuts the subject property will result

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in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the improvements along U.S. Highway 16 be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

**“Existing” Sammis Trail:** Sammis Trail currently exists along the south lot line of the subject property. The applicant has indicated that once an alternate access to the properties located south of the subject property is provided by the construction of the “new” Sammis Trail and a commercial street extending south to the “existing” Sammis Trail location, the “existing” Sammis Trail will be vacated. As such, any improvements along the existing Sammis Trail right-of-way will be temporary until the alternate access provided and the Sammis Trail right-of-way is vacated. Staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer be approved with the stipulation that the first 220 feet of Sammis Trail as it extends south from the intersection of the new Sammis Trail and the rearage road be constructed with a minimum 26 foot wide paved surface. In addition, staff is recommending that the applicant sign a waiver of right to protest any future assessment for the improvements.

**Access Easement:** The Layout Plat identifies an access easement through Lot 2 serving as access to Lot 1. The access easement is classified as a commercial street requiring that it be located in a minimum 59 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The applicant has indicated that the access easement will be located in a 26 foot wide access easement and constructed with a 26 foot wide paved surface. As such, the applicant has requested a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalks, street light conduit, water and sewer and to dedicate the additional right-of-way along the access easement. In particular, the applicant has requested that the Final Planned Commercial Development serve as a tool to insure pedestrian access through the site, lighting, separation between the parking area and the access street and utility extensions as needed. As such, staff is recommending that the Variance to the Subdivision Regulations as requested be approved with the stipulation that upon submittal of a Final Commercial Development Plan, pedestrian access be provided through the site, lighting be provided throughout the parking lot and along the access easement as needed, a separation be provided between the access easement and the parking area, and utilities be extended as needed to serve proposed Lot 2 as well as adjacent Lots 1, 3 and 4.

**Notification Requirement:** As of this writing, the receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the January 5, 2006 Planning Commission meeting if this requirement has not been met.