

STAFF REPORT
February 9, 2006

No. 05SV087 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and 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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GENERAL INFORMATION:

PETITIONER	Rob Livingston
REQUEST	No. 05SV087 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement and to waive the requirement to dedicate additional right-of-way as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	Tract A of Government Lots 1 and 2, Section 18, T1N, R7E, BHM, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 - 31 and Common Lots 1 - 3 of Block 1; and Lots 1 - 12 and Common Lot 1 of Block 2, Blakes Estates, Section 18, T1N, R7E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 35.23 acres
LOCATION	6620 West Highway 44
EXISTING ZONING	General Agriculture District
SURROUNDING ZONING	
North:	General Agriculture District
South:	Suburban Residential District
East:	Suburban Residential District
West:	Limited Agriculture District - Low Density Residential District
PUBLIC UTILITIES	Rapid Canyon Sanitary District and private water
DATE OF APPLICATION	12/29/2005
REVIEWED BY	Vicki L. Fisher / Emily Fisher

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 pavement along the

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section line highways and to waive the requirement to dedicate the right-of-way be denied;

That the Variance to the Subdivision Regulations to waive the requirement to install curb and gutter along the interior streets be denied;

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk and street light conduit along the interior streets be approved with the following stipulations:

1. A sidewalk shall be constructed along one side of the street; and,
2. 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, sewer and pavement along West S.D. Highway 44 be approved with the following stipulation:

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

GENERAL COMMENTS:

(Update, January 31, 2006. All revised and/or added text is shown in bold print.) This item was continued at the January 26, 2006 Planning Commission meeting at the applicant's request. The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the section line highways; to install curb, gutter, sidewalk, street light conduit, water and sewer along West S.D. Highway 44; and, to install curb, gutter, sidewalk and street light conduit along the interior streets. In addition, the applicant has submitted a Layout Plat to subdivide the subject property, a 35.23 acre parcel, into 43 residential lots. (See companion item #05PL251.)

The property is located approximately one-half mile west of the City limits of Rapid City on the north side of West S.D. Highway 44. Currently, a single family residence and accessory structures are located on the property.

STAFF REVIEW:

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

Section Line Highway: A north-south section line highway and an east-west section line highway extend through the subject property. The section line highways are classified as sub-collector streets requiring that they be constructed with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. In addition, the 66 foot wide section line highway must be dedicated as right-of-way. To date, the section line highways are unimproved. The applicant has requested a Variance to the Subdivision Regulations to waive the requirement to improve the section line highways and to dedicate

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the section line highways as right-of-way. However, the Planning Commission and the City Council have required that section line highways be improved or vacated. Only when the adjacent property owner declines to sign the vacation of right-of-way petition has a Variance to the Subdivision Regulations been obtained. As such, staff is recommending that the Variance to the Subdivision Regulations as requested be denied.

West S.D. Highway 44: West S.D. Highway 44 is located along the south lot line of the subject property and is classified as a principle arterial street on the City's Major Street Plan requiring that the street be located in a minimum 100 foot wide right-of-way and constructed with a minimum 40 foot wide paved surface, curb, gutter, street light conduit, sidewalk, water and sewer. Currently, West S.D. Highway 44 is located in a 150 foot wide right-of-way with an approximate 36 foot wide paved surface. Requiring the construction of the additional improvements along West S.D. Highway 44 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 be approved as requested with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Interior Streets: The applicant has indicated that the interior streets will be paved with sewer. In addition, the applicant is requested a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and water along the interior streets. The Layout Plat identifies the proposed lots ranging in size from .508 acres to 3.135 acres; however a large majority of the lots are approximately one-half acre in size. The City and County have noted that other developments, such as Countryside South, also have approximate one-half acre lots. The requirement to provide curb and gutter was waived as a part of the development of Countryside South and staff has received numerous complaints regarding the lack of drainage control without the presence of curb and gutter. This Layout Plat is reflective of the Countryside South development. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb and gutter be denied.

Staff has also noted that a Variance to the Subdivision Regulations to waive the requirement to install sidewalks along both sides of the streets has been granted on similar developments with the stipulation that a sidewalk be provided on one side of the street. This insures a safe place for pedestrians to walk and children to play. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along both sides of the street be approved with the stipulation that sidewalk be provided along one side of the street and 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 been returned.** Staff has received several telephone calls voicing concern with the proposed development.