

STAFF REPORT  
October 25, 2007

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**No. 07SV051 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, additional pavement or additional extension of water or sewer main in any adjoining right-of-way, and the requirement to dedicate additional right-of-way**

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**ITEM 40**

GENERAL INFORMATION:

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| APPLICANT      | Kevin Greener for Pacific Steel and Recycling  |
| AGENT          | Janelle Finck for Fisk Land Surveying & Consulting Engineers   |
| PROPERTY OWNER | Pacific Hide & Fur Depot   |
| REQUEST        | <b>No. 07SV051 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, additional pavement or additional extension of water or sewer main in any adjoining right-of-way, and the requirement to dedicate additional right-of-way</b> |

EXISTING  
LEGAL DESCRIPTION

A portion of Lot A of Biernbaum Subdivision, located in the NW1/4 SW1/4 of Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, as shown on the plat recorded July 10, 1997 and recorded in Book 28 of Plats on Page 27, more fully described as follows: Beginning at the southwest corner of said Lot A of Biernbaum Subdivision, said corner being marked by a rebar with survey cap "RW FISK 6565"; thence, northerly along the westerly edge of said Lot A of Biernbaum Subdivision and along the easterly edge of Highway 79 right-of-way, N00°01'09"W, a distance of 225.01 feet more or less, to an angle point of said Lot A of Biernbaum Subdivision, said corner being marked by a rebar with survey cap "LS4208" and said corner being coincident with the southwest corner of Lot B of Biernbaum Subdivision, as shown on the plat recorded July 10, 1997 and recorded in Book 28 of Plats on Page 27; thence, easterly along the northerly edge of said Lot A of Biernbaum Subdivision and along the southerly edge of Lot B of Biernbaum Subdivision, N89°51'25"E, a distance of 206.31 feet more or less, to a point on the westerly edge of Amended Lot H2 of Lot A of Biernbaum Subdivision, as shown in the plat filed April 8, 2003 and recorded in Book 10 of Highway Plats on Page 111, said point being marked by a rebar with survey cap "LS 6119"; thence, southerly along the westerly edge of said

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---

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---

**ITEM 40**

Amended Lot H2 of Lot A of Biernbaum Subdivision, S00°05'02"W, a distance of 225.68 feet more or less, to the south line of said Lot A of Biernbaum Subdivision, also being the southwest corner of said Amended Lot H2 of Lot A of Biernbaum Subdivision, said corner being marked by a "SDDOT Monument"; thence, westerly along the southerly line of said Lot A of Biernbaum Subdivision, N89°57'30"W, a distance of 205.90 feet more or less, to the point of beginning.

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| PROPOSED<br>LEGAL DESCRIPTION | A portion of Lot A of Biernbaum Subdivision, located in the NW1/4 SW1/4, Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE                | Approximately 1.0 acres   |
| LOCATION                      | 4280 South Highway 79   |
| EXISTING ZONING               | Heavy Industrial District   |
| SURROUNDING ZONING            |   |
| North:                        | No Use District   |
| South:                        | Heavy Industrial District   |
| East:                         | Heavy Industrial District   |
| West:                         | Heavy Industrial District   |
| PUBLIC UTILITIES              | City water and sewer  |
| DATE OF APPLICATION           | 8/30/2007   |
| REVIEWED BY                   | Travis Tegethoff / Mary Bosworth  |

**RECOMMENDATION:**

**Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb and gutter along the east-west rearage road 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;**

**That the Variance to the Subdivision Regulations to waive the requirement to install sewer along the east-west rearage road be approved with the following stipulation:**

**No. 07SV051 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, additional pavement or additional extension of water or sewer main in any adjoining right-of-way, and the requirement to dedicate additional right-of-way**

---

**ITEM 40**

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 street light conduit along the east-west rearage road 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;**

**That the Variance to the Subdivision Regulations to waive the requirement to install water, pavement, and dedicate additional right-of-way along the east-west rearage road be denied;**

**That the Variance to the Subdivision Regulations to waive the requirement to install curb and gutter along the north-south rearage road 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;**

**That the Variance to the Subdivision Regulations to waive the requirement to install water along the north-south rearage road 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;**

**That the Variance to the Subdivision Regulations to waive the requirement to install street light conduit along the north-south rearage road 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; and,**

**That the Variance to the Subdivision Regulations to waive the requirement to install sewer and pavement along the rearage road be denied.**

**GENERAL COMMENTS: This staff report has been revised as of October 17, 2007. All revised and/or added text is shown in bold print. This item was continued to the October 25, 2007 Planning Commission meeting to allow the applicant to submit the required information. On October 17, 2007 the applicant submitted additional information for review.**

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, additional pavement or additional extension of water or sewer main in any adjoining right-of-way, and the requirement to dedicate additional right-of-way as per Chapter 16.16 of the Rapid City Municipal Code. In

**No. 07SV051 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, additional pavement or additional extension of water or sewer main in any adjoining right-of-way, and the requirement to dedicate additional right-of-way**

---

**ITEM 40**

addition, the applicant has submitted a Preliminary Plat application to subdivide the property. The applicant is proposing to create one parcel approximately one acre in size and leave the remaining ten acres of the property as an unplatted balance. (See companion item #07PL118)

The property is located east of South Highway 79 and south of Minnesota Street. Currently, the property is void of any structural development.

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

East-West Rearage Road: The rearage road runs east and west along the south side of the proposed lot. The rearage road is classified as a commercial/industrial street requiring that the street be located in a minimum 59 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, street light conduit, water and sewer. Currently, the rearage road is located in a 50 foot wide right-of-way and constructed with approximately 30 feet of paved surface. The east-west rearage road provides access to the proposed development and the properties east of the proposed development.

Curb and Gutter for the East-West Rearage Road: The rearage road is an existing 30 foot wide paved road without curb and gutter. The developer has not generally been required to reconstruct the existing paved road if they can demonstrate adequate drainage of the existing street; rather they have been required to sign a waiver of right to protest an assessment project for future improvements. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb and gutter be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements and a drainage report demonstrating adequate drainage of the existing street shall be submitted for review and approval.

**On October 17, 2007 the applicant submitted the required drainage information for review and approval demonstrating adequate drainage of the existing street.**

Sewer for the East-West Rearage Road: The rearage road is an existing 30 foot wide paved road without sewer. The developer has not generally been required to reconstruct the existing paved road; rather they have been required to sign a waiver of right to protest an assessment project for future improvements. In addition, the surrounding properties are currently being served by City sewer. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install sewer be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Street Light Conduit for the East-West Rearage Road: Minnesota Street is an existing 30 foot wide paved road without street light conduit. The developer has not generally been required

**No. 07SV051 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, additional pavement or additional extension of water or sewer main in any adjoining right-of-way, and the requirement to dedicate additional right-of-way**

---

**ITEM 40**

to reconstruct the existing paved road; rather they have been required to sign a waiver of right to protest an assessment project for future improvements. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install street light conduit be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Water for the East-West Rearage Road: Water is currently constructed in the rearage road right-of-way. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install water be denied.

Pavement for the East-West Rearage Road: The rearage road is an existing 30 foot wide paved road and currently meets the minimum 26 foot wide paved surface for an industrial street. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install additional pavement be denied.

Right-of-Way for the East-West Rearage Road: The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to dedicate 4.5 additional feet of right-of-way along the east-west rearage road as it abuts the subject property. However, the City Council and the Planning Commission have routinely required that the additional right-of-way be dedicated as a part of the review and approval of a plat. In particular, obtaining the right-of-way as required at the time the property is subdivided precludes the taxpayers from having to purchase the right-of-way when it is needed in the future. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate the 4.5 feet of additional right-of-way as per Chapter 16.16 of the Rapid City Municipal Code be denied.

North-South Rearage Road: The north-south rearage road runs north and south along the east side of the proposed lot. The rearage road is classified as a commercial/industrial street requiring that the street be located in a minimum 59 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, street light conduit, water and sewer. Currently, the rearage road is located in an 80 foot wide right-of-way and constructed with approximately 30 feet of paved surface. The north-south rearage road provides access to the proposed development and the properties north of the proposed development.

Curb and Gutter for the North-South Rearage Road: The rearage road is an existing 30 foot wide paved road without curb and gutter. The developer has not generally been required to reconstruct the existing paved road if they can demonstrate adequate drainage of the existing street; rather they have been required to sign a waiver of right to protest an assessment project for future improvements. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb and gutter be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements and a drainage report demonstrating adequate drainage

**No. 07SV051 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, additional pavement or additional extension of water or sewer main in any adjoining right-of-way, and the requirement to dedicate additional right-of-way**

---

**ITEM 40**

of the existing street shall be submitted for review and approval.

**On October 10, 2007 the applicant submitted the required drainage information for review and approval demonstrating adequate drainage of the existing street.**

Water for the North-South Rearage Road: The rearage is an existing 30 foot wide paved road without water. The developer has not generally been required to reconstruct the existing paved road; rather they have been required to sign a waiver of right to protest an assessment project for future improvements. In addition, the surrounding properties are currently being served by City water. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install water be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Street Light Conduit for the North-South Rearage Road: Minnesota Street is an existing 30 foot wide paved road without street light conduit. The developer has not generally been required to reconstruct the existing paved road; rather they have been required to sign a waiver of right to protest an assessment project for future improvements. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install street light conduit be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Sewer for the North-South Rearage Road: Sewer is currently constructed in the rearage road right-of-way. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install sewer be denied.

Pavement for the North-South Rearage Road: The rearage road is an existing 30 foot wide paved road and currently meets the minimum 26 foot wide paved surface for an industrial street. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install additional pavement be denied.

**Legal Notification Requirement: The receipts from the certified mailings have been returned.**