

STAFF REPORT  
April 24, 2008

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**No. 08SV020 - Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer and dedicate additional right-of-way as per Chapter 16 of the Rapid City Municipal Code**

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**ITEM 52**

GENERAL INFORMATION:

APPLICANT	Herman Jones
AGENT	Janelle Finck for Fisk Land Surveying & Consulting Engineers
PROPERTY OWNER	Herman and Wanda Jones Revocable Trusts
REQUEST	<b>No. 08SV020 - Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer and dedicate additional right-of-way as per Chapter 16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	Lot 1 of Fort Hayes Subdivision and Lot 4 Revised of Lot 4, located in the NE1/4 SE1/4, Section 34, T1N, R7E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 7.28 acres
LOCATION	2255 and 2505 Fort Hayes Drive
EXISTING ZONING	Suburban Residential District - Highway Services District (Pennington County)
SURROUNDING ZONING	
North:	Highway Services District (Pennington County)
South:	Highway Services District (Pennington County)
East:	Highway Services District (Pennington County)
West:	Suburban Residential District - Highway Services District (Pennington County)
PUBLIC UTILITIES	Private water and sewer
DATE OF APPLICATION	3/28/2008
REVIEWED BY	Travis Tegethoff / Karley Halsted

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along U.S. Highway 16 as per Chapter 16 of the Rapid City Municipal Code be approved with the

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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 pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Fort Hayes Drive as per Chapter 16 of the Rapid City Municipal Code 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 pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the access easement as per Chapter 16 of the Rapid City Municipal Code be approved; and,

That the Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way along the access easement as per Chapter 16 of the Rapid City Municipal Code be denied.

GENERAL COMMENTS: The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install pavement, curb, gutter, sidewalk, street light conduit, water and sewer as per Chapter 16 of the Rapid City Municipal Code. In addition, the applicant has submitted a Preliminary Plat (#08PL043) application to reconfigure two lots.

The property is currently zoned Highway Services District and Suburban Residential District in Pennington County and is located southwest of the intersection of Fort Hayes Drive and U.S. Highway 16. Currently a commercial development and a single family residence are located on the existing lots. The proposed subdivision will not increase the density of 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 eastern lot line of the proposed subdivision. U.S. Highway 16 is on the State Highway System and is identified as an arterial street on the Major Street Plan requiring a minimum 100 foot of right-of-way. The developer is responsible for constructing an arterial street to a collector street standard. Any expansion of the road beyond a collector street standard is considered over sizing and is not the developer's responsibility. Currently, U.S. Highway 16 is located in a 400 foot wide right-of-way with four paved travel lanes. Since U.S. Highway 16 is an existing paved road and the required improvements would create a discontinuous street section, Planning Commission and City Council have not required the developer to reconstruct the existing paved road. However, the Planning Commission and City Council have required the property owner 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 additional pavement, curb, gutter, sidewalk,

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street light conduit, water and sewer be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Fort Hayes Drive: Fort Hayes Drive is located along the north lot line of the property and 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, sidewalk, water and sewer. Currently, Fort Hayes Drive is located in a minimum 66 foot wide right-of-way with a 22 foot wide paved surface. Since Fort Hayes Drive is an existing paved road and the required improvements would create a discontinuous street section, Planning Commission and City Council have not required the developer to reconstruct the existing paved road. However, the Planning Commission and City Council have required the property owner 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 additional pavement, curb, gutter, sidewalk, street light conduit, water and sewer be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Private Access Easement: The access easement is located between the two lots and 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, sidewalk, water and sewer. Currently, the access easement is undeveloped with an easement width of 53 feet. Since the proposed subdivision will not increase the density of development and the lots currently have access from other streets staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install additional pavement, curb, gutter, sidewalk, street light conduit, water and sewer be approved. However, the City Council and the Planning Commission have routinely required that the additional easement width be provided as a part of the review and approval of a plat. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to dedicate the 6 feet of additional right-of-way be denied.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify Planning Commission at the April 24, 2008 Planning Commission meeting if the legal notification requirements have not been met.