

STAFF REPORT
October 9, 2008

No. 08OA011 - Ordinance Amendment adding the installation of curb and gutter, street lights and sidewalks on State Highways to the Subdivision Exceptions by Amending Section 16.24.015 of the Rapid City Municipal Code

ITEM 8

GENERAL INFORMATION:

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| APPLICANT/AGENT | City of Rapid City |
| PROPERTY OWNER | N/A |
| REQUEST | No. 08OA011 - Ordinance Amendment adding the installation of curb and gutter, street lights and sidewalks on State Highways to the Subdivision Exceptions by Amending Section 16.24.015 of the Rapid City Municipal Code |
| DATE OF APPLICATION | 9/12/2008 |
| REVIEWED BY | Monica Heller / Not Assigned |

RECOMMENDATION:

Staff recommends that the Ordinance Amendment to allow the installation of curb and gutter, street lights and sidewalks on State Highways to be waived through the exception process by amending Section 16.24.015 of the Rapid City Municipal Code be approved.

GENERAL COMMENTS: During the review of existing development requirements by the Council Development Committee, staff suggested that the ordinance be amended to allow exceptions to be granted to waive requirements for curb and gutter, street lights and sidewalks on State highways. Currently, subdivision variances are required. On July 17, 2007, the Council Development Committee concurred with the staff recommendation and recommended approval of these changes. On September 4, 2008, the Planning Commission authorized staff to advertise for a public hearing on an Ordinance Amendment to allow the waiver of the installation of curb and gutter, street lights and sidewalks on State highways through the Subdivision Exception process rather than requiring a Subdivision Variance.

STAFF REVIEW: Currently, if land adjacent to a State highway is subdivided, the installation of curb and gutter, street lights and sidewalks is required, unless a variance to the Subdivision Ordinance is requested and approved. On some State highways, the South Dakota Department of Transportation will not allow these improvements in their right-of-way. The exception process will allow for a more streamlined process since the exception can be handled administratively rather than requiring the applicant to apply for a variance. Staff recommends that the Ordinance Amendment to amend Chapter 16.24.015 to add the installation of curb and gutter, street lights and sidewalks on State Highways to the Subdivision Exceptions be approved as follows:

16.24.015 Exceptions.

- A. The Director of Growth Management or their designee may approve exceptions to the length to width requirement for residential lots found in Section 16.12.190(G) of this

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code and the requirements to install curb and gutter, street lights and sidewalks on State Highways found in Sections 16.16.030, 16.16.085 and 16.16.090 of this code. Exceptions to these requirements shall be submitted to the Growth Management Department in writing by a person proposing a subdivision of property that would not meet these requirements.

- B. In considering whether to grant the requested exception, the Director of Growth Management or their designee shall consider the topography or other conditions present on the property that are beyond the control of the subdivider and would result in undue hardship for the subdivider if the specific requirements of the code were enforced. In addition, the arrangement, character, extent, location and grade of all lots shall be in accordance with good land planning principles and shall be considered in relation to existing and planned streets, topographical conditions, orientation to vistas and public convenience and safety. The Director of Growth Management or their designee may grant an exception to the requirement if, in their opinion, the granting of the exception would be consistent with the previously described considerations, good land planning principles and will not be otherwise detrimental to the public interest.
- C. The Director of Growth Management or their designee shall have 13 working days to grant or deny the exception. If a request for an exception has not been granted or denied within 13 working days the request will be deemed to have been approved. If the requested exception to the requirement is denied, the Director of Growth Management or their designee shall communicate the reason for the denial to the applicant in writing.
- D. Any applicant that disputes the denial of an exception may appeal the denial to the City Council. Such appeal shall be submitted to the Growth Management Department in writing within 7 working days of the written denial. Any appeal of a denial to a requested exception shall be placed on the agenda of the next regularly scheduled Public Works Committee meeting occurring after the written appeal has been received. The City Council will have final approval of whether or not to grant an exception that has been appealed.
- E. The Growth Management Department is to keep a log of each exception that is granted. The log shall be readily accessible and made available for the public to view upon request. In addition, a copy of the exceptions log shall also be kept on the city's website. An exception shall be posted to the log as soon as possible after it is granted.