

STAFF REPORT

June 9, 2009

No. 09FV005 - Fence Height exception to allow a six foot high fence in the front yard setback

GENERAL INFORMATION:

APPLICANT/AGENT	Don and Lori Ebsen
PROPERTY OWNER	Don and Lori Ebsen
REQUEST	No. 09FV005 - Fence Height exception to allow a six foot high fence in the front yard setback
EXISTING LEGAL DESCRIPTION	Lot 21 of Block 2 of South Pointe Subdivision, Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.21 Acres
LOCATION	4827 Mandalay Lane
EXISTING ZONING	Low Density Residential District (Planned Development Designation)
SURROUNDING ZONING	
North:	Low Density Residential District (Planned Development Designation)
South:	Low Density Residential District (Planned Development Designation)
East:	Low Density Residential District (Planned Development Designation)
West:	Low Density Residential District (Planned Development Designation)
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	5/7/2009
REVIEWED BY	Travis Tegethoff / Mary Bosworth

RECOMMENDATION:

Staff recommends that the Fence Height exception to allow a six foot high fence in the front yard setback be approved with the following stipulations:

- 1. Prior to approval by City Council, approval in writing by the City Engineer to allow the fence to be located in the existing 8 foot minor drainage and utility easements shall be obtained;**
- 2. The fence shall be relocated outside of the public right-of-way within six months of City Council action on the fence height exception;**

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- 3. A five foot high fence that is not more than thirty percent solid be allowed as per Section 17.50.355 of the Rapid City Municipal Code within the front yard setback.**

GENERAL COMMENTS: (Update, June 4, 2009. All revised and/or added text is shown in bold print.) This item was continued to the June 9, 2009 Public Works Committee meeting to allow the applicant to meet with staff at the site. On May 28, 2009, staff met with the applicant on the property. As such, staff recommends that the fence height exception be approved with the above stated stipulations.

The property is located north of South Pointe Drive and west Mandalay Lane. The property has two frontages, one on South Pointe Drive and one on Mandalay Lane. The applicant installed a 6 foot high wood privacy fence within the required 25 foot front yard setback along South Pointe Drive.

The existing fence is approximately 80 feet in length with 25 linear feet located within the front yard setback adjacent to South Pointe Drive. The applicant is seeking approval to allow a 6 foot high wood privacy fence located within the required front yard setback of the property, adjacent to South Pointe Drive.

STAFF REVIEW: Section 15.40.040 of the Rapid City Municipal Code states that, a variance to the fence height requirements can be granted by the City Council if the exception is not contrary to the public interest and the exception will not be injurious to the surrounding neighborhood. Staff has reviewed the proposed Fence Height Exception as it relates to the applicable provisions of the Rapid City Municipal Code and has noted the following issues:

Sight Triangle: Staff noted that no fence shall be placed in the required sight triangle as provided in Section 17.50.335 except a fence may be allowed in the required sight triangle if the fence is not more than 30 percent solid as per Section 15.40.080 of the Rapid City Municipal Code. Staff also noted that any object shall be deemed an obstruction if it is located within any applicable sight triangle and the object is between two and one-half feet and 10 feet above the edge of the roadway as per Section 17.50.335(B)(1) of the Rapid City Municipal Code. Staff noted that the 6 foot fence along the south property line adjacent to South Point Drive is within the sight triangle of South Pointe Drive and Mandalay Lane. The existing 6 foot fence must be removed from the sight triangle or a zoning variance must be obtained.

On May 28, 2009, the applicant indicated that a five foot high chain link fence could be constructed within the site triangle that would comply with Section 17.50.335 allowing a fence that is not more than 30 percent solid. As such, staff recommends that a five foot high fence that is not more than thirty percent solid be allowed within the front yard setback.

South Pointe Drive and Mandalay Lane: South Pointe Drive and Mandalay Lane are identified as sub-collector streets as they abut the property. Due to a lower level of traffic on a sub-collector street the need for a screening fence along a sub-collector is reduced. Section 15.40.070 of the Rapid City Municipal Code states that no fence or wall shall be erected in

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public right-of-way, except as approved by the Common Council. It appears the fence along the south property line is located in the South Pointe Drive right-of-way. As such, staff recommends that the fence be removed from the right-of-way.

Staff recommends that the fence is relocated outside of the public right-of-way within six months of City Council action on the fence height exception.

Front Yard Setback: Fences and walls may be erected or maintained; provided that no fence or wall over four feet in height shall be erected or maintained in any front yard as per Section 15.40.020 of the Rapid City Municipal Code. On corner lots, fences shall be permitted in one of the front yards provided the fence does not extend any closer to the public right-of-way than the building line of a principal building which has been permitted within the standard front yard set-back as per Section 15.40.020 of the Rapid City Municipal Code. The location of the 6 foot tall fence in close proximity to the sidewalk and the public right-of-way may result in a negative visual impact for the surrounding neighbors and any vehicles traveling along South Pointe Drive or pedestrians traveling along the sidewalk. As such, staff is recommending that the Fence Height Exception to allow a 6 foot high fence in the required 25 foot front yard setback of a Low Density Residential Zoning District be denied.

On May 28, 2009, the applicant indicated that a five foot high chain link fence could be constructed within the front yard setback that would comply with Section 17.50.335 allowing a fence that is not more than 30 percent solid. As such, staff recommends that a five foot high fence that is not more than thirty percent solid be allowed within the front yard setback.

Rear Yard Setback: Fences and walls located along rear yards shall not exceed a height of 6 feet. However, no fence or wall shall be placed in designated easements unless approved in writing by the City Engineer. Staff noted that there is an existing 8 foot minor drainage and utility easement along the west property line. As such, staff recommends that the 6 foot fence along the west property line shall be located outside of the existing easement or obtain approval in writing by the City Engineer or the applicant shall vacate a portion of the existing 8 foot minor drainage and utility easement.

Staff noted that documentation is being drafted to obtain approval in writing by the City Engineer to allow the fence to be located in the existing 8 foot minor drainage and utility easements. As such, staff recommends that prior to City Council approval in writing from the City Engineer shall be obtained allowing the fence to be located in the existing 8 foot minor drainage and utility easements.