

STAFF REPORT  
October 21, 2010

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**No. 10SV021 - Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Sun Ridge Road and the Section Line Highway and to waive the requirement to dedicate right-of-way along the Section Line Highway per Chapter 16 of the Rapid City Municipal Code**

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**ITEM 26**

GENERAL INFORMATION:

APPLICANT	James Steele
AGENT	Janelle Finck for Fisk Land Surveying & Consulting Engineers
PROPERTY OWNER	James Steele
REQUEST	<b>No. 10SV021 - Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Sun Ridge Road and the Section Line Highway and to waive the requirement to dedicate right-of-way along the Section Line Highway per Chapter 16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	That portion of the SE1/4 SE1/4 SE1/4 of Section 25, T2N, R6E, lying South and West of Lot H-1 of said SE1/4 SE1/4 SE1/4, BHM, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lot 1 of S and S Subdivision located in the SE1/4 of Section 25, T2N, R6E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 4.4 acres
LOCATION	Along the south side of Sun Ridge Road west of the intersection of Sun Ridge Road and Aztec Drive
EXISTING ZONING	Limited Agriculture District (Pennington County)
SURROUNDING ZONING	
North:	General Agriculture District (Pennington County)
South:	General Agriculture District (Pennington County)
East:	General Agriculture District (Pennington County)
West:	Limited Agriculture District (Pennington County)
PUBLIC UTILITIES	Private on-site wastewater and well

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**ITEM 26**

DATE OF APPLICATION                      9/24/2010

REVIEWED BY                                Vicki L. Fisher / Mary Bosworth

**RECOMMENDATION:**

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit and water along Sun Ridge Road and the section line highway and to waive the requirement to dedicate right-of-way along the section line highway as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulations:

1. Sun Ridge Road shall continually be maintained with a 24 foot wide chip seal surface;
2. Prior to approval by the City Council, the applicant shall sign a waiver of right to protest any future assessments for the street improvements; and,

That the Variance to the Subdivision Regulations to waive the requirement to install sewer along Sun Ridge Road and the section line highway be denied.

**GENERAL COMMENTS:**

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 Sun Ridge Road and the section line highway and to waive the requirement to dedicate right-of-way along the section line highway as they abut the property. In addition, the applicant has submitted a Layout Plat (File #10PL073) to subdivide the property creating a 4.4 acre lot leaving a 74.35 acre unplatted balance. The lot is to be known as Lot 1 of S and S Subdivision.

On August 4, 2008, the City Council approved a Layout Plat (File #08PL084) to create two lots, which included this property. In addition, a Variance to the Subdivision Regulations (File #08SV033) was approved to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Sun Ridge Road and the section line highway with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements and that Sun Ridge Road be constructed with a minimum 24 foot wide chip seal surface. An Exception was also granted to allow 44 dwelling units with one point of access in lieu of a maximum of 40 dwelling units. However, since no grading, construction or other improvements have been initiated within two years of the date of approval, the Layout Plat has expired.

On March 3, 2009, the Pennington County Zoning Board of Adjustment approved a Variance to reduce the minimum lot size requirement in the Limited Agriculture District from 10 acres to 4.4 acres for the proposed lot as shown on this plat document.

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The property is located along the south side of Sun Ridge Road, west of the intersection of Sun Ridge Road and Aztec Drive. 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:

**Sewer:** Chapter 16.16.050 of the Rapid City Municipal Code states that “sewer collection systems shall be installed in each subdivision within Rapid City and surrounding platting jurisdictions in accordance with City specifications”. The applicant has indicated that the proposed lot will be served by an individual on-site wastewater system. However, dry sewer must be provided even if on-site wastewater systems are proposed to be utilized in the interim in accordance with the provisions of Chapter 16.16.050 of the Rapid City Municipal Code. The Source Water Protection Study recommends the installation of dry sewer mains in accordance with the adopted City Standards rather than approving Variances to waive the requirement to insure connection to a central sewer system once the adjacent properties develop and the dry sewer can be connected to the City’s system. In addition, the Rapid City’s Master Utility Plan identifies the property within “Tier One” which implies that the area is an anticipated near term development project in lieu of a long range development project. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install sewer be denied.

**Sun Ridge Road:** Sun Ridge Road is located along the north lot line of the property and is classified as a collector street on the City’s Major Street Plan requiring that it be located within a minimum 60 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, Sun Ridge Road is located within a 60 foot wide right-of-way and constructed with a 24 foot wide chip seal surface.

As previously noted, the Variance to the Subdivision Regulations submitted with the previous Layout Plat to subdivide the property into two lots was approved by Council with the stipulations that the applicant sign a waiver of right to protest any future assessment for the improvements and that Sun Ridge Road be constructed with a minimum 24 foot wide chip seal surface. On November 6, 2006, the City Council also approved a Variance to the Subdivision Regulations to allow a 24 foot wide chip seal surface along a portion of Sun Ridge Road located west of this site as it extends through Brentwood Subdivision. As such, requiring the improvements of pavement, curb, gutter, sidewalk, street light conduit and water along Sun Ridge Road as it abuts the property will result in a discontinuous street design. In the past, the Planning Commission and the City Council have supported similar Variance requests when the improvements would result in a discontinuous street design.

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Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit and water be approved with the stipulations that Sun Ridge Road shall continually be maintained with a 24 foot wide chip seal surface and that the applicant sign a waiver of right to protest any future assessment for the improvement.

Section Line Highway: An unimproved section line highway is located along the south lot line of the property and is classified as lane place street requiring that it be located within a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. In the past, the Planning Commission and the City Council have required that a section line highway be vacated in lieu of granting a Variance to the Subdivision Regulations to waive the requirement to improve the street. Exceptions have been made when the adjacent property owners would not participate in the vacation of right-of-way petition. The United States Forest Service is the owner of the south half of the section line highway. Staff noted that when section line highways provide access to publicly owned land, the section line highway cannot be vacated by statute. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate the right-of-way and to improve this portion of the section line highway be approved with the stipulation 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 not been returned. Staff will notify the Planning Commission at the October 21, 2010 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.