

STAFF REPORT

June 24, 2004

No. 04SV036 - Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement as per Chapter 16.16 of the Rapid City Municipal Code

ITEM 15

GENERAL INFORMATION:

PETITIONER	Bill Freytag
REQUEST	No. 04SV036 - Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	Lot 1, Block 4, Tyler Knue Subdivision and a portion of the NW1/4 NW1/4 of Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota and a parcel of land described by metes and bounds as beginning at the northeast corner of Lot 1, Block 4, Tyler Knue Subdivision; thence first course: N00°17'18"E a distance of 131.86 feet; thence second course: N89°36'51"W a distance of 145.05 feet; thence third course: S00°17'18"W a distance of 132.11 feet; thence fourth course: S89°44'51"E a distance of 145.05 feet to the point of beginning; located in the NW1/4 NW1/4 of Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lot 1R, Block 4, Tyler Knue Subdivision, Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .7508 acres
LOCATION	900 Nicole Street
EXISTING ZONING	General Agriculture District (County)
SURROUNDING ZONING	
North:	General Agriculture District (County)
South:	Low Density Residential II District
East:	Low Density Residential District
West:	Low Density Residential II District
PUBLIC UTILITIES	City sewer and water

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DATE OF APPLICATION 05/28/2004

REVIEWED BY Vicki L. Fisher / Dave Johnson

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirements to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement as per Chapter 16.16 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 construct the northern 131.86 feet of Brooke Street as it abuts the subject property. In addition, the applicant has submitted a Preliminary Plat to enlarge an existing lot leaving a 5.5992 acre non-transferable balance.

On August 20, 2001, the City Council approved a Preliminary and Final plat to create the existing lot. On January 19, 2004, the City Council vacated the section line highway located along the north lot line.

The property is located in the northwest corner of the Brooke Street/Nicole Street intersection. Currently, a single family residence and a shed are located on the proposed lot.

STAFF REVIEW:

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

Brooke Street: Brooke Street is located along the east lot line of the subject property and is classified as a sub-collector street requiring that it be located in a minimum 52 foot wide right-of-way and constructed with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. A 52 foot wide right-of-way was dedicated to the north lot line of the subject property as a part of the original plat creating the existing lot. However, only the southern 100 foot of Brooke Street has been constructed with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. To date, the northern 131.86 feet of Brooke Street has not been constructed.

Chapter 16.24.010 of the Subdivision Regulations states that "... where the common council finds that extraordinary hardships due to unusual topographic or other conditions, beyond the control of the subdivider, may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured." There is no apparent topographic hardship that would preclude the construction of this section of Brooke Street. In addition, it appears that a portion of the unimproved section of Brooke Street serves as access to a barn located on the unplatted balance located east of the subject property. As such, staff is recommending that the Variance to the Subdivision

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Regulations to waive the requirement to construct this portion of Brooke Street be denied.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the June 24 2004 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.