

STAFF REPORT

August 7, 2003

No. 03PD032 - Major Amendment to a Planned Residential Development to reduce a section line setback from 58 feet to 48 feet **ITEM 14**

GENERAL INFORMATION:

PETITIONER	Renner and Sperlich Engineering Co. for Werner Construction LLC
REQUEST	No. 03PD032 - Major Amendment to a Planned Residential Development to reduce a section line setback from 58 feet to 33 feet
EXISTING LEGAL DESCRIPTION	Lot 17R and 18 of Block 4, Fox Run Subdivision located in the NW1/4 NW1/4, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 3.33 acres
LOCATION	At the west end of Fox Run Drive
EXISTING ZONING	Low Density Residential District w/Planned Residential Development
SURROUNDING ZONING	
North:	General Commercial District w/Planned Commercial Development
South:	Low Density Residential District
East:	Medium Density Residential District w/Planned Residential and Office Commercial District w/Planned Commercial Development
West:	Office Commercial w/Planned Commercial Development
PUBLIC UTILITIES	City Sewer and Water
DATE OF APPLICATION	06/12/2003
REPORT BY	Jeff Marino

RECOMMENDATION:

Staff recommends that the Major Amendment to a Planned Residential Development to reduce a section line setback from 58 feet to **48 feet be approved with the following stipulations:**

Urban Planning Division Recommendations:

- 1. The building shall be constructed as shown on the site plan with 48 foot setbacks from the section line highway for the house and 51 foot setbacks from the section line highway for any area in front of the the garage doors;**

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2. **The minimum required side yard setbacks shall be reduced to 11.3 feet in accordance with the approved site plan; however, any expansion of the structure shall be in compliance with the underlying zoning district provisions unless a major amendment to the Planned Residential Development is approved;**
3. **Prior to the issuance of a building permit the applicant shall obtain an 11-6-19 SDCL Review for the proposed driveway in the section line highway;**
4. **Lots 17R and 18 shall be used for single family residential dwelling units only; and,**
5. **Addresses for the structures located on Lots 17R and 18 shall be posted adjacent to Fox Run Drive at the time Building Permits are issued.**

GENERAL COMMENTS: (Updates to the staff report are shown in bold.) This request was continued from the July 24, 2003 Planning Commission meeting to allow staff additional time to review the applicant's request. The applicant submitted a revised site plan on July 15, 2003. The revised site plan shows a 15 foot setback from the section line highway for the main structure. This is consistent with setbacks required for other Planned Residential Developments.

The submitted site plan also shows a driveway proposed for construction in the section line highway.

Staff met with the applicant on July 11, 2003 to discuss the proposed reduction in setbacks. The applicant stated that the reduction in Section Line Highway setback to 33 feet was not the minimum adjustment necessary. The applicant requested to submit a revised site plan showing a hammerhead turn around on Lot 18 and a reduction in Section Line Highway setback on Lot 17R from 58 feet to 45 feet or 46 feet instead of the originally proposed 33 foot setback. This would essentially be a 12 or 13 foot setback from the Section Line Highway instead of the proposed zero (0) foot setback.

The applicant is requesting to reduce the required side yard setback from a section line highway from 58 feet to 33 feet. Exhibit A which was submitted as part of this request shows a proposed house to be constructed abutting the existing section line highway. The proposed reduction in the required side yard setback is located along the west property line of Lot 17R and Lot 18 of Fox Run Subdivision. Currently, there are no structures located on lots.

Section 17.12.050 (D) states, "Set Back from Section Lines. Principal and accessory buildings and structures shall be set back no less than fifty-eight feet from any section line. No set back is required from any legally vacated section line; however, if the vacated section line forms a property line, the applicable side, rear or front yard setbacks shall be observed."

The original Fox Run Planned Residential Development was approved in 1985 to allow a mixture of detached single family dwellings, patio homes, and townhouses. A Major Amendment to the Planned Residential Development was approved in 1992 requiring that Fox Run Drive be extended to provide access to the adjacent property to the west. A

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stipulation of that approval stated that Fox Run Drive could not connect to U.S. Highway 16. In 1995, the Layout and Preliminary Plats were approved for thirteen lots in Fox Run. This proposed platting represented the final phase of development proposed for the Fox Run Planned Residential Development. The Final Plat for this last phase was approved by the City Council on March 16, 1998.

A Major Amendment to the Fox Run Planned Residential Development was approved on July 23, 1998. The approved site plan for this request shows a 20 foot wide access way with a 40 foot radius cul-de-sac to serve as access to Lot 17R and "Lot 18R". This access way is located in the existing Section Line Right of Way; in addition, the approved site plan shows this as an access and utility easement. The setbacks were reduced to 15 feet from the proposed access way at that time.

The Preliminary Plat which was approved with six stipulations on June 15, 1998 included a Lot 18R; however, the Final Plat which was approved with three stipulations on June 5, 2000 did not include Lot 18R. The six stipulations which were approved with the Layout Plat on June 15, 1998 were:

1. That a major drainage easement shall be dedicated along the existing ravine on Lots 17R and 18R;
2. That plans for an emergency vehicle turnaround at the northern end of the proposed access easement shall be submitted for approval;
3. That a drainage site plan shall be submitted for approval;
4. That a non-access easement must be provided where this subdivision lies adjacent to the Highway 16 right-of-way;
5. That a major amendment to the Fox Run PRD is granted to increase in density and to allow a lot to not have 25 feet of frontage on a public street; and
6. That plans for the construction of the access easement to City standards must be submitted for approval.

STAFF REVIEW: Staff has reviewed the request for a Major Amendment to the Planned Residential Development, and has noted the following issues:

Highway U.S. 16 Corridor Study: The draft Highway U.S. 16 Corridor Study identifies the area adjacent to the proposed reduction in required minimum side yard setbacks as the location service road. There are currently plans to allow a service road to be routed through the section line right of way to allow safer access to and from U.S. Highway 16. If the reduction in setbacks were to be approved, the future service road would negatively impact the development on Lots 17R and 18. Staff is recommending that the request to reduce the required side yard setbacks be denied in order to allow any future service roads to be constructed without negatively impacting any adjacent structures. **The applicant has submitted a revised site plan requesting that the structure be setback 48 feet from the section line. This request is consistent with past approvals for the Planned Developments reducing the front yard setbacks on houses from 25 feet to 15 feet and**

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25 feet to 18 feet for areas in front of garage doors. This allows cars to park in the driveway without overhanging the sidewalks or right-of-way.

Section Line Highway: South Dakota Codified Law 11-6-19 states, "...whenever any such municipal council has adopted a comprehensive plan, then no street, park or other public way, ground, place, space, no public building or structure, no public utility, whether publicly or privately owned, if covered by the comprehensive plan or any adopted part thereof, shall be constructed or authorized in the municipality or within its subdivision jurisdiction until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". Due to this state law any authorization of construction in the section line highway requires review by the Planning Commission. Prior to the issuance of a building permit, the applicant must submit an application for this review.

In addition, the applicant should be aware that the reduced setback could negatively impact the residential structure due to the noise impacts resulting from the location near a potentially high volume commercial street.

Staff is recommending the request for a Major Amendment to a Planned Residential Development to reduce a section line highway setback from 58 feet to **48 feet be approved with the stated stipulations.**

The green cards from the required notification of surrounding property owners have not been returned at the time of writing this report. A sign stating that a Major Amendment to a Planned Residential Development has been requested and is posted on the property. Staff shall notify the Planning Commission at the July 10, 2003 Planning Commission meeting, if these conditions have not been met. Staff has not received any comments regarding the proposed use at the time of writing this report.