

STAFF REPORT

May 4, 2006

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**No. 06SV019 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and street light conduit along U.S. Highway 16 and to allow platting of half of the Right-of-Way along the section line highway**

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**ITEM 25**

GENERAL INFORMATION:

PETITIONER	City of Rapid City
REQUEST	<b>No. 06SV019 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and street light conduit along U.S. Highway 16 and to allow platting of half of the Right-of-Way along the section line highway</b>
EXISTING LEGAL DESCRIPTION	The unplatted portion of Tract A of Tract 1, all located in the W1/2 SW1/4, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 4 and 5, Owen Hibbard Subdivision, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 7.77 acres
LOCATION	South Highway 16A and Promise Drive
EXISTING ZONING	Office Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	Public District
South:	General Commercial District (Planned Commercial Development)
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	4/4/2006
REVIEWED BY	Vicki L. Fisher / Bob Dominicak

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and street light conduit along U.S. Highway 16 and to allow platting of half of the Right-of-Way along the section line highway be approved

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with the following stipulation:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements.

**GENERAL COMMENTS:**

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, and street light conduit along U.S. Highway 16 and to allow platting half of the right-of-way along a section line highway as they abut the subject property.

On December 4, 2004, a Preliminary Plat was submitted to subdivide the subject property into two lots. The Preliminary Plat will also be considered at the May 4, 2006 Planning Commission meeting. (See companion item 04PL185.)

The property is located in the northwest corner of the intersection of U.S. Highway 16 and Golden Eagle 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:

**U.S. Highway 16:** U.S. Highway 16 is located along a portion of the east lot line of the subject property and is classified as a principal arterial street on the City's Major Street Plan. A principal arterial street must be located in a minimum 100 foot wide right-of-way and constructed with a minimum 40 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, U.S. Highway 16 is located in a 300 foot wide right-of-way and constructed with northbound and southbound lanes consisting of two 12 foot wide lanes on each leg. Requiring the installation of curb, gutter, sidewalk and street light conduit along this section of U.S. Highway 16 as it abuts the subject property will result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the improvements along U.S. Highway 16 be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

**Promise Road:** Promise Road is located along the west side of the subject property. A portion of the street is located within a section line highway. The west half of the section line highway is located on an adjacent property under different ownership than the subject property. As such, the applicant has submitted a Variance to the Subdivision Regulations request to allow platting half of a right-of-way. In particular, the applicant is proposing to dedicate the east half of the street as right-of-way and construct the west half of the street within the section line highway. The section line highway, even though not dedicated right-of-way, continues to allow public vehicular and pedestrian access as well as the location of public utilities. As such, staff is recommending that the Variance to the Subdivision

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Regulations be approved as requested.

Legal Notification Requirement: As of this writing, the receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the May 4, 2006 Planning Commission meeting if this requirement has not been met. Staff has not received any calls or inquires regarding this proposal.