

STAFF REPORT
January 4, 2007

No. 06OA008 - Ordinance Amendment Revising Section 16.04.320 B(3) to Allow Exceptions for Unplatted Properties when Land is acquired by Federal, State, County or Municipal Authority for Highway Purposes

ITEM 23

GENERAL INFORMATION:

PETITIONER	City of Rapid City
REQUEST	No. 06OA008 - Ordinance Amendment Revising Section 16.04.320 B(3) to Allow Exceptions for Unplatted Properties when Land is Acquired by Federal, State, County or Municipal Authority for Highway Purposes
DATE OF APPLICATION	12/11/2006
REVIEWED BY	Marcia Elkins / Not Assigned

RECOMMENDATION:

Staff recommends that the Ordinance Amendment revising Section 16.04.320 B(3) to allow exceptions for unplatted properties when land is acquired by federal, state, county or municipal authority for highway purposes be approved.

GENERAL COMMENTS: On November 30, 2006, Kent Hagg of Whiting Hagg and Hagg submitted a letter requesting the Rapid City Planning Commission sponsor an amendment to the City Subdivision regulation to allow the transfer of unplatted properties of less than 40 acres when the area of the property was reduced to less than forty acres as a result of the City, County or State acquiring highway right-of-way. Currently, a parcel of forty acres or more can be transferred without going through subdivision review. Mr. Hagg requested that the exceptions for platted properties created by ordinance amendment in 2000 at the request of Pennington County be extended to unplatted parcels as well.

On December 7, 2006, the Planning Commission, after a brief discussion, authorized staff to proceed with public hearings to consider the revisions to the Rapid City Municipal Code to provide an exception for parcels that have been reduced to less than forty acres in size as a result of the City, County or State acquiring land for right-of-way.

STAFF REVIEW: Currently, parcels of land exceeding 40 acres in size, or property that has been properly platted, or parcels of land transferred by identical description as recorded prior to June 30, 1990 can be transferred and recorded without further subdivision review. On June 19, 2000, the Rapid City Council adopted an ordinance amendment to allow those platted parcels or those parcels previously transferred by identical description to be transferred without additional subdivision review even though the City, County or State may have acquired a portion of the property for street right-of-way or highway lots. This issue had come to light as a result of the County's Nemo Road project where Pennington County was acquiring numerous portions of lots leaving the balances as non-transferable remainders. The amendments addressed two of the three situations, but did not address situation when a parcel would have been 40 acres or more in size but because of right-of-

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way acquisition the balance drops below 40 acres and can no longer be transferred without subdivision review.

The proposed amendment would allow for the transfer of less than 40 acres when that situation results from the acquisition of property for right-of-way or highway lots. The proposed revision would provide equity to the landowner from which a governmental agency must obtain land for highway purposes as it would allow the transfer of the balance without the land owner incurring any additional expense. With the addition of this exception, all property which was previously exempt from subdivision review would be treated the same whether it is exempt because it was transferred by identical description prior to 1990, it was previously platted or it had been more than 40 acres in size prior to the right-of-way acquisition.

The proposed amendment would appear to be in the public interest as well. The proposed amendment would not result in an increase in the number of potential development sites as no additional lots could be created, only the remaining balance could be transferred. The change would assist governmental agencies in the negotiation for land needed for roadway improvements and expansions. The amendment could potentially reduce the cost of obtaining such land as the landowners avoid the costs of platting and improvements that may be associated with platting the property. Thus the proposed amendment could make it easier and cheaper for governmental agencies to obtain land needed for important road construction projects.

The lack of inclusion of the forty acre exemption was an oversight when the amendments were adopted in 2000. At the time that the County was acquiring land for the Nemo Road reconstruction project, that situation did not occur. Staff believes that the change is consistent with the policy established at that time, provides equity to property owners and supports important public interest goals related to the acquisition of right-of-way and highway lots in an efficient and cost effective manner.

Staff recommends approval of the ordinance amendment to provide the same exception allowing the transfer of parcels that incorporate less than 40 acres as a result of the acquisition of right-of-way and highway lots. The City Attorney's Office is currently drafting the specific ordinance language. Staff will provide that information to the Planning Commission at the January 4, 2007 meeting.