

STAFF REPORT  
September 4, 2008

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**No. 08SV044 - Variance to the Subdivision Regulations to waive the ITEM 40 requirement to dedicate additional public right-of-way, to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement as per Chapter 16 of the Rapid City Municipal Code**

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GENERAL INFORMATION:

APPLICANT	Thomas Estes
AGENT	D.C. Scott Surveyors, Inc.
PROPERTY OWNER	Thomas L. Estes
REQUEST	<b>No. 08SV044 - Variance to the Subdivision Regulations to waive the requirement to dedicate additional public right-of-way, to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement as per Chapter 16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	The unplatted parcel of land lying north of Neck Yoke Road east of Aero Road and south of Lot 1 of Estes Subdivision, located in the W1/2 W1/2 SW1/4, Section 15, T1S, R7E, BHM, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lot 6 of Estes Subdivision, located in the W1/2 W1/2 SW1/4, Section 15, T1N, R7E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 2.56 acres
LOCATION	Northeast and northwest of the intersection of Neck Yoke Road and Aero Road
EXISTING ZONING	General Agriculture District - Limited Agriculture District
SURROUNDING ZONING	
North:	Limited Agriculture District
South:	General Agriculture District
East:	Low Density Residential District
West:	General Agriculture District - Limited Agriculture District
PUBLIC UTILITIES	Private water and sewer
DATE OF APPLICATION	8/7/2008
REVIEWED BY	Travis Tegethoff / Karley Halsted

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RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate additional public right-of-way, to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement as per Chapter 16 of the Rapid City Municipal Code be denied without prejudice.

GENERAL COMMENTS: The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to dedicate additional public right-of-way, to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement as per Chapter 16 of the Rapid City Municipal Code. In addition, the applicant has submitted a Layout Plat to create a 2.56 acre lot and leave the remainder of the property as an unplatted balance.

On July 20, 2002 City Council acknowledged the applicant's withdrawal of a Layout Plat (#02PL062) that included the proposed lot.

STAFF REVIEW:

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

Neck Yoke Road: Neck Yoke Road is located along the southern lot line of the property and is classified as a proposed minor arterial on the Major Street Plan requiring that it be located in a minimum 100 foot wide right-of-way. The developer is responsible for constructing the arterial street to a collector street standard. Any expansion of the road beyond a collector street standard is considered over sizing and is not the developer's responsibility. Currently, Neck Yoke Road is located in a 66 foot wide right-of-way with an approximate 24 foot wide paved surface with no curb, gutter, water, sewer, street light conduit or sidewalks. The applicant has requested a Variance to the Subdivision Regulations to waive the requirements to dedicate additional public right-of-way, to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement as per Chapter 16 of the Rapid City Municipal Code. As previously indicated, Neck Yoke Road is an approximate 24 foot wide paved surface with no curb, gutter, street light conduit. Providing additional pavement width and constructing these improvements would create a discontinuous street section. Staff is recommending that the associated Layout Plat (#08PL115) be denied without prejudice to allow the applicant to resolve the zoning issue with Pennington County and to allow the applicant to submit the required information. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install additional pavement curb, gutter, sidewalk and street light conduit along Neck Yoke Road as per Chapter 16.16 of the Rapid City Municipal Code be denied without prejudice.

The City Council and the Planning Commission have required that the additional right-of-way be dedicated as a part of the review and approval of a plat. In particular, obtaining the right-of-way as required at the time the property is subdivided precludes the taxpayers from

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having to purchase the right-of-way when it is needed in the future. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to dedicate the additional right-of-way be denied without prejudice.

Aero Road: Aero Road is located along the western lot line of the property and is classified as a lane place street requiring that it be located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, street light conduit, water and sewer. Currently, Aero Road is located within a 30 foot wide roadway easement with an approximate 12 foot wide gravel surface with no curb, gutter, water, sewer, street light conduit or sidewalks. The applicant has requested a Variance to the Subdivision Regulations to waive the requirements to dedicate additional public right-of-way, to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement as per Chapter 16 of the Rapid City Municipal Code. Staff is recommending that the associated Layout Plat (#08PL115) be denied without prejudice to allow the applicant to resolve the zoning issue with Pennington County and to allow the applicant to submit the required information. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install additional pavement curb, gutter, sidewalk and street light conduit along Neck Yoke Road as per Chapter 16.16 of the Rapid City Municipal Code be denied without prejudice.

The City Council and the Planning Commission have required that the additional right-of-way be dedicated as a part of the review and approval of a plat. In particular, obtaining the right-of-way as required at the time the property is subdivided precludes the taxpayers from having to purchase the right-of-way when it is needed in the future. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to dedicate the additional right-of-way be denied without prejudice.

Water: The applicant has indicated that a private water system would be developed to serve the property. However, the applicant has not submitted plans demonstrating the location and adequate capacity of the proposed water system. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install water as per Chapter 16 of the Rapid City Municipal Code along Aero Road and Neck Yoke Road be denied without prejudice.

Sewer: The property is located in the Tier 2 Service Area of Rapid City and to date no Master Utility Plan has been established for that area. The applicant is proposing to serve the lot with an on-site wastewater disposal system. However, the applicant has not demonstrated that the soils of the property are suitable for on-site wastewater disposal systems. As such, staff recommends that the Variance to the Subdivision Regulations waving the requirement to install sewer as per Chapter 16 of the Rapid City Municipal Code along Aero Road and Neck Yoke Road be denied without prejudice.

Legal Notification: To date, the receipts from the certified mailing have not been returned. Staff will notify Planning Commission at the September 4, 2008 meeting if the legal notification

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requirements have not been met. Staff has received no inquiries or objections regarding the proposed request at the time of this writing.

Staff is recommending that the associated Layout Plat (#08PL115) be denied without prejudice to allow the applicant to resolve the zoning issues with Pennington County and to allow the applicant to submit the required information. As such, staff is recommending that this Variance to the Subdivision Regulations be denied without prejudice in conjunction with the associated Layout Plat.