

STAFF REPORT  
December 18, 2008

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**No. 08SV051 - Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Clark Street, to waive the requirement to construct sewer, water, street light conduit, sidewalk, asphalt and curb and gutter along Fairview Street as per Chapter 16.16 of the Rapid City Municipal Code** **ITEM 35**

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GENERAL INFORMATION:

APPLICANT	Doug Noyes
AGENT	Renner & Associates
PROPERTY OWNER	Doug Noyes
REQUEST	<b>No. 08SV051 - Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Clark Street, to waive the requirement to construct sewer, water, street light conduit, sidewalk, asphalt and curb and gutter along Fairview Street as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	Lot 13 of Block 31 of Boulevard Addition, being all of Block 31 west of the north/south Alley and a portion of Fairview Street, located in the SW1/4, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 and 2 of resubdivision of Lot 13 of Block 31 of Boulevard Addition and vacated portion of Fairview Street, located in the SW1/4, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.277 acres
LOCATION	And the northeast corner of the intersection of Clark Street and Forest Hills Drive/Fairview Street
EXISTING ZONING	Low Density Residential District
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	Low Density Residential District
East:	Low Density Residential District
West:	Park Forest District
PUBLIC UTILITIES	City water and sewer

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DATE OF APPLICATION 10/8/2008

REVIEWED BY Travis Tegethoff / Karley Halsted

**RECOMMENDATION:**

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Clark Street, to waive the requirement to construct sewer, water, street light conduit, sidewalk, asphalt and curb and gutter along Fairview Street as per Chapter 16.16 of the Rapid City Municipal Code be denied without prejudice at the applicant's request.

**GENERAL COMMENTS: (Update, December 9, 2008. All revised and/or added text is shown in bold print.) This item was continued to the December 18, 2008 Planning Commission meeting. On December 8, 2008 staff met with the applicant to discuss the outstanding issues. The applicant requested that this application be denied without prejudice. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Clark Street, to waive the requirement to construct sewer, water, street light conduit, sidewalk, asphalt and curb and gutter along Fairview Street as per Chapter 16.16 of the Rapid City Municipal Code be denied without prejudice at the applicant's request.**

(Update, November 21, 2008. All revised and/or added text is shown in bold print.) This item was continued to the December 4, 2008 Planning Commission meeting. As of this writing, all of the outstanding issues have not been addressed, as such staff is recommending that this item be continued to the December 18, 2008 Planning Commission meeting.

(Update, November 12, 2008. All revised and/or added text is shown in bold print.) This item was to be heard at the November 6, 2008 Planning Commission Meeting. However, due to inclement weather, the Planning Commission was unable to meet. As of this writing, all of the outstanding issues have not been addressed, as such staff is recommending that this item be continued to the December 4, 2008 Planning Commission meeting.

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Clark Street, to waive the requirement to construct sewer, water, street light conduit, sidewalk, asphalt and curb and gutter along Fairview Street as per Chapter 16.16 of the Rapid City Municipal Code. In addition, the applicant has submitted a Layout Plat (#08PL136) to reconfigure two existing parcels and vacate a portion of Fairview Street right-of-way. There would be no increase in density resulting from the reconfiguration of the existing lots.

The property is located south of Clark Street and west of 12th Street. Currently, the

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property is void of structural development.

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

Clark Street: Clark Street is identified as a sub-collector street and must 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, sewer and water. Currently, Clark Street is located in a 60 foot wide right-of-way and constructed with a 27 foot wide paved surface, curb, gutter, street light conduit, sewer and water. However, sidewalk is not currently constructed along this portion of Clark Street. The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Clark Street per Chapter 16.16 of the Rapid City Municipal Code. However, it has been the position of the City Council that a sidewalk be provided as a part of the development of a site to insure pedestrian safety within our community. In order to provide a safe place for pedestrians to walk, staff is recommending the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Clark Street be denied.

Fairview Street: Fairview Street is identified as a sub-collector street and must 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, sewer and water. Currently, there are two separate right-of-ways platted for Fairview Street and both are undeveloped. The northern right-of-way for Fairview Street varies in width from approximately 100 feet to 60 feet and the southern right-of-way for Fairview Street appears to be 50 feet in width. The applicant has requested to vacate the northern portion of the Fairview Street right-of-way and has requested a Variance to the Subdivision Regulations to waive the requirement to construct sewer, water, street light conduit, sidewalk, asphalt and curb and gutter along Fairview Street as per Chapter 16.16 of the Rapid City Municipal Code. However, staff has noted that there has been a history of soil instability in the area and it might be more appropriate to vacate the entire Fairview Street right-of-way adjacent to this property instead of granting a Variance to the Subdivision Regulations if all adjacent properties have legal access. As such, staff recommends that this item be continued to the November 20, 2008 Planning Commission to allow staff meet with the applicant to discuss the alternative resolutions to the issues associated with both Fairview Street rights-of-way.

Notification Requirement: The required receipts from the certified mailing have been returned. Staff has received three inquiries from neighbors expressing concern with drainage and pedestrian access in the area.