

STAFF REPORT  
July 27, 2010

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**No. 10FV009 - Fence Height Exception to allow a 6 foot fence in lieu of a 4 foot fence in the front yard setback**      **ITEM**

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GENERAL INFORMATION:

APPLICANT/AGENT	Loran T. Hoch
PROPERTY OWNER	Loran T. Hoch
REQUEST	<b>No. 10FV009 - Fence Height Exception to allow a 6 foot fence in lieu of a 4 foot fence in the front yard setback</b>
EXISTING LEGAL DESCRIPTION	Lot 1 of Block 14 of South Robbinsdale Addition, Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.17 acres
LOCATION	801 East Iowa Street
EXISTING ZONING	Low Density Residential District
SURROUNDING ZONING	
North:	Low Density Residential District
South:	Low Density Residential District
East:	Low Density Residential District
West:	Low Density Residential District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	7/1/2010
REVIEWED BY	Jim Flaaen / Ted Johnson

RECOMMENDATION:

Staff recommends that the Fence Height Exception to allow a 6 foot fence in lieu of a 4 foot fence in the front yard setback be approved with the following stipulation:

1. Prior to approval by the Public Works Committee, the site plan shall be revised to identify the fence location outside of the public right-of-way

GENERAL COMMENTS: The applicant has submitted a Fence Height Exception to allow a 6 foot high fence in the required 25 foot front yard setback along Hawthorne Avenue. The applicant is requesting approval to construct a 6 foot high wooden privacy fence along the west property line along Hawthorne Avenue. The fence is partially constructed. The property is located on a corner lot allowing a maximum 4 foot high fence to be located in the 25 foot setback on both the north and west property lines.

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The property is located at 801 East Iowa Street which is located on the south side of Iowa Street, east of Hawthorne Avenue. A single family residence is located on the property.

STAFF REVIEW: Section 15.40.040 of the Rapid City Municipal Code states that, a variance to the fence height requirements can be granted by the City Council if the exception is not contrary to the public interest and the exception will not be injurious to the surrounding neighborhood. Staff has reviewed the proposed Fence Height Exception as it relates to the applicable provisions of the Rapid City Municipal Code and has noted the following issues:

Setbacks: Fences and walls may be erected or maintained; provided that no fence or wall over 4 feet in height shall be erected or maintained in any front yard as per Section 15.40.020 of the Rapid City Municipal Code. As previously stated, the applicant's property is located on a corner lot with street frontage along the north property line along Iowa Street and the west property line along Hawthorne Avenue. Section 17.10.50 states that lots having frontage on more than one street shall provide the required front yards along those streets.

However, the existing house on the property was constructed in 1954, at which the Zoning Ordinance required a 12.5 foot setback from Hawthorne Avenue. The existing residence is located approximately 13 feet from the west property line, thereby making it a legal non-conforming structure based on the current Zoning Ordinance.

Fence location: The fence is proposed to be located along the west property line adjacent to Hawthorne Avenue. The applicant has proposed to construct a 6 foot wood privacy fence beginning at the southwest property line corner and extending the 6 foot fence 86 feet north along the west property line. The 6 foot high section of fence would stop approximately 2 feet south of the north building line of the existing garage. The fence will extend north for an additional 8 feet and will be sloped to match the existing retaining wall and will decrease to 4 feet in height. The fence will continue an additional 19 feet north and is proposed to be 2 feet in height.

Hawthorne Avenue Right-of-Way: As previously stated, the fence is partially constructed. However, an inspection of the site identified that the posts have been installed within the Hawthorne Avenue Right-of-Way. Section 15.40.070 of the Rapid City Municipal Code states that "no fence or wall shall be erected in public right-of-way, except as approved by the Common Council". However, staff cannot support a request by a private entity to allow structures in the right-of-way. As such, prior to approval by the Public Works Committee, a revised site plan must be submitted identifying the location of the fence outside of the public right-of-way.

Design features: The applicant has submitted details of the proposed fence with the request. The submitted fence details indicate that the fence will be a 6 foot tall wooden privacy fence. The fence will be dog-eared in style and will be light tan in color.

Adjacent properties: The adjacent properties to the south and east of the property have 6 foot wood privacy fences. The fence on the property to the east is located on top of a retaining

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wall along the applicant's east property boundary. The fence located on the property to the south is located on top of the same existing retaining wall that the applicant has proposed to locate their fence along Hawthorne Avenue. The applicant has indicated that the installation of a 4 foot fence as allowed by Rapid City Municipal Code would result in the property being enclosed by three fences of three different heights and has stated that the situation would not be conducive for the property value or the overall appearance of the property. Allowing a 6 foot fence along the west property line on the applicant's property would create a contiguous 6 foot fence line along Hawthorne Avenue.

The proposed fence will be installed along the west property line. Adjacent residences are located to the south and east of the property adjacent to the rear and side lot lines. The west property line is adjacent to Hawthorne Avenue. As such, the proposed 6 foot high fence will not impact adjacent property owners to the west in regards to receiving adequate light and air circulation on the property.

Sight Triangles: As previously stated the proposed fence will taper down from a height of 6 feet on top of an existing retaining wall to 2 feet high along the portion 10 feet south of the sidewalk along Iowa Street. As such, the proposed fence will not be located within the pedestrian or vehicular sight triangle.

Easements: The proposed fence will not be located within any utility or drainage easements.

Staff recommends that the Fence Height Exception to allow a 6 foot high wood privacy fence in the required 25 foot front yard setback be approved.