

STAFF REPORT

July 10, 2003

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**No. 03SV023 - Variance to the Subdivision Regulations to allow platting on one half of the right-of-way and to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement on the Section Line Highway as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 34**

GENERAL INFORMATION:

PETITIONER	FMG, Inc. for Bypass LLC
REQUEST	<b>No. 03SV023 - Variance to the Subdivision Regulations to allow platting on one half of the right-of-way and to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement on the Section Line Highway as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	The unplatted portion of the W1/2 NE1/4; N1/2 NE1/4 NE1/4; and the unplatted portion of the S1/2 NE1/4 NE1/4; N1/2 SE1/4 NE1/4 all in Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 through 9 of Block 1, Lots 1 through 3 of Block 2, Lots 1 through 6 of Block 3, all of I-90 Heartland Business Park, and dedicated public right-of-way shown on Elk Vale Road, Seger Drive, Taggart Road and Galt Court located in the NE1/4 of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 67 acres
LOCATION	North and west of the intersection of I-90 and Elk Vale Road
EXISTING ZONING	Light Industrial District
SURROUNDING ZONING	
North:	General Agriculture District (County)
South:	Light Industrial District/General Agriculture District
East:	Box Elder
West:	General Agriculture District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	06/13/2003
REPORT BY	Vicki L. Fisher

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### RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to allow platting on one half of the right-of-way and to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement on the section line highway as per Chapter 16.16 of the Rapid City Municipal Code be denied.

### GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to improve a section line highway located along the north lot line of the subject property. In addition, the applicant is requesting a Variance to the Subdivision Regulations to allow platting the southern half of the section line highway which would result in only one half of the right-of-way being platted. The applicant has also submitted a Preliminary Plat to create seven commercial lots and 11 light industrial lots on the subject property. In addition, the applicant has submitted a Comprehensive Plan Amendment to the Major Street Plan to relocate a minor arterial street and to relocate a collector street. (See companion items #03PL067 and 03CA017.) The relocation of the minor arterial street from the north lot line of the subject property to approximately 500 feet south is identified in part on the associated plat document. The proposed location of the collector road is west of the subject property on a future phase of this development.

On May 5, 2003, the City Council approved a Layout Plat to subdivide 139 acres into 34 lots. The Layout Plat included the subject property. In addition, the City Council approved a Variance to the Subdivision Regulations to waive the requirement to improve Elk Vale Road with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvement.

The property is located north and west of the intersection of I-90 and Elk Vale Road and is currently void of any structural development.

### STAFF REVIEW:

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

Section Line Highway Improvements: As previously indicated, the applicant has requested a Variance to the Subdivision Regulations to waive the requirement to improve the section line highway located along the north lot line. In the past, the City Council has indicated that if the section line highway is not being constructed as a part of a platting procedure then the section line highway shall be vacated. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to improve the section line highway be denied and that the applicant submit a request to vacate the section line highway.

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Platting One Half of the Section Line Highway: The north half of the section line highway is located on an adjacent property under different ownership from the subject property. The Subdivision Regulations states that "...where there exists a dedicated or platted half-street adjacent to the tract to be subdivided, the other half shall be platted. No new half-streets shall be permitted". As such, the adjacent property owner must participate in the platting of the north half of the section line right-of-way or a Variance to the Subdivision Regulations must be obtained to allow platting half a right-of-way. As previously indicated, the applicant has requested a Variance to the Subdivision Regulations to allow platting only the southern half of the section line highway. However, based on previous action by the City Council requiring that a section line highway be vacated if it is not being constructed as a part of a platting procedure, staff recommends that the Variance to the Subdivision Regulation to allow platting half of a right-of-way be denied. (Please note that the applicant has submitted a Vacation of Right-of-way application to vacate the section line highway. However, it requires the adjacent property owner(s) signature on the Petition to Vacate document prior to the City taking action on the request. To date the Petition to Vacate document has not been signed as identified.)

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 July 10, 2003 Planning Commission meeting if this requirement has not been met. Staff has not received any calls or inquiries regarding this proposal.