

STAFF REPORT

January 22, 2004

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**No. 03SV050 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 21**

GENERAL INFORMATION:

PETITIONER	Fisk Land Surveying & Consulting Engineers Inc. for Rapid City Congregation of Jehovah's Witnesses
REQUEST	<b>No. 03SV050 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	Lots 1 thru 4, Block 7; and, Lots 5 and 6, Block 8; all located in Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lot 1 Revised of Block 7 of Morningside Addition, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 2.04 acres
LOCATION	West of West Boulevard North along Oriole Drive and Thrush Drive
EXISTING ZONING	High Density Residential District
SURROUNDING ZONING	
North:	High Density Residential District
South:	Medium Density Residential District w/Planned Residential Development
East:	Medium Density Residential District / Public District
West:	Medium Density Residential District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	12/12/2003
REPORT BY	Vicki L. Fisher

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement as per

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Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulations:

Engineering Division Recommendations:

1. Prior to City Council approval, the southern 135 feet of Oriole Drive shall be vacated;
2. Prior to City Council approval, road construction plans identifying the construction of curb, gutter and sidewalk along both sides of the balance of Oriole Drive, including a cul-de-sac bulb with a minimum 96 foot diameter right-of-way and a 76 foot diameter paved surface, shall be submitted for review and approval; and,
3. Prior to City Council approval, the applicant shall sign a waiver of right to protest a future assessment for the improvements along Thrush Drive, West Boulevard North and Oriole Drive.

GENERAL COMMENTS:

**(This Staff report has been updated on January 9, 2004. All revised and/or added text is shown in bold print.) This item was continued at the January 8, 2004 Planning Commission meeting at the applicant's request. The applicant has requested that this item be considered at the January 22, 2004 Planning Commission meeting. Please note that no other part of this Staff Report has been revised.** The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to improve Thrush Drive, Oriole Drive and West Boulevard North as they abut the subject property. In addition, the applicant has submitted a Layout Plat to combine the subject property from six lots into one lot. (See companion item #03PL125.)

The applicant had previously submitted a Conditional Use Permit to allow a church to be located on the subject property. In addition, the applicant had previously submitted a Vacation of Right-of-Way request to vacate the southern 135 feet of Oriole Drive. These two items have been continued to the January 8, 2004 Planning Commission meeting. (See companion items #03UR019 and 03VR012.)

The property is located in the southwest corner of the West Boulevard North/Oriole Drive intersection 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:

Thrush Drive: Thrush Drive is located along the south lot line of the subject property and is identified as a lane place street requiring a minimum 49 foot wide right-of-way and a 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, a 70 foot wide right-of-way has been dedicated for Thrush Drive but to date the street has not been constructed. Thrush Drive not only abuts the subject property but extends west an additional 800 feet for a total street length of 1,600 feet. Since the applicant is proposing to combine six lots into one lot, staff is recommending that the Variance to the Subdivision

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Regulations be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements along Thrush Drive.

West Boulevard North: West Boulevard North is located along the east lot line of the subject property and is identified as a sub-collector street requiring a minimum 52 foot wide right-of-way with a 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, West Boulevard North is located within the 750 foot wide I-90 ramp right-of-way and has been constructed with a 40 foot wide paved surface. Curb, gutter and sidewalk have not been constructed along West Boulevard North. Requiring the improvement as this time would result in a discontinuous street design. In addition as previously indicated, the applicant is proposing to reduce the existing density from six lots to one lot. As such, staff is recommending that the Variance to the Subdivision Regulations be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements along West Boulevard North.

Oriole Drive: Oriole Drive is located along the north lot line of the subject property and extends south, subdividing the subject property. As previously indicated, the applicant has submitted a Vacation of Right-of-Way request to vacate that portion of Oriole Drive separating Lots 5 and 6 from Lots 2 and 3. The Engineering Division has indicated that prior to vacating Oriole Drive, the applicant must submit a site plan identifying the location of all existing utilities. In addition, the plat document must be revised to show that portion of Oriole Drive proposed to be vacated as a utility easement. The applicant must also enter into an agreement assuming responsibility for any replacement of surface improvement(s) for the same portion of Oriole Drive to be vacated. If the southern 135 feet of Oriole Drive is vacated, then additional right-of-way must be provided at the southern terminus of the street for a cul-de-sac bulb with a minimum 96 foot diameter right-of-way and a 76 foot diameter paved surface.

Please note that a 60 foot wide right-of-way has been dedicated for Oriole Drive but that portion proposed to be vacated has not been constructed. The balance of Oriole Drive located along the north lot line is currently constructed with a 60 foot wide right-of-way and a 50 foot wide paved surface, curb, gutter, water and sewer. In addition, a sidewalk has been constructed along the north side of Oriole Drive. Oriole Drive is identified as a lane place street requiring a minimum 49 foot wide right-of-way and a 24 foot wide paved surface, curb, gutter, sidewalk on both sides of the street, street light conduit, water and sewer. Due to the pedestrian traffic that is typically generated by the proposed use of a church on the subject property, staff can not support waiving the requirement to install curb, gutter and sidewalk along that portion of Oriole Drive that is not vacated, including the cul-de-sac bulb. However, since lights must be provided within the parking lot as per the City's Parking Regulations staff is supporting the Variance to the Subdivision Regulations request to waive the requirement that street light conduit be provided with the stipulation that the applicant sign a waiver of right to protest any future assessment for the street light improvement along Oriole Drive. Please note that staff would not support waiving the improvement of the southern 135 feet if it is not vacated. As such, staff is recommending that the southern 135

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feet of Oriole Drive be vacated prior to approval of the Variance to the Subdivision Regulations.

Notification Requirement: As of this writing, the receipts for the certified mailing requirement have not been returned. Staff will notify the Planning Commission at the January 8, 2004 Planning Commission meeting if this requirement has not been met. Staff has not received any calls or inquires regarding this proposal.