

STAFF REPORT

July 22, 2004

No. 04SV031 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement as per Chapter 16.16 of the Rapid City Municipal Code

ITEM 28

GENERAL INFORMATION:

PETITIONER	Wyss Associates, Inc. for Web Real Estate Holdings Co.
REQUEST	No. 04SV031 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	Commencing at the SW corner of the NW1/4 of the SE1/4 of Section 11, T1N, R7E, BHM; thence travel 1878.59 feet at a bearing S89°27'22"E to a point; thence travel 59.93 feet at a bearing N00°32'38"E to the Point of Beginning; travel 213.89 feet at a bearing N34°24'28"W to a point on a curve; thence travel 38.11 feet along a 210.00 foot radius Concave Northwesterly curve with a chord bearing N39°36'25"W to a point; thence travel 166.06 feet at a bearing N44°48'23"W to a point on a curve; thence travel 333.97 feet along a 190.00 foot radius Convex Northeasterly curve with a chord bearing N05°32'55"E to a point; thence travel 219.73 feet at a bearing N55°19'07"E to a point; thence travel 267.59 feet at a bearing S34°35'20"E to a point; thence travel 300.18 feet at a bearing S45°00'00"W to a point; thence travel 303.00 feet at a bearing S34°24'28"E to a point; thence travel 108.34 feet at a bearing of S45°10'38"W the Point of Beginning; said parcel contains approximately 3.23 acres more or less
PARCEL ACREAGE	Approximately 3.23 acres
LOCATION	West of the western terminus of Fairmont Boulevard and north of Tower Road
EXISTING ZONING	General Commercial District w/PDD
SURROUNDING ZONING	
North:	Office Commercial District w/PDD
South:	General Agriculture District
East:	General Commercial District w/PCD
West:	Medium Density Residential District w/PDD

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PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	05/14/2004
REVIEWED BY	Vicki L. Fisher / Curt Huus

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulations:

- 1. Upon submittal of the Preliminary Plat, road construction plans shall be submitted identifying the construction of the north 200 feet of the north-south leg of Fairmont Boulevard with curb, gutter, sidewalk, street light conduit, water, sewer and pavement;**
- 2. Upon submittal of the Final Plat application, the plat document shall provide a minimum 80 foot wide right-of-way for all of Fairmont Boulevard; and,**
- 3. Prior to submittal of the Final Plat submittal, the applicant shall sign a waiver of right to protest any future assessments for pavement and sidewalk improvements along the southern 300 feet of Fairmont Boulevard as it abuts the subject property.**

GENERAL COMMENTS:

(Update: This Staff Report has been revised as of July 14, 2004. All revised and/or added text is shown in bold print.) This item was continued at the July 8, 2004 Planning Commission meeting at the applicant's request.

(Update: This Staff Report has been revised as of June 29, 2004. All revised and/or added text is shown in bold print.) This item was continued at the June 24, 2004 Planning Commission meeting at the applicant's request. On June 29, 2004, the applicant sent an e-mail requesting that this item again be continued to the July 22, 2004 Planning Commission meeting. As such, staff is recommending that the Variance to the Subdivision Regulations be continued to the July 22, 2004 Planning Commission meeting as per the applicant's request. Please note that no other part of this Staff Report has been revised.

(Update: This Staff Report has been revised as of June 16, 2004. All revised and/or added text is shown in bold print.) This item was continued at the June 10, 2004 Planning Commission meeting at the applicant's request. On June 15, 2004, the applicant sent an e-mail requesting that this item again be continued to the July 8, 2004 Planning Commission meeting. As such, staff is recommending that the Variance to the Subdivision Regulations be continued to the July 8, 2004 Planning Commission meeting as per the applicant's request. The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to construct curb, gutter, sidewalk, street light conduit, water, sewer and pavement for a portion of Fairmont Boulevard that abuts the subject property. The applicant

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has indicated that the first 200 feet of the north-south leg of Fairmont Boulevard will be constructed as it will serve as access to two adjacent properties. The applicant has also submitted a separate Variance to the Subdivision Regulations to waive the requirement to construct the southern 550 feet of Fairmont Boulevard as it extends south to Tower Road.

On May 3, 2004, the City Council approved a Layout plat to subdivide the subject property creating a 1.57 acre commercial lot and leaving an unplatted balance. (See file #04PL046.)

The subject property is located at the western terminus of Fairmont Boulevard on the south side of Fairmont Boulevard and is currently void of any structural development.

STAFF REVIEW:

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

Fairmont Boulevard: The associated Layout Plat identifies the extension of an 80 foot wide right-of-way for Fairmont Boulevard to the south lot line of the subject property. Fairmont Boulevard is classified as a commercial street requiring that it be located within a minimum 59 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, street light conduit, water and sewer. The applicant has submitted topographic information identifying physical constraints within this area of the property and on adjacent properties located south of the subject property. While it may not be feasible to construct this section of Fairmont Boulevard at this time, there may become a time when traffic volume at the Fairmont Boulevard/Mount Rushmore Road intersection warrants construction of the extension of Fairmont Boulevard to Tower Road to alleviate traffic congestion at the intersection of Fairmont Boulevard and Mount Rushmore Road. As such, staff believes that it is appropriate to secure the right-of-way in order to secure the future connection of the street(s) if needed. Staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to improve Fairmont Boulevard be approved with the stipulation that the applicant sign a waiver of right to protest any future assessments for the improvements and that a minimum 80 foot wide right-of-way be dedicated for the future construction of the street. **On July 14, 2004, staff met with the applicant's consultant to discuss the requirement to sign a waiver of right to protest any future assessment for the improvements of Fairmont Boulevard as it abuts the subject property. In particular, it was noted that due to severe topographic constraints, any road construction within the right-of-way will probably require a bridge with related drainage improvements. Also it was noted that due to the difference in elevation between the subject property and the adjacent property, water and sewer mains would not be extended within the right-of-way. As such, the applicant has agreed to sign a waiver of right to protest any future assessment for pavement and sidewalk improvements for this section of Fairmont Boulevard. Staff is recommending that the waiver of right to protest any future assessments for the pavement and sidewalk improvement be signed prior to submittal of a Final Plat application.**

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Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the June 10, 2004 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal. The applicant submitted the receipts for the certified mailings on June 9, 2004. To date, staff has received one inquiry regarding the Variance to the Subdivision Regulations request and no opposition to the request was voiced.