

STAFF REPORT  
March 24, 2005

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**No. 05SV019 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Creek Drive and East Saint Charles Street and to waive the requirement to dedicate additional right-of-way along Creek Drive and East Saint Patrick Street as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 60**

GENERAL INFORMATION:

|                               |   |
|-------------------------------|---|
| PETITIONER                    | Sperlich Consulting, Inc. for Jim Letner  |
| REQUEST                       | <b>No. 05SV019 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Creek Drive and East Saint Charles Street and to waive the requirement to dedicate additional right-of-way along Creek Drive and East Saint Patrick Street as per Chapter 16.16 of the Rapid City Municipal Code</b> |
| EXISTING<br>LEGAL DESCRIPTION | SW1/4 of the SW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota   |
| PARCEL ACREAGE                | Approximately 40 Acres  |
| LOCATION                      | 1720 East St. Patrick Street  |
| EXISTING ZONING               | General Commercial District   |
| SURROUNDING ZONING            |   |
| North:                        | Light Industrial District   |
| South:                        | General Commercial District   |
| East:                         | Light Industrial District   |
| West:                         | General Commercial District   |
| PUBLIC UTILITIES              | Approximately 8.34 acres  |
| DATE OF APPLICATION           | 2/25/2005   |
| REVIEWED BY                   | Vicki L. Fisher / Bob Dominicak   |

RECOMMENDATION:

Staff recommends:

1. That the Exception to reduce the separation from 75 feet to 50 feet between a driveway and Ash Street be denied;
2. That the Exception to reduce the separation from 230 feet to 200 between a driveway and the intersection of East St. Patrick Street and Creek Drive be denied;

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3. That the Variance to the Subdivision Regulations to waive the requirement to dedicate 10 additional feet of right-of-way along East St. Patrick Street be denied;
4. That the Variance to the Subdivision Regulations to waive the requirement to dedicate 17 additional feet of right-of-way along Creek Drive be denied;
5. That the Variance to the Subdivision Regulations to waive the requirement to install sewer and water along Creek Drive be tabled;
6. That the Variance to the Subdivision Regulations to waive the requirement to install water along East St. Charles Street be tabled;
7. That the Variance to the Subdivision Regulations to waive the requirement to install pavement and sewer along East St. Charles Street be denied;
8. That the Variance to the Subdivision Regulations to waive the requirement to install additional pavement, curb, gutter, sidewalk and street light conduit along Creek Drive be approved; and
9. That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and street light conduit along East St. Charles Street be approved with the stipulation:
  - A. Prior to approval by the City Council, the applicant shall sign a waiver of right to protest any future assessments for the installation of additional pavement, curb, gutter, sidewalk and street light conduit along Creek Drive and curb, gutter, sidewalk and street light conduit along East St. Charles Street.

**GENERAL COMMENTS:**

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install additional pavement, curb, gutter, sidewalk and provide a planting screen easement along Creek Drive; to waive the requirement to install additional pavement and provide a planting screen easement along East Saint Patrick Street; and, to waive the requirement to install sidewalk along East Saint Charles Street as they abut the subject property. The applicant has also submitted a Layout Plat to subdivide the subject property from approximately an eight acre lot into five general commercial lots. (See companion item #05PL006.)

The property is located along East Saint Patrick Street, Creek Drive and East Saint Charles Street. Currently, there are no structures located on the property.

**STAFF REVIEW:**

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

**East Saint Patrick Street:** East Saint Patrick Street is located along the south lot line and is classified as a principal arterial street on the City's Major Street Plan requiring that it be

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located in a minimum 100 foot wide right-of-way and constructed with a minimum 40 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. To date, East Saint Patrick Street is located in an 80 foot wide right-of-way and constructed with a 48 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The applicant has submitted a Variance to the Subdivision Regulations request to waive the requirement to dedicate ten additional feet of right-of-way along East Saint Patrick Street as it abuts the subject property. However, the City Council and the Planning Commission have routinely required that the additional right-of-way be dedicated as a part of the review and approval of a plat. In particular, obtaining the right-of-way as required at the time the property is subdivided precludes the City from having to purchase the right-of-way when it is needed in the future. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to dedicate the additional right-of-way be denied.

Creek Drive: Creek Drive is located along the east lot line of the subject property and is classified as a minor arterial street on the City's Major Street Plan. A minor arterial street must be located in a minimum 100 foot wide right-of-way and constructed with a minimum 40 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, Creek Drive is located in a 66 foot wide right-of-way and constructed with an approximate 24 foot wide paved surface, water and sewer. As Creek Drive is an existing constructed and improved (paved) road, the developer has not generally been required to improve the existing road; rather they have been required to sign a waiver of right to protest an assessment project. This would insure that the property owners will participate in future improvements. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install additional pavement, curb, gutter, sidewalk, and street light conduit approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements. In addition, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install water and sewer be tabled as these improvements exist.

The applicant is also requesting a Variance to the Subdivision Regulations to waive the requirement to dedicate 17 additional feet of right-of-way along Creek Drive. However, the City Council and the Planning Commission have routinely required that the additional right-of-way be dedicated as a part of the review and approval of a plat. In particular, obtaining the right-of-way as required at the time the property is subdivided precludes the City from having to purchase the right-of-way when it is needed in the future. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to dedicate the additional right-of-way be denied.

East Saint Charles Street: The applicant has requested a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter sidewalk, street light conduit, water, sewer and pavement along East Saint Charles Street. Requiring the construction of curb, gutter, sidewalk and street light conduit would result in a discontinuous street design.

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As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and street light conduit along East Saint Charles Street be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements. In addition, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install water be tabled as this improvement exists.

Currently, Creek Drive is a paved street with City sewer. Requiring that East Saint Charles Street be paved and that the City's sewer main be extended along the street will create a continuous street design as it extends off Creek Drive. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to pave Creek Drive and to install sewer be denied.

Exception: The applicant has submitted a site plan identifying two approaches to the subject property along East St. Patrick Street. In addition, the site plan shows Ash Street extending south from East St. Patrick Street. The two approaches provide a separation of 60 feet and 50 feet, respectively, with Ash Street. The Street Design Criteria Manual requires a minimum 75 foot separation between driveway(s) and streets. In addition, the most eastern approach is located 200 feet from the East St. Patrick Street/Creek Drive intersection in lieu of 230 feet as required by the Street Design Criteria Manual. The applicant has requested an Exception to reduce the separation between Ash Street and the two approaches as identified and to reduce the separation between the eastern approach and the East St. Patrick Street/Creek Drive intersection. However, traffic safety issues arise with the proposed alignments. The separation requirements identify minimum distances between driveways and street intersections(s) in order to reduce the points of conflict along the street section. In particular, ingress and egress turning movements along the street section(s) are compromised with the reduction in separation between driveways and intersecting streets. Staff has noted that combining the two approaches into one that aligns with Ash Avenue eliminates the need to seek both Exceptions. In addition, the applicant could shift the approaches further west and meet the separation requirement(s). As such, staff is recommending that the Exceptions as identified be denied.

Legal Notification Requirement: The receipts from the certified mailings have not been returned as of this writing. Staff will notify the Planning Commission at the March 24, 2005 Planning Commission meeting if this requirement is not met.