

STAFF REPORT  
January 26, 2006

**No. 05SV083 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement and to waive the requirement to dedicate Right-of-Way as per Chapter 16.16 of the Rapid City Municipal Code**

**ITEM 49**

GENERAL INFORMATION:

PETITIONER

FMG Engineering for West River Electric Assn.

REQUEST

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EXISTING

LEGAL DESCRIPTION

A tract of land located in the NE1/4 of NW1/4 of Section 9, T1N, R8E, BHM, and in the NW1/4 of NE1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more particularly described as follows: Commencing at a point which is a 5/8" rebar with 2" survey cap marked "D.O.T." marking the southwest corner of Lot A Less Lot H1 of NE1/4 of NW1/4 of Johnson School Subdivision, in the NE1/4 of NW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, Thence N29°28'44"E a distance of 172.23', more or less, to a point, said point being a 5/8" rebar with 2" survey cap marked "D.O.T.", on the east right of way line of Elk Vale Road; Thence N69°32'35"E a distance of 106.73', more or less, to a point, said point being a 5/8" rebar with 2" survey cap marked "D.O.T.", on the east right of way line of Elk Vale Road; Thence N18°20'21"E a distance of 174.21', more or less, to a point, said point being a 5/8" rebar with 2" survey cap marked "D.O.T.", on the east right of way line of Elk Vale Road; Thence N29°29'52"E a distance of 615.05', more or less, to a point on the section line between Section 9, T1N, R8E, BHM and Section 4, T1N, R8E, BHM, said point being a 5/8" rebar with 2" survey cap marked "D.O.T.", on the northwest corner of Lot 3 Less Lot H1 of Block 2 of Johnson School Subdivision; Thence N89°48'18"E a distance of 382.99', more or less, to a point on the section line between Section 9, T1N, R8E, BHM and Section 4, T1N, R8E, BHM; Thence southwesterly on a curve to the left with a radius of 167.85' and an arc length of 267.88', with a chord bearing S27°52'22"W and a distance of 240.34', more or

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less, to a point; Thence S28°46'44"E a distance of 62.63', more or less, to a point; Thence southwesterly on a curve to the right with a radius of 149.97' and an arc length of 104.99', with a chord bearing S01°28'08"W a distance of 102.86', more or less, to a point; Thence S21°31'29"W a distance of 222.14', more or less, to a point; Thence S24°42'12"W a distance of 40.23', more or less, to a point; Thence S71°23'31"E a distance of 12.58', more or less, to a point; Thence S21°23'15"W a distance of 153.47', more or less, to a point; Thence S21°18'43"W a distance of 106.02', more or less, to a point; Thence S21°18'54"W a distance of 66.04', more or less, to a point; Thence S21°25'00"W a distance of 388.69', more or less, to a point; Thence N51°26'00"W a distance of 255.41', more or less, to a point, said point being a 5/8" rebar marking the southwest corner of Lot 2 of Lot D of the NW1/4 of the NE1/4 of Section 9, T1N, R8E, BHM; Thence N51°27'40"W a distance of 128.62', more or less, to a point, said point being a 1/2" rebar marking the southwest corner of Lot B of Lot 1 of Lot D of the NW1/4 of the NE1/4 of Section 9, T1N, R8E, BHM; Thence N51°23'47"W a distance of 95.89', more or less, to a point, said point being a 1" pipe marking the southwest corner of Lot A of Lot 1 of Lot D of the NW1/4 of the NE1/4 of Section 9, T1N, R8E, BHM; Thence N51°33'53"W a distance of 151.26', more or less, to the point of beginning. Said area includes 12.988 acres, more or less.

PARCEL ACREAGE

Approximately 12.988 acres

LOCATION

East of Elk Vale Road and north of Highway 44 and west of Twilight Drive

EXISTING ZONING

General Commercial District

SURROUNDING ZONING

North:

General Commercial District

South:

General Agriculture District

East:

Suburban Residential District (Pennington County)

West:

General Commercial District - Suburban Residential District (Pennington County)

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PUBLIC UTILITIES	Rapid Valley Sanitary District
DATE OF APPLICATION	12/9/2005
REVIEWED BY	Vicki L. Fisher / Bob Dominicak

**RECOMMENDATION:**

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Elk Vale Road be approved with the following stipulation:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements;

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and street light conduit along S.D. Highway 44 be approved with the following stipulation:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements;

That the Variance to the Subdivision Regulations to waive the requirement to install additional pavement along Twilight Drive be tabled;

That the Variance to the Subdivision Regulations to waive the requirement to install street light conduit along Twilight Drive be approved with the following stipulation;

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements;

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Twilight Drive be denied;

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement be denied; **and,**

**That the Variance to the Subdivision Regulations to allow platting half a right-of-way be approved.**

**GENERAL COMMENTS:**

**(Update, January 18, 2006. All revised and/or added text is shown in bold print.) This item was continued at the January 5, 2006 Planning Commission meeting at the applicant's request. On January 18, 2006, staff met with the applicant and his representatives to discuss issues specific to the development of this site. The Staff Report(s) have been revised to reflect the outcome of the discussions.**

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The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Elk Vale Road, to install curb, gutter, sidewalk and street light conduit along S.D. Highway 44; to install sidewalk, street light conduit and additional pavement along Twilight Drive; and, to install curb, gutter sidewalk, street light conduit, water sewer and pavement and to dedicate right-of-way along a section line highway. In addition, the applicant has submitted a Preliminary Plat to combine the subject property, or 19 lots, into two lots. The applicant has also submitted an Initial Planned Light Industrial Development to allow an office building with outdoor storage for a utility company. (See companion items 05PL241 and 05PD086.)

The property is located in the northwest corner of the intersection of S.D. Highway 44 and Twilight Drive. Currently, an antenna tower, an office building, a warehouse building, school buildings and outdoor storage exists on the subject property.

**STAFF REVIEW:**

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

**Elk Vale Road:** Elk Vale Road is located along the west lot line of the subject property and is classified as a principal arterial street requiring that it 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, Elk Vale Road is located in a 250 foot wide right-of-way and constructed with a 40 foot wide paved surface. Requiring the construction of the additional improvements along Elk Vale Road as it abuts the subject property will result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations be approved as requested with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

**S.D. Highway 44:** S.D. Highway 44 is located along the south lot line of the subject property and is classified as a principal arterial street requiring that it 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, S.D. Highway is located in a 150 foot wide right-of-way and constructed with a 40 foot wide paved surface, water and sewer. Requiring the construction of the additional improvements along S.D. Highway 44 as it abuts the subject property will result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations be approved as requested with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

**Twilight Drive:** Twilight Drive is located along the east lot line of the subject property and is classified as a minor arterial street requiring that it 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, Twilight Drive is located in a right-

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of-way that varies from 103.3 feet to 66 feet and is constructed with a 40 foot wide paved surface, water and sewer. In addition, sidewalk exists along the northern portion of the subject property. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to provide additional pavement be tabled.

Requiring the construction of the street light conduit along Twilight Drive as it abuts the subject property will result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations be approved as requested with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

The City's Bike Path Plan identifies a bike path to be constructed along the northern portion of the subject property. To date, a portion of the bike path has been constructed as identified on the bike path. However, staff has noted that the bike path must be extended as shown on the bike path plan. In addition, a sidewalk must be provided along the balance of the lot(s) to S.D. Highway 44 to insure pedestrian access along a minor arterial street. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install a sidewalk is denied.

Section Line Highway: A section line highway is located along the north lot line of the subject property. The section line highway is classified as an industrial street requiring that it be constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. In addition, the 66 foot wide section line highway must be dedicated as right-of-way. To date, the section line highway is unimproved. The applicant has requested a Variance to the Subdivision Regulations to waive the requirement to improve the section line highway and to dedicate the section line highway as right-of-way. However, the Planning Commission and the City Council have required that section line highways be improved or vacated. Only when the adjacent property owner declines to sign the vacation of right-of-way petition has a Variance to the Subdivision Regulations been obtained. As such, staff is recommending that the Variance to the Subdivision Regulations as requested be denied.

**At the January 18, 2006 meeting with staff, the applicant indicated that the south half of the section line highway located on the subject property will be vacated as a part of the plat action. The applicant has subsequently requested a Variance to the Subdivision Regulations to allow platting half a right-of-way. Staff has noted that granting the Variance as requested will not affect the street networking within this area. As such, staff is recommending that the Variance to the Subdivision Regulations be approved as requested.**

Legal Notification Requirement: The receipts from the certified mailings have been returned. Staff has not received any calls or inquiries regarding this proposal.