

STAFF REPORT
May 25, 2006

No. 06SV025 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water, pavement and to dedicate additional right-of-way as per Chapter 16.16 of the Rapid City Municipal Code

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GENERAL INFORMATION:

PETITIONER	Sperlich Consulting, Inc. for Kensington Heights LLC
REQUEST	No. 06SV025 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water, pavement and to dedicate additional right-of-way as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	Lots 2 thru 5 of Block 3, Kensington Heights Subdivision, located in Government Lot 4, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 2R,3R, 4R, 5A and 5B, of Block 3, Kensington Heights Subdivision, formerly Lots 2 thru 5 of Block 3, Kensington Heights Subdivision, located in Government Lot 4, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.069 acres
LOCATION	4316, 4324, 4406 and 4414 Davin Drive
EXISTING ZONING	Low Density Residential District
SURROUNDING ZONING	
North:	Low Density Residential District
South:	Low Density Residential District
East:	General Agriculture District
West:	Medium Density Residential District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	4/28/2006
REVIEWED BY	Travis Tegethoff / Bob Dominicak

RECOMMENDATION:

If the Planning Commission determines it is appropriate, then the Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement along Elm Avenue as it

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abuts the subject property as per Chapter 16.16 of the Rapid City Municipal Code be approved.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations request to waive the requirement to dedicate additional right-of-way and to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement along Elm Avenue as it abuts the subject property.

The property is located at the southern terminus of Elm Avenue on the west side of Elm Avenue 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:

Elm Avenue: On October 4, 2004, the City Council approved a Preliminary Plat to create a 7.751 acre lot on property located directly east of the subject property. In addition, the Preliminary Plat identified the dedication and construction of Elm Avenue, including the portion of Elm Avenue that abuts the subject property. To date, the owner of the adjacent property has not submitted a Final Plat and the adjacent Elm Avenue right-of-way has not been dedicated.

On January 17, 2005, the City Council approved a Preliminary Plat on the subject property. Also on January 17, 2005, the City Council approved a Subdivision Variance to waive the requirement to dedicate additional right-of-way and to install curb, gutter, sidewalk, street light conduit, sewer, water, and pavement along Elm Avenue as it abuts the subject property as per Chapter 16.16 of the Rapid City Municipal Code with the stipulations that the applicant post surety for that portion of Elm Avenue located on the subject property and that the applicant sign a waiver of right to protest any future assessment for the improvement of Elm Avenue as it abuts the subject property.

On February 8, 2005 a Final Plat was approved for the subject property and as part of the Final Plat the applicant dedicated that portion of Elm Avenue right-of-way located on the subject property, a small pie shaped piece of property located along the west lot line.

The applicant is now proposing a preliminary plat to divide four existing lots into five lots. As stated above surety has been posted for the portion of Elm Avenue located on the subject property and a waiver of right to protest any future assessments for the improvements of Elm Avenue as it abuts the subject property has been signed. However, the Subdivision Regulations states that "...all thoroughfares in the major street plan shown as crossing or bordering a proposed subdivision are required to be provided in the location and at the right-of-way width designated thereon". Elm Avenue is designated on the Major Street Plan as a minor arterial street. In addition, the location of Elm Avenue right-of-way as shown on this plat and the adjacent plat are in compliance with the location of the street as shown on the

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Major Street Plan. As a part of this plat review and approval, the balance of the Elm Avenue right-of-way must be dedicated either as an "H" Lot, on a separate plat document or included on this plat document. In addition, Elm Avenue must be constructed with a minimum 40 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer.

As noted above, the adjacent property owner has obtained Preliminary Plat approval by the City Council. The Preliminary Plat shows the dedication of the balance of the Elm Avenue right-of-way located adjacent to the subject property. The applicant may either: 1) coordinate the dedication of right-of-way with the adjacent property owner; or, 2) a revised Preliminary Plat for the subject property may be submitted for review showing all of the dedication of the Elm Avenue right-of-way from the applicant's property as required. However, it should be noted that several Layout Plats have been approved for the area to the south showing Elm Avenue as currently proposed. Relocating Elm Avenue onto the subject property would be in conflict with the previously approved Layout Plats. As such, staff is recommending that the applicant coordinate the dedication of the Elm Avenue right-of-way with the adjacent property owner.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the May 25, 2006 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.