

STAFF REPORT  
August 24, 2006

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**No. 06SV030 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Fairmont Boulevard and to waive the requirement to install curb, gutter, sidewalk, street light conduit and to reduce right-of-way width from 52 feet to 49 feet and to reduce pavement width from 27 feet to 24 feet along Pevans Parkway as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 34**

GENERAL INFORMATION:

PETITIONER	Wyss Associates, Inc. for WEB Land Holdings, LLC
REQUEST	<b>No. 06SV030 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Fairmont Boulevard and to waive the requirement to install curb, gutter, sidewalk, street light conduit and to reduce right-of-way width from 52 feet to 49 feet and to reduce pavement width from 27 feet to 24 feet along Pevans Parkway as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	The unplatted portion of the N1/2 SE1/4, less Walpole Heights Subdivision, and less right-of-way, Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 thru 5, Skyline Pines East, Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 58.63 acres
LOCATION	Northwest of the intersection of Mount Rushmore Road and Tower Road
EXISTING ZONING	Office Commercial District (Planned Commercial Development) - Low Density Residential II (Planned Residential Development) Park Forest District
SURROUNDING ZONING	
North:	Low Density Residential District - Park Forest District
South:	General Agriculture District - Low Density Residential District - Office Commercial District
East:	General Commercial District
West:	Park Forest District - General Agriculture District

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PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	5/5/2006
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 and reduce right-of-way width from 52 feet to 49 feet and to reduce pavement width from 27 feet to 24 feet along Pevans Parkway 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, street light conduit, water, sewer and pavement along the south 550 feet of Fairmont Boulevard be approved with the following stipulations:

1. The balance of Fairmont Boulevard shall be constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer;
2. A minimum 80 foot wide right-of-way shall be dedicated for all of Fairmont Boulevard as it abuts the subject property; and,
3. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for sidewalk and pavement along the south 550 feet of Fairmont Boulevard as it abuts the subject property.

GENERAL COMMENTS:

**(Update, August 13, 2006. All revised and/or added text is shown in bold print.) This item was continued at the August 10, 2006 Planning Commission meeting at the applicant's request. Please note that no other part of this Staff Report has been revised.**

(Update, July 27, 2006. All revised and/or added text is shown in bold print.) This item was continued at the July 27, 2006 Planning Commission meeting at the applicant's request. Please note that no other part of this Staff Report has been revised.

(Update, July 14, 2006. All revised and/or added text is shown in bold print.) This item was continued at the July 6, 2006 Planning Commission meeting at the applicant's request. Please note that no other part of this Staff Report has been revised.

(Update, June 23, 2006. All revised and/or added text is shown in bold print.) This item was continued at the June 22, 2006 Planning Commission meeting at the applicant's request.

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Please note that no other part of this Staff Report has been revised.

(Update, June 9, 2006. All revised and/or added text is shown in bold print.) This item was continued at the June 8, 2006 Planning Commission meeting at the applicant's request. 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 install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along a portion of Fairmont Boulevard and to waive the requirement to install curb, gutter, sidewalk, street light conduit and to reduce right-of-way width from 52 feet to 49 feet and to reduce pavement width from 27 feet to 24 feet along Pevans Parkway as they abut the subject property. In addition, the applicant has submitted a Layout Plat to subdivide the subject property into five lots. The applicant has also submitted an Initial Planned Residential Development to allow three single family residences to be constructed on the west half of the subject property. The applicant has also submitted an Initial Planned Commercial Development to allow four condominium towers to be constructed on the east half of the subject property. (See companion items #06PL074, 06PD030 and 06PD031.)

In April, 2004, the City Council approved three separate Layout Plats to subdivide the subject property into 38 townhome lots, seven single family residential lots and two commercial lots. In October, 2004, the City Council approved an Initial Planned Residential Development and an Initial Planned Commercial Development to allow a townhome and single family residential development on the west half of the property and to allow a combination of professional offices, apartment complexes and two restaurant pads to be constructed on the east half of the property.

In July, 2004, the City Council also approved a Variance to the Subdivision Regulations to waive the requirement to construct curb, gutter, sidewalk, street light conduit, water, sewer and pavement along a portion of Fairmont Boulevard with the following stipulations:

- 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;
- 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,
- 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.

The applicant is now proposing to develop the property differently than previously reviewed and approved. As such, the applicant has submitted the applications as identified above.

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The property is located between the western terminus of Fairmont Boulevard and the eastern terminus of Pevans Parkway. Currently, the property is 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 Layout Plat identifies the extension of 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 and sewer or a Variance to the Subdivision Regulations must be obtained. The Layout Plat identifies that Fairmont Boulevard will be located in an 80 foot wide right-of-way. The applicant has requested a Variance to the Subdivision Regulations to waive the requirement to improve the south 550 feet of Fairmont Boulevard. In addition, 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.

During the review of the previously approved Variance to the Subdivision Regulations in July of 2004, the applicant met with staff and 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.

Pevans Parkway: The Layout Plat identifies the extension of Pevans Parkway into the western half of the subject property to serve as access to the three proposed single family residential lots. Pevans Parkway is classified as a sub-collector street requiring that it be located in a minimum 52 foot wide right-of-way and constructed with a minimum 27 foot wide paved

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surface, curb, gutter, sidewalk, street light conduit, water and sewer. That portion of Pevans Parkway located on the adjacent property is located within a 52 foot wide paved and constructed with a 24 foot wide paved surface, water and sewer. The applicant has requested a Variance to the Subdivision Regulations to reduce the right-of-way width from 52 feet to 49 feet. In addition, the applicant has submitted a site plan showing the right-of-way transition from 52 feet to 49 feet and with the existing and proposed street improvements. Staff has noted that this portion of Pevans Parkway will serve three lots and, as such, will function as a lane place street. As such, staff is recommending that the Variance to the Subdivision Regulations to reduce the right-of-way width be approved as requested.

The applicant has also submitted a Variance to the Subdivision Regulations to reduce the pavement width from 27 feet to 24 feet and to waive the requirement to install curb, gutter, sidewalk and street light conduit along Pevans Parkway. Staff has also noted that requiring these improvements along Pevans Parkway as it abuts the subject property will create a discontinuous street design. As such, staff is recommending that the Variance to the Subdivision Regulations be approved with the stipulation that prior to City Council approval, the applicant sign a waiver of right to protest any future assessment for the improvements.

Notification Requirement: The receipts from the certified mailings have been returned. Staff has received several calls of inquiry regarding this item.