

STAFF REPORT
November 22, 2006

No. 06SV068 - 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

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GENERAL INFORMATION:

PETITIONER	Wyss Associates for WEB Land Holdings, LLC
REQUEST	No. 06SV068 - 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	A portion of the unplatted balance of the SE1/4, Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 6 Acres
LOCATION	West of the intersection of Tower Road and South Highway 16
EXISTING ZONING	Office Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	Medium Density Residential District (Planned Residential Development) - General Commercial District (Planned Commercial Development)
South:	Office Commercial District (Planned Commercial Development)
East:	General Commercial I District (Planned Residential Development)
West:	Medium Density Residential District (Planned Residential Development)
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	10/13/2006
REVIEWED BY	Vicki L. Fisher / Mary Bosworth

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 along Fairmont Boulevard be approved with the following stipulation:

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

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Mount Rushmore 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.

GENERAL COMMENTS:

**(Update, November 10, 2006. All revised and/or added text is shown in bold print.)
This item was continued at the November 9, 2006 Planning Commission meeting to allow the applicant to meet the mail notification requirement.**

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 Fairmont Boulevard and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Mount Rushmore Road as it abuts the subject property. On October 26, 2006, the Planning Commission recommended approval of a Preliminary Plat to subdivide the subject property into two commercial lots. The City Council will consider the Preliminary Plat at their November 6, 2006 Planning Commission meeting.

On April 19, 2004, the City Council approved a Layout Plat to subdivide the subject property into a 5.6 acre commercial lot. In April, 2006, the City Council approved Tax Increment District No. 47 for the design and reconstruction of Tower Road, which includes that portion of the street abutting the subject property.

The property is located in the northwest corner of the Mount Rushmore Road/Tower Road intersection on the north side of Tower Road. 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 Preliminary Plat identifies the extension of Fairmont Boulevard, a commercial street, through the subject property within an 80 foot wide access easement. In particular, the street must be constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The applicant has requested a Variance to the Subdivision Regulations to waive the requirement to improve Fairmont Boulevard. During the review of an associated Layout Plat and Variance to the Subdivision Regulations on property located directly north of the subject property, the applicant submitted topographic information identifying physical constraints limiting the ability to

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construct a street between the two properties. In particular, 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. 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. This is similar to the action taken by the City on that portion of Fairmont Boulevard located directly north of the subject property. Staff is recommending 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 commercial street be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the pavement and sidewalk improvements for this section of Fairmont Boulevard.

Mount Rushmore Road: Mount Rushmore Road is located along the east lot line of the subject property and is classified as a principal arterial street requiring that the street be located within a minimum 100 foot wide right-of-way and constructed with a minimum 36 foot wide paved surface, curb, gutter, street light conduit, sidewalk, water and sewer. Currently, Mount Rushmore Road is located within an approximate 300 foot wide right-of-way and constructed with an approximate 98 foot wide paved surface. Requiring the improvement of Mount Rushmore Road as it abuts the subject property will result in a discontinuous street section. The Planning Commission and the City Council have granted similar Variance requests when the requirement to improve the street would result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the improvements along Mount Rushmore Road be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Legal Notification Requirement: **On November 9, 2006, the applicant submitted the white slips from the certified mailings. To date, the green cards have not been returned. Staff will notify the Planning Commission at the November 22, 2006 Planning Commission meeting if this requirement is not met.**