

STAFF REPORT  
June 7, 2007

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**No. 07SV029 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer and to reduce the width of access easements, to waive the requirement to install sidewalk along both sides of E. Mall Drive, to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement along Offutt Street and Beale Street, to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along I90, and to waive the requirement to provide an eight foot wide utility easement on the interior side of the east lot line of Lots 2 and 3 and a portion of the south lot line of Lot 3 as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 33**

GENERAL INFORMATION:

PETITIONER	Dream Design International, Inc.
REQUEST	<b>No. 07SV029 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer and to reduce the width of access easements, to waive the requirement to install sidewalk along both sides of E. Mall Drive, to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement along Offutt Street and Beale Street, to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along I90, and to waive the requirement to provide an eight foot wide utility easement on the interior side of the east lot line of Lots 2 and 3 and a portion of the south lot line of Lot 3 as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	That part of the SW1/4 north of I-90 including Lot 3 of Starlite Subdivision, less GLM Subdivision No. 2, all located in Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1, 2 and 3 of Forefather Flats Subdivision, located in the SW1/4, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 12.8 Acres
LOCATION	East of Dyess Avenue and north of I-90

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EXISTING ZONING	General Commercial District (Planned Development Designation)
SURROUNDING ZONING	
North:	General Commercial District (Planned Development Designation)
South:	Light Industrial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	5/11/2007
REVIEWED BY	Vicki L. Fisher / Todd Peckosh

**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 and to reduce the width of the access easement serving Lots 1 and 2 from 59 feet to 26 feet be approved with the following stipulations:

1. Prior to City Council approval, the applicant shall post surety for the design and construction of the access easement. In particular, the access easement shall be constructed with a minimum 26 foot wide paved surface;
2. Upon submittal of a Final Commercial Development Plan, pedestrian access shall be provided through the site, lighting shall be provided throughout the parking lot and along the access easement as needed, a separation shall be provided between the access easement and the parking area and utilities shall be extended as needed to serve the proposed Lots;

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk and street light conduit and to reduce the width of the access easement serving Lot 3 from 59 feet to 54 feet be approved with the following stipulation:

1. Upon submittal of a Final Commercial Development Plan, pedestrian access shall be provided through the site and lighting shall be provided throughout the parking lot and along the access easement as needed;

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---

**ITEM 33**

2. A sidewalk shall be provided along one side of the access easement as proposed;

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along both sides of E. Mall Drive be approved with the following stipulations:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessments for the improvement;
2. A sidewalk shall be constructed on the south side of the street;

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement along Offutt Street and Beale Street be approved with the following stipulation:

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

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Interstate 90 be approved with the following stipulation:

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

That the Variance to the Subdivision Regulations to waive the requirement to provide an eight foot wide utility easement on the interior side of the east lot line of Lots 2 and 3 and a portion of the south lot line of Lot 3 be denied without prejudice at the applicant's request.

**GENERAL COMMENTS:**

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 and to reduce the width of access easements, to waive the requirement to install sidewalk along both sides of E. Mall Drive, to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and additional pavement along Offutt Street and Beale Street, to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Interstate 90, and to waive the requirement to provide an eight foot wide utility easement on the interior side of the east lot line of Lots 2 and 3 and a portion of the south lot line of Lot 3.

On May 10, 2007, the Planning Commission approved a Preliminary Plat application

STAFF REPORT  
June 7, 2007

---

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**ITEM 33**

(#07PL060) to subdivide the subject property into three lots leaving a 52.83 acre unplatted balance. The Preliminary Plat will be considered at the June 4, 2007 City Council meeting.

The applicant has also submitted a Fence Height Exception application (#07FV003) to construct a six foot high fence along the Interstate 90 right-of-way.

The subject property is located east of Dyess Avenue and north of Interstate 90. 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:

Interstate 90: Interstate 90 is located along the south lot line of the subject property and is classified as a principal arterial street on the City's Major Street Plan. To date, curb, gutter, sidewalk, street light conduit, water and sewer have not been constructed along the street. Requiring that the street be improved as it abuts the subject property will create a discontinuous street section. In the past, the Planning Commission and the City Council have granted similar requests when the improvement would create a discontinuous street section. As such, staff is recommending that the Variance to the Subdivisions to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer 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.

Offutt Street/Beale Street: Offutt Street and Beal Street are located within the Interstate 90 right-of-way and serve as service roads along the Interstate Highway. The streets are classified as commercial streets requiring that they be constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, the streets are constructed with an approximate 20 foot wide paved surface. In order not to create a discontinuous street section, the street must be improved as it abuts the subject property. In the past, the Planning Commission and the City Council have granted similar requests when the improvement would create a discontinuous street section. As such, staff is recommending that the Variance to the Subdivisions to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer 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.

## STAFF REPORT

June 7, 2007

---

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---

**ITEM 33**

E. Mall Drive: E. Mall Drive is located along the north 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 36 foot wide paved surface with no on-street parking, curb, gutter, sidewalk, street light conduit, water and sewer. The street is currently located in a 100 foot wide right-of-way and constructed with three 12 foot wide paved lanes, curb, gutter, sidewalk along the south side, street light conduit, water and sewer. The applicant has requested a Variance to the Subdivision Regulations to waive the requirement to install a sidewalk along the north side of E. Mall Drive. Staff has noted that the sidewalk along the south side of the street will provide pedestrian access between properties. As such, staff is recommending that the Variance to the Subdivision Regulations be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvement.

Access Easements: The Preliminary Plat identifies a 54 foot wide access and utility easement along the common lot line between Lot 1 and Lot 2 to serve as access to Lot 3. The easement is classified as a commercial street requiring that the street be located in a minimum 59 foot wide easement and/or right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The construction plans show the street being constructed as a commercial street with the exception of a sidewalk along the east side of the easement and street light conduit. The applicant has also submitted a Master Plan identifying an access aisle along the south lot line of Lot 1 and Lot 2 serving as access to Lots 1 and 2. In addition, the applicant has requested that the Final Planned Commercial Development review serve as a tool to insure pedestrian access through the site, lighting, separation between the parking area and the access street and utility extensions as needed. As such, staff is recommending that the Variance to the Subdivision Regulations as requested be approved with the stipulation that upon submittal of a Final Commercial Development Plan, pedestrian access be provided through the site, lighting be provided throughout the parking lot and along the access easement as needed, a separation be provided between the access easement and the parking area, and utilities be extended as needed to serve the proposed lots.

Eight Foot Wide Utility Easement: The applicant submitted a Variance to the Subdivision Regulations request to waive the requirement to provide an eight foot wide utility easement on the interior side of the east lot line of Lots 2 and 3 and a portion of the south lot line of Lot 3. However, on May 25, 2007, the applicant requested that the Variance be denied without

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June 7, 2007

---

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---

**ITEM 33**

prejudice. As such, staff is recommending that the Variance to the Subdivision Regulations be denied without prejudice at the applicant's request.

Notification Requirement: As of this writing, the receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the June 7, 2007 Planning Commission meeting if this requirement has not been met.