

STAFF REPORT  
October 25, 2007

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**No. 07SV050 - Variance to the Subdivision Regulations to waive the requirement to dedicate 10 additional feet of right-of-way and provide a planting screen easement along E. St. Patrick Street; to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, to dedicate 17 feet of right-of-way and provide a planting screen easement along Creek Drive; and to install sidewalk along the south side of E. St. Charles Street as per Chapter 16 of the Rapid City Municipal Code** **ITEM 39**

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GENERAL INFORMATION:

APPLICANT	James Letner
AGENT	Doug Sperlich for Sperlich Consulting, Inc.
PROPERTY OWNER	James Letner
REQUEST	<b>No. 07SV050 - Variance to the Subdivision Regulations to waive the requirement to dedicate 10 additional feet of right-of-way and provide a planting screen easement along E. St. Patrick Street; to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, to dedicate 17 feet of right-of-way and provide a planting screen easement along Creek Drive; and to install sidewalk along the south side of E. St. Charles Street as per Chapter 16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	Lot B of Lot 3 of Tract D, located in the SW1/4 of the SW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 thru 8 of Market Square Subdivision, located in the SW1/4 of the SW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 8.34 acres
LOCATION	At the northwest corner of the intersection of Creek Drive and East St. Patrick Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Light Industrial District
South:	General Commercial District
East:	Light Industrial District

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West:	General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	8/23/2007
REVIEWED BY	Travis Tegethoff / Todd Peckosh

**RECOMMENDATION:**

**Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate 10 additional feet of right-of-way and provide a planting screen easement along E. St. Patrick Street and to install sidewalk along the south side of E. St. Charles Street as per Chapter 16 of the Rapid City Municipal Code be continued to the November 8, 2007 Planning Commission meeting to be heard in conjunction with the Layout Plat; and,**

**That the Planning Commission acknowledge the request to withdraw the Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, to dedicate 17 feet of right-of-way and provide a planting screen easement along Creek Drive.**

**GENERAL COMMENTS: This staff report has been revised as of October 17, 2007. All revised and/or added text is shown in bold print. This item was continued to the October 25, 2007 Planning Commission meeting at the applicant's request.** The applicant has submitted this request for a Variance to the Subdivision Regulations to waive the requirement to dedicate 10 feet of additional right-of-way and provide a planting screen easement along E. St. Patrick Street; to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, to dedicate 17 feet of additional right-of-way and provide a planting screen easement along Creek Drive; and to install sidewalk along the south side of E. St. Charles Street as per Chapter 16 of the Rapid City Municipal Code as they abut the property. The applicant has also submitted a Layout Plat to subdivide the property from approximately an eight acre lot into eight general commercial lots. (See companion item #07PL116.)

The property is located along East Saint Patrick Street, Creek Drive and East Saint Charles Street. Currently, there is a retail structure and parking lot located on a portion of the property.

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On February 21, 2005 City Council approved a Layout Plat (#05PL006) with stipulations for the property.

On March 7, 2005 City Council denied without prejudice a Variance to the Subdivision Regulations (#05SV002) at the applicant's request for the property.

On June 20, 2005 City Council denied without prejudice a Variance to the Subdivision Regulations (#05SV019) at the applicant's request for the property.

**STAFF REVIEW:**

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

**East Saint Patrick Street:** East Saint Patrick Street is located along the south lot line and is classified as a principal arterial street on the City's Major Street Plan 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. To date, East Saint Patrick Street is located in an 80 foot wide right-of-way and constructed with a 48 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The applicant has submitted a Variance to the Subdivision Regulations request to waive the requirement to dedicate ten additional feet of right-of-way along East Saint Patrick Street as it abuts the subject property. However, the City Council and the Planning Commission have routinely required that the additional right-of-way be dedicated as a part of the review and approval of a plat. In particular, obtaining the right-of-way as required at the time the property is subdivided precludes the taxpayers from having to purchase the right-of-way when it is needed in the future. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to dedicate the 10 feet of additional right-of-way be denied.

**Creek Drive:** Creek Drive is located along the east lot line of the subject property and is classified as a minor arterial street on the City's Major Street Plan. A minor arterial street must 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, Creek Drive is located in a 66 foot wide right-of-way and constructed with an approximate 24 foot wide paved surface, water and sewer. As Creek Drive is an existing paved road, the developer has not generally been required to reconstruct the existing paved road; rather they have been required to sign a waiver of right to protest an assessment project for future improvements. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install additional pavement, curb, gutter, sidewalk, and street light conduit be approved with the stipulation that the applicant

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sign a waiver of right to protest any future assessment for the improvements. In addition, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install water and sewer be denied without prejudice as these improvements exist.

The applicant is also requesting a Variance to the Subdivision Regulations to waive the requirement to dedicate 17 feet of additional right-of-way along Creek Drive. However, the City Council and the Planning Commission have routinely required that the additional right-of-way be dedicated as a part of the review and approval of a plat. In particular, obtaining the right-of-way as required at the time the property is subdivided precludes the taxpayers from having to purchase the right-of-way when it is needed in the future. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to dedicate the additional right-of-way be denied.

**On October 9, 2007 the applicant requested to withdraw the Variance requests for the portions that relate to Creek Drive. In addition, the applicant submitted a revised plat document leaving the portion of the property along Creek Drive as an unplatted balance. As such, staff would recommend that the Planning Commission acknowledge the request to withdraw the Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, to dedicate 17 feet of right-of-way and provide a planting screen easement along Creek Drive.**

East Saint Charles Street: The applicant has requested a Variance to the Subdivision Regulations to waive the requirement to install sidewalk along the south side of East Saint Charles Street. Requiring the construction of sidewalk would result in a discontinuous street design. In addition, an existing bike path is located along the north side of East Saint Charles Street. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along the south side of East Saint Charles Street be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Screen Planting: Staff noted that Section 16.12.190 states that a double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. Since the subdivision is a commercial development no planting screen easement is required. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to provide a planting screen easement be denied.

**Legal Notification Requirement: The receipts from the certified mailings have been**

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returned.