

STAFF REPORT
November 8, 2007

No. 07SV052 - Variance to the Subdivision Regulations to waive the requirement to install sidewalk, water, sewer, curb, gutter, street light conduit, pavement and to reduce right-of-way width as per Chapter 16.16 of the Rapid City Municipal Code

ITEM 46

GENERAL INFORMATION:

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| APPLICANT/Agent | Dream Design International, Inc. |
| PROPERTY OWNER | Midland Rushmore LLC |
| REQUEST | No. 07SV052 - Variance to the Subdivision Regulations to waive the requirement to install sidewalk on both sides of street, water, sewer, curb, gutter, street light conduit, pavement and to reduce right-of-way width as per Chapter 16.16 of the Rapid City Municipal Code |
| EXISTING LEGAL DESCRIPTION | Lot 1, less Lot H-1 and Lot 2, less Lot H-2 of Block 2, located in the NE1/4 SW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota |
| PROPOSED LEGAL DESCRIPTION | Lots 1A, 2A and 2B, Block 2, formerly Lot 1, less Lot H-1 and Lot 2, less Lot H-2 of Block 2, the vacated portion of Rapp Street and the south half of the vacated alley, located in the NE1/4 SW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE | Approximately 0.77 acres |
| LOCATION | At the intersection of Eglin Street and Rapp Street |
| EXISTING ZONING | General Commercial District |
| SURROUNDING ZONING | |
| North: | General Commercial District |
| South: | General Commercial District (Planned Commercial Development) |
| East: | General Commercial District |
| West: | General Commercial District |
| PUBLIC UTILITIES | City sewer and water |
| DATE OF APPLICATION | 9/7/2007 |
| REVIEWED BY | Vicki L. Fisher / Todd Peckosh |

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RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to reduce the right-of-way width from 59 feet to 20 feet and to waive the requirement to install sidewalk, water, sewer, curb, gutter, street light conduit and pavement along a 20 foot wide parking and circulation easement be **denied without prejudice**;

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along the east side of Rapp Street and to install water and sewer along Rapp Street be approved with the following stipulations:

1. **Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements; and,**
2. **Prior to City Council approval, the plat document shall be revised eliminating Lot K-4B and K-4C;**

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along both sides of Pine Street and sewer along Pine Street be approved with the following stipulations:

1. **Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements; and,**
2. **A sidewalk shall be provided along one side of the street.**

GENERAL COMMENTS:

(Update, October 29, 2007. All revised and/or added text is shown in bold print.) This item was continued at the October 25, 2007 Planning Commission meeting to allow the applicant to submit a revised plat document. The applicant has subsequently submitted the revised plat document showing the three lots reconfigured as previously discussed and two additional lots located in the southeast corner of the intersection of Eglin Street and LaCrosse Street.

(Update, October 12, 2007. All revised and/or added text is shown in bold print.) This item was continued at the October 4, 2007 Planning Commission meeting to allow the applicant to submit a revised plat document. To date, the information has not been submitted for review and approval. As such, staff is recommending that this item be continued to the November 8, 2007 Planning Commission meeting.

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install sidewalk, water, sewer, curb, gutter, street light conduit, pavement and to reduce the right-of-way width along a 20 foot side parking and circulation easement, to install sidewalk, water and sewer along Rapp Street and to install sidewalk and sewer along Pine Street as they abut the property. In addition, the applicant has submitted a Preliminary Plat (#07PL121) to subdivide two parcels into three lots.

The recent platting of Rushmore Crossing included the realignment of the intersection of Rapp Street and Eglin Street. As such, the applicant has submitted this Preliminary Plat to

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create lots on each side of Rapp Street as it extends through the property.

The property is located north of the intersection of Eglin Street and Rapp Street. Currently, Quality Transmission and a cellular communication tower are located on proposed Lot 2A.

STAFF REVIEW:

On September 25, 2007, staff met with the applicant to discuss the Preliminary Plat and associated Variance to the Subdivision Regulations request. In particular, staff voiced concern with access to proposed Lot 1A and Lot 2A. As a result of the discussion, the applicant has indicated that the plat document will be revised to include an adjacent lot located west of proposed Lot 1A. In addition, the plat document will show the two lots platted into one lot which will allow for an internal private drive to serve as access to proposed Lot 1A in lieu of allowing a separate approach along Rapp Street. The applicant has also indicated that the plat will be revised to vacate an existing 20 foot parking and circulation easement extending across proposed Lot 2B to serve Lot 2A since it is no longer needed to access either lot. **The revised plat document incorporates an adjacent lot into proposed Lot 1A which allows for an internal private drive extending from Rapp Street to serve all areas of the lot. In addition, the plat document has been revised to show the vacation of an existing 20 foot parking and circulation easement extending across Lot 2B to serve Lot 2A.**

Staff has reviewed the revised Preliminary Plat document and has noted the following considerations:

Rapp Street: Rapp Street is located along the east lot line of proposed Lot K-4A and is classified as a commercial street requiring that it be located in a minimum 59 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The plat document identifies Rapp Street located within an existing 63 foot wide right-of-way and/or H lot. In addition, the applicant has submitted construction plans showing the southern portion of Rapp Street being constructed to commercial street standards with the exception of water, sewer and a sidewalk along the east side of the street. The northern portion of the street is currently constructed to commercial street standards with the exception of water, sewer and a sidewalk along the east side of the street.

The applicant has indicated that the two lots, K-4B and K-4C, located in the southeast corner of the intersection of LaCrosse Street and Eglin Street will be removed from this plat. As such, no increase in density is being proposed. In the past, the Planning Commission and the City Council have granted similar Variance requests when the associated plat did not result in any increase in density. In addition, a sidewalk currently exists along the west side of Rapp Street to provide pedestrian access along the street. The applicant has demonstrated that all of the surrounding properties have sewer and water service. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install sidewalk

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along the east side of Rapp Street and to install water and sewer along Rapp Street 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. In addition, the plat document must be revised eliminating Lots K-4B and K-4C.

Pine Street: Pine Street is located along the east lot line of the subject property and is being constructed as a part of the Rushmore Crossing development. In particular, the street will be constructed with a 36 foot wide paved surface, curb, gutter, street light conduit and water. However the construction plans do not show sidewalk or sewer along the street. The applicant has demonstrated that all of the surrounding properties have sewer service. In addition, a high point exists at the northern boundary of the property precluding a sewer line from being extended south along Pine Street to Eglin Street. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install sewer along Pine Street 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 improvement.

The applicant has also submitted a Variance to the Subdivision Regulations request to waive sidewalk along both sides of Pine Street. However, this is a commercial area and, as such, a sidewalk must be provided along one side of the street in order to provide a pedestrian walkway along Pine Street. Staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install a sidewalk along both sides of the street be approved with the stipulation that a sidewalk be provided along one side of the street.

Parking and Circulation Easement: The revised plat shows the vacation of the existing 20 foot wide parking and circulation easement on proposed Lot 2B. As such, staff is recommending that the Variance to the Subdivision Regulations to reduce the right-of-way width from 59 feet to 20 feet and to waive the requirement to install sidewalk, water, sewer, curb, gutter, street light conduit and pavement along the 20 foot wide parking and circulation easement be denied without prejudice.

Notification Requirement: The receipts from the certified mailings have been returned. As of this writing, staff has not received any calls of inquiry regarding this proposal.