

STAFF REPORT
August 7, 2008

No. 08SV037 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit along Elk Vale Road and Interstate 90 frontage road, to reduce the width of the access easement from 59 feet to 26 feet and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along the access easement as per Chapter 16.16 of the Rapid City Municipal Code

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GENERAL INFORMATION:

APPLICANT	Paul Bradsky for Atlantis, LLC
AGENT	Janelle Finck for Fisk Land Surveying & Consulting Engineers
PROPERTY OWNER	Ralph D. Newman
REQUEST	No. 08SV037 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit along Elk Vale Road and Interstate 90 frontage road, to reduce the width of the access easement from 59 feet to 26 feet and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along the access easement as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	Lot 1 of Atlantis Subdivision and Tract E (less Lot 1) of W-Y Addition, located in the W1/2 SW1/4, Section 27, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lot 1 revised of Atlantis Subdivision, located in the W1/2 SW1/4, Section 27, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 6.32 acres
LOCATION	1314 North Elk Vale Road
EXISTING ZONING	General Commercial District - No Use District
SURROUNDING ZONING	
North:	Box Elder
South:	General Commercial District
East:	Box Elder
West:	General Commercial District (Planned Development Designation)

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PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	7/11/2008
REVIEWED BY	Vicki L. Fisher / Karley Halsted

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit along Interstate 90 frontage 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 assessments for the improvements; and,

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit along Elk Vale 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 assessments for the improvements;

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Elk Vale Road be denied; and,

That the Variance to the Subdivision Regulations to reduce the width of the access easement from 59 feet to 26 feet and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along the access easement be approved.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, and street light conduit along Elk Vale Road and the I-90 frontage road, to reduce the width of an access easement from 59 feet to 26 feet and to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along the access easement that serves as access to the property. In addition, the applicant has submitted a Preliminary Plat (File #08PL105) of the property combining two parcels into one lot.

On June 6, 2005, the City Council approved a Layout Plat (File #05PL80) to create Lot 1 of Atlantis Subdivision, which included a portion of this property. In addition, the City Council approved a Variance to the Subdivision Regulations (File #05SV032) to waive the requirement to install curb, gutter, sidewalk and street light conduit along Elk Vale Road and I-90 frontage road and to waive the requirement to install curb, gutter, street light conduit, water, sewer and pavement along the access easements as they abut the property.

On December 13, 2005, the City approved a Final Plat (File #05PL277) to create Lot 1 of

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Atlantis Subdivision.

The property is located east of Elk Vale Road and south of the I-90 frontage road. Currently, the Fairfield Inn & Suites and the Watiki Water Park are located on the property.

STAFF REVIEW:

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

Elk Vale Road: Elk Vale Road is located along the west lot line of the subject property 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. Currently, Elk Vale Road is located in a 200 foot wide right-of-way and constructed with an approximate 76 foot wide paved surface. As Elk Vale Road is an existing constructed and improved (paved) road, the developer has not generally been required to improve the existing road; rather they have been required to sign a waiver of right to protest an assessment project. This would insure that the property owners will participate in future improvements. In addition, the associated Preliminary Plat to combine two parcels into one lot, results in a decrease in density. In the past, the Planning Commission and the City Council have granted similar requests when the associated plat results in a decrease in density. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water and sewer be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

The South Dakota Department of Transportation has constructed a sidewalk along a portion of Elk Vale Road located directly north of this property. The sidewalk provides a pedestrian access along Elk Vale Road and across Interstate 90 to ensure safe pedestrian access between commercial uses within the area. Requiring a sidewalk along this section of Elk Vale Road will provide a pedestrian access from this development to the sidewalk currently constructed along Elk Vale Road. As such, staff is recommending that the Variance to the Subdivision Regulations to provide a sidewalk along Elk Vale Road be denied. Please note that the applicant will not be required to construct the sidewalk until a building permit is obtained for the property.

I-90 Frontage Road: The I-90 frontage road is located along a portion of the north lot line of the subject property and is classified as a commercial street requiring that the street 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. Currently, the I-90 frontage road is located in the I-90 right-of-way and is constructed with an approximate 26 foot wide paved surface. As noted above, the developer has not generally been required to

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improve the existing road when it is currently constructed with a paved surface; rather they have been required to sign a waiver of right to protest an assessment project. This would insure that the property owners will participate in future improvements. In addition, the associated Preliminary Plat to combine two parcels into one lot, results in a decrease in density. In the past, the Planning Commission and the City Council have granted similar requests when the associated plat results in a decrease in density. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Access Easement: An access easement currently exists on the adjacent property providing access from the I-90 service road to this property. The access easement is classified as a commercial street requiring that it be located in a minimum 59 foot wide easement and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, sewer and water. Currently, the access easement is a 26 foot wide easement and constructed with a 26 foot wide paved surface. The access easement serves as a 26 foot wide access aisle within the parking lot located on the adjacent property.

As noted above, the associated Preliminary Plat to combine two parcels into one lot, results in a decrease in density. In the past, the Planning Commission and the City Council have granted similar requests when the associated plat results in a decrease in density. In addition, water and sewer have been extended through the adjacent property within utility easement(s) to serve this property. Lighting is also being provided within the adjacent parking lot. In addition, pedestrian access is being provided between the commercial development on this property and the adjacent properties. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer be approved.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the August 7, 2008 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.