

STAFF REPORT
November 20, 2008

No. 08SV055 - Variance to the Subdivision Regulations to waive the requirement: 1) to dedicate right-of-way and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the section line highway; 2) to reduce the right-of-way width from 100 feet to 80 feet and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along North 44th Street; 3) to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along Meadowwood Drive; 4) to reduce the right-of-way width from 59 feet to 40 feet and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along the existing 40 foot wide right-of-way as it abuts the east lot line of the property; and, 5) to waive the requirement that an unusable reserve strip be prohibited as per Chapter 16.16 of the Rapid City Municipal Code

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GENERAL INFORMATION:

APPLICANT Northwestern Engineering

AGENT FMG, Inc.

PROPERTY OWNER Northwestern Engineering Co.

REQUEST **No. 08SV055 - Variance to the Subdivision Regulations to waive the requirement to dedicate right-of-way and to waive the requirement: 1) to dedicate right-of-way and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the section line highway; 2) to reduce the right-of-way width from 100 feet to 80 feet and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along N. 44th Street; 3) to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along Meadowwood Drive; 4) to reduce the right-of-way width from 59 feet to 40 feet and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along the existing 40 foot wide right-of-way as it abuts the east lot line of the property; and, 5) to waive the requirement that an unusable reserve strip be prohibited as per Chapter 16.16 of the Rapid City Municipal Code**

EXISTING LEGAL DESCRIPTION Tract A, Lot K and Lot 1 of Tract B all of Meadowwood

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Subdivision, Section 33, T2N, R7E, BHM, Rapid City,
Pennington County, South Dakota

PROPOSED
LEGAL DESCRIPTION

Lots 1 thru 3 of GFP Subdivision and dedicated Right-of-way for Meadowwood Drive and North 44th Street, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota

PARCEL ACREAGE

Approximately 27.3 acres

LOCATION

At the northern terminus of North 44th Street between City Springs Road and Sturgis Road

EXISTING ZONING

Low Density Residential District

SURROUNDING ZONING

North: Low Density Residential District
South: Low Density Residential District
East: Low Density Residential District - General Commercial District - Mining and Extraction District
West: Low Density Residential District

PUBLIC UTILITIES

On-site water and wastewater

DATE OF APPLICATION

10/24/2008

REVIEWED BY

Vicki L. Fisher / Karley Halsted

RECOMMENDATION:

Staff recommends that the Planning Commission acknowledge the applicant's request to

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withdraw the Variance to the Subdivision Regulations to reduce the right-of-way width from 100 feet to 80 along N. 44th Street, to reduce the right-of-way width from 59 feet to 40 feet along the existing 40 foot wide right-of-way located along the east lot line of the property and to allow an unusable reserve strip;

That the Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along Meadowwood Drive, the existing 40 foot wide right-of-way as it abuts the east lot line of the property and along N. 44th 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 assessment for the improvements; and,

That the Variance to the Subdivision Regulations to waive the requirement to dedicate right-of-way and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the section line highway 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:

The applicant has submitted a Preliminary Plat (File #08PL144) to reconfigure three existing parcels into three platted lots creating Lots 1 through 3 of the GFP Subdivision. As a part of that request, the applicant has submitted a Variance to the Subdivision Regulations to waive the requirement: 1) to dedicate right-of-way and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along the section line highway; 2) to reduce the right-of-way width from 100 feet to 80 feet and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along N. 44th Street; 3) to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along Meadowwood Drive; 4) to reduce the right-of-way width from 59 feet to 40 feet and to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, sewer and water along the existing 40 foot wide right-of-way as it abuts the east lot line of the property; and, 5) to allow an unusable reserve strip. In addition, the applicant also submitted a Comprehensive Plan Amendment to the Major Street

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Plan (File #08CA041) to relocate N. 44th Street, a minor arterial street, as it extends through the property.

The property is located at the northern terminus of N. 44th Street between City Springs Road and Sturgis Road. Currently, a single family residence is located on proposed Lot 1. In addition, a well house is located on proposed Lot 3.

STAFF REVIEW:

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

Lot 2: The Layout and Preliminary Plat shows Lot 2 as a 0.868 acre lot with a 20 foot wide flagpole extending along N. 44th Street. However, the 20 foot wide flagpole area of the lot does not provide a building envelope, creating an unusable reserve strip between Lot 1 and N. 44th Street. Chapter 16.12.040 of the Rapid City Municipal Code states that an unusable reserve strip controlling access to streets is prohibited.

On November 12, 2007, the applicant indicated that the Layout and Preliminary Plat will be revised to comply with Chapter 16.12.040 and has, subsequently, requested that the Variance to the Subdivision Regulations to allow an unusable reserve strip be withdrawn. As such, staff recommends that the Planning Commission acknowledge the applicant's request to withdraw the Variance to the Subdivision Regulations to allow an unusable reserve strip.

N. 44th Street: The Layout and Preliminary Plat identifies N. 44th Street extending through the property. The street is identified as a minor arterial street on the City's Major Street Plan requiring that it be located within a minimum 100 foot wide right-of-way and constructed with a minimum 36 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The Layout and Preliminary Plat shows the proposed dedication of an 80 foot wide right-of-way for the street rather than the required 100 foot wide right of way. In addition, an approximate 10 foot wide graveled road is currently constructed within a portion of the proposed right-of-way. Requiring the construction of the additional improvements along N.

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44th Street as it extends through the property will result in a discontinuous street section. The Planning Commission and the City Council have granted similar Variance requests when the associated plat did not result in any increase in density. The proposed plat will reconfigure these three existing lots resulting in no increase in density. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along N. 44th Street as it extends through the property be approved as requested with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements. It should be noted that if the property is transferred to the South Dakota Department of Game, Fish and Parks as identified by the applicant, the State can not be assessed for these future improvements without their concurrence.

On November 12, 2007, the applicant indicated that the Layout and Preliminary Plat will be revised to provide a minimum 100 foot wide right-of-way as required for N. 44th Street. As such, staff recommends that the Planning Commission acknowledge the applicant's request to withdraw the Variance to the Subdivision Regulations to reduce the right-of-way width along N. 44th Street.

Existing 40 foot wide Right-of-way: The Preliminary Plat identifies an existing 40 foot wide right-of-way located along the east lot line of the property. The street is classified as an industrial street requiring that it be located within 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 right-of-way is unimproved. In addition, none of the existing intersecting right(s)-of-way have been improved. As such, requiring the construction of the additional improvements along the existing 40 foot wide right-of-way as it abuts the property will result in a discontinuous street section. The Planning Commission and the City Council have granted similar Variance requests when the associated plat did not result in any increase in density. The proposed plat will reconfigure these three existing lots resulting in no increase in density. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along the 40 foot wide right-of-way as it abuts the property be approved as

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requested with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements. As previously noted, if proposed Lots 2 and 3 are transferred to the South Dakota Department of Game, Fish and Parks as identified by the applicant, the State can not be assessed for these future improvements without their concurrence.

On November 12, 2007, the applicant indicated that the Layout and Preliminary Plat will be revised to provide a minimum 100 foot wide right-of-way as required for N. 44th Street. As such, staff recommends that the Planning Commission acknowledge the applicant's request to withdraw the Variance to the Subdivision Regulations to reduce the right-of-way width along N. 44th Street.

Meadowwood Drive: The Layout and Preliminary Plat identifies Meadowwood Drive extending into the northern portion of the property as a cul-de-sac street. The street is classified as a lane place street requiring that it be located within a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. In addition, the construction plans must show the cul-de-sac bulb located within a minimum 110 foot diameter right-of-way and a minimum 96 foot diameter paved surface. The Layout and Preliminary Plat identifies the street with a 49 foot wide right-of-way and with a 105 foot diameter right-of-way cul-de-sac bulb. The applicant has indicated that the plat will be revised to provide a minimum 110 foot diameter right-of-way cul-de-sac bulb as required. Currently, an approximate 10 foot wide graveled driveway is constructed in a portion of the proposed right-of-way and serves as access to the single family residence located on proposed Lot 1.

Requiring the construction of the additional improvements along Meadowwood Drive as it extends into the property will result in a discontinuous street section. The Planning Commission and the City Council have granted similar Variance requests when the associated plat did not result in any increase in density. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Meadowwood Drive as it extends into

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the property be approved as requested with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Section Line Highway: A north-south section line highway is located along the west lot line of the property. The section line highway is classified as a lane place street requiring that it be located in a minimum 45 foot wide right-of-way and constructed with a minimum 20 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. To date, the section line highway is unimproved.

The Major Street Plan does not show a future collector or arterial street located within the section line highway. Nor do any of the adjacent properties currently take access from the section line highway. Typically, the City has required a section line highway to be vacated in lieu of granting a Variance to the Subdivision Regulations to waive the requirement to improve the section line highway if it is determined that a street is not needed within this location. However, a City park is located west of the section line highway. Retaining the section line highway will allow for the construction of future pedestrian and/or bike path access to the adjacent public land.

Staff has also noted that requiring the construction of the additional improvements along the section line highway as it abuts the property will result in a discontinuous street section. The Planning Commission and the City Council have granted similar Variance requests when the associated plat did not result in any increase in density. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along section line highway as it abuts the property be approved as requested with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements. In addition, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to dedicate the section line highway as right-of-way be granted since the existing section line highway will allow for pedestrian and bike access to the public land.

Legal Notification Requirement: As of this writing, the receipts from the certified mailings have

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not been returned. Staff will notify the Planning Commission at the November 20, 2008 Planning Commission meeting if this requirement is not met.