

STAFF REPORT
March 26, 2009

No. 09SV008 - Variance to the Subdivision Regulations to waive the requirement to install additional pavement, curb, gutter, sidewalk, street light conduit and sewer as per Chapter 16 of the Rapid City Municipal Code

ITEM 37

GENERAL INFORMATION:

APPLICANT	FMLC, Inc.
AGENT	Ferber Engineering Co., Inc.
PROPERTY OWNER	Julie Lien/FMLC, Inc.
REQUEST	No. 09SV008 - Variance to the Subdivision Regulations to waive the requirement to install additional pavement, curb, gutter, sidewalk, street light conduit and sewer as per Chapter 16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	A portion of the SE $\frac{1}{4}$ north of Interstate 90 less Tract A of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and less lots H5, H6, H7, H8 and H9 but including that part of vacated East Mall Drive being part of the outside edge of Lot H5; and part of the SW $\frac{1}{4}$ north of Interstate 90 including vacated East Mall Drive within said SW $\frac{1}{4}$ and less Lot 1 of NE $\frac{1}{4}$ SW $\frac{1}{4}$ and less Lots 1 and 2 of NW $\frac{1}{4}$ SW $\frac{1}{4}$ and less Lot H5 and less lot H8; and part of Lot 1 of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ including vacated East Mall Drive within said Lot 1 and less Lot H7; and part of NW $\frac{1}{4}$ including vacated East Mall Drive within said NW $\frac{1}{4}$ less Lots AR, B, C and less E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ and less E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ and less Lots H2 and H4; and part of Lot C of SE $\frac{1}{4}$ NW $\frac{1}{4}$ less Lot H3 and less Lot H1; and part of Lot 1 of Silver Strike Subdivision; and all located in Section 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lot 1 of Block 5 of East Mall Business Center Subdivision and dedicated Public Right-of-way for Tish Boulevard, Section 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 25.4 acres
LOCATION	North of East Mall Drive between Tish Boulevard and Dyess Avenue
EXISTING ZONING	General Commercial District

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SURROUNDING ZONING

North: General Commercial District (Planned Development Designation) - General Agriculture District - Limited Agriculture District
South: General Commercial District
East: General Commercial District - Light Industrial District
West: General Commercial District

PUBLIC UTILITIES City water and sewer

DATE OF APPLICATION 2/27/2009

REVIEWED BY Travis Tegethoff / Karley Halsted

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install sidewalk and street light conduit as per Chapter 16 of the Rapid City Municipal Code be denied without prejudice; and,

That the Variance to the Subdivision Regulations to waive the requirement to install additional pavement, curb, gutter, and sewer as per Chapter 16 of the Rapid City Municipal Code 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 Variance to the Subdivision Regulations to waive the requirement to install additional pavement, curb, gutter, sidewalk, street light conduit and sewer along Dyess Avenue as per Chapter 16 of the Rapid City Municipal Code. The property is located north of East Mall Drive between Tish Boulevard and Dyess Avenue. In addition, the applicant has submitted a Preliminary Plat (#09PL009) application to create one lot and leave the remaining portion of the property as an unplatted balance.

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

Dyess Avenue: Dyess Avenue is located along the east lot line of the property and is classified as a proposed minor 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. Currently, Dyess Avenue has an 83 foot wide right-of-way and an approximate 24 foot wide paved surface. The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install additional pavement, curb, gutter, sidewalk, street light conduit and

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sewer. As Dyess Avenue 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, and sewer be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements. However, the installation of sidewalk and street light conduit would not interfere with the existing or future road section. In addition, sidewalk is required to be installed at the time a building permit is issued and the site is developed. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install sidewalk and street light conduit be denied without prejudice.