

STAFF REPORT

April 24, 2003

No. 03SV016 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk and to improve pavement along Elk Vale Road and to waive the requirement to install sidewalk along a portion of East Road, West Road, Seger Drive and Mall Drive as per Chapter 16.16 of the Rapid City Municipal Code

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GENERAL INFORMATION:

PETITIONER	FMG, Inc. for Bypass LLC
REQUEST	No. 03SV016 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, sidewalk and to improve pavement along Elk Vale Road and to waive the requirement to install sidewalk along a portion of East Road, West Road, Seger Drive and Mall Drive as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	The unplatted portion of the W1/2 NE1/4; N1/2 NE1/4 NE1/4; and the unplatted portion of the S1/2 NE1/4 NE1/4; N1/2 SE1/4 NE1/4 all in Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 thru 9 of Block 1, Lots 1 thru 5 of Block 2, Lots 1 thru 12 of Block 3, Lot 1 of Block 4, Lots 1 thru 6 of Block 5, and Lot 1 of Block 6, Heartland I90 Business Park, located in the NE1/4 of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 139 acres
LOCATION	North and west of the intersection of I-90 and Elk Vale Road
EXISTING ZONING	General Agriculture District
SURROUNDING ZONING	
North:	General Agriculture District (County)
South:	General Commercial District/General Agriculture District
East:	Box Elder
West:	General Agriculture District
PUBLIC UTILITIES	To be extended
DATE OF APPLICATION	03/28/2003

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REPORT BY

Vicki L. Fisher

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, and to improve pavement along Elk Vale Road be approved with the stipulation that the applicant 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 install sidewalk along a portion of Elk Vale Road, East Road, West Road, Seger Drive and Mall Drive as denied.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations as outlined above. In addition, the applicant has submitted a Layout Plat to subdivide the subject property into 34 lots. The applicant has also submitted a request to change the zoning on the northern two-thirds of the subject property from General Agriculture District to Light Industrial District. In addition, the applicant has submitted a Comprehensive Plan Amendment request seeking to change the future land use designation from Light Industrial to General Commercial and to rezone the southern one-third of the subject property from General Agriculture District to General Commercial District. (See companion items #02CA016, 03RZ017, 03PL038, 03RZ016 and 03CA010.)

The property is located north and west of the intersection of I-90 and Elk Vale Road and is currently void of any structural development.

STAFF REVIEW:

During the review of the Variance to the Subdivision Regulations, staff identified the following considerations:

Curb, gutter, street light conduit and paving improvement: Currently, curb, gutter and street light conduit do not exist along this section of Elk Vale Road. The existing ditches along this section of the roadway accommodate the drainage flows as needed. The South Dakota Department of Transportation has also indicated that they are not requiring these improvements at this time. As such, staff is recommending that the Variance to waive the requirement to install curb, gutter, street light conduit and to improve pavement along Elk Vale Road be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvements.

Sidewalk: The Subdivision Regulations do not require sidewalks be constructed within an industrial district. The Elk Vale Neighborhood Area Future Land Use Plan identifies the appropriate use of the majority of the subject property as industrial with a small area located south of Mall Drive as appropriate for commercial use with a Planned Commercial

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Development. As previously indicated, the applicant is proposing to rezone approximately 35.62 acres of the subject property from General Agriculture District to General Commercial District. The Subdivision Regulations require that sidewalks be constructed in a General Commercial District. The applicant is anticipating that the associated request to rezone the property to General Commercial District as identified will be approved and, as such, is requesting to waive the requirement to install sidewalks along the southern portion(s) of Elk Vale Road, Mall Drive, West Road and East Road. However, the applicant has not identified any compelling reason to support the Variance to the Subdivision Regulations request. The City's Visitors Center is located south of the subject property. Due to the location near the Interstate interchange, motel, hotel, restaurant and other retail commercial uses may develop within the vicinity. Based on the potential uses, it is anticipated that there could be significant pedestrian activity particularly during the tourist season. Providing sidewalks along the southern portion of the roadway(s) will provide safe pedestrian access from the Visitors Center to future commercial development(s) to be located on the subject property. In addition, the Planning Commission and the City Council have routinely required property line sidewalks to be constructed within Commercial Districts. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install sidewalks as identified be denied.

Legal Notification Requirement: As of this writing, the receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the April 24, 2003 Planning Commission meeting if this requirement has not been met. Staff has not received any calls or inquiries regarding this proposal.