

STAFF REPORT
October 7, 2004

No. 04SV049 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement as per Chapter 16.16 of the Rapid City Municipal Code

ITEM 24

GENERAL INFORMATION:

PETITIONER	TSP for Rob Poeppel
REQUEST	No. 04SV049 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	Balance of the North 1/2 of Block 4 and balance of the South 1/2 of Block 4 and alley right-of-way all located in Feigels Subdivision, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 and 2 of Block 4 of Feigels Subdivision, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.34 Acres
LOCATION	900 East Watertown
EXISTING ZONING	Light Industrial District
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	General Commercial District
East:	Light Industrial District
West:	Light Industrial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	7/30/2004
REVIEWED BY	Vicki L. Fisher / Curt Huus

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement **along E. Madison Street and the southern 175 feet of N. Cherry Avenue be denied without prejudice and that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement along the northern 100 feet of N. Cherry Avenue be approved with the**

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following stipulation:

1. **Prior to City Council approval, the Vacation of Right-of-way petition for E. Madison Street right-of-way and the southern 175 feet of the N. Cherry Avenue, as they abut the subject property, shall be approved; and,**
2. **Prior to submittal of a Final Plat application, the applicant shall sign a waiver of right to protest any future assessments for the installation of curb, gutter, sidewalk, street light conduit, water, sewer and pavement improvements along the northern 100 feet of N. Cherry Avenue as it abuts the subject property.**

GENERAL COMMENTS:

(This Staff Report has been updated as of September 28, 2004. All revised and/or added text is shown in bold print.)

(This Staff Report has been updated as of August 31, 2004. All revised and/or added text is shown in bold print.) This item was continued at the August 26, 2004 Planning Commission meeting to allow the applicant to review the option of vacating the rights-of-way in lieu of requesting a Variance to the Subdivision Regulations to improve the streets to City street design standards. The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement along N. Cherry Avenue and E. Madison Street as they abut the above legally described property. In addition, the applicant has submitted a Layout Plat to reconfigure the two properties and to vacate the alley. (See companion item #04PL108.)

The subject property is located in the northeast corner of the N. Cherry Avenue/E. Watertown Street. Currently, a 12,000 square foot industrial building is located on proposed Lot 1 and Lot 2 is void of any structural development.

STAFF REVIEW:

Staff has suggested that the Variance to the Subdivision Regulations to waive the street improvements as identified above be continued in order to review the possibility of vacating the right-of-way. The landowners have concurred in that suggestion. Currently, the two streets are undeveloped as they abut the subject property. As such, it may be more appropriate to vacate the right-of-way in lieu of granting a Variance to the improvements. The applicant will be meeting with the adjacent property owner(s) to review this option. On August 31, 2004, the applicant's consultant requested that this item be continued to the October 7, 2004 to allow them additional time to review the option of vacating the adjacent rights-of-way.

On September 14, 2004, the applicant submitted a Vacation of Right-of-way request to vacate E. Madison Street and N. Cherry Avenue rights-of-way as they abut the subject property. (See companion item #04VR008.) Staff is supporting the vacation of E. Madison Street and N. Cherry Avenue rights-of-way with the exception of the northern 100 feet of the N. Cherry Avenue rights-of-way. Staff has noted that the northern 100

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feet of N. Cherry Avenue serves as legal access to a property located directly north of the subject property. Upon vacation of the rights-of-way as identified, a Variance to the Subdivision Regulations is no longer necessary for this portion of the rights-of-way. As such, staff is recommending that prior to City Council approval, the Vacation of Right-of-way petition for E. Madison Street right-of-way and the southern 175 feet of the N. Cherry Avenue, as they abut the subject property, be approved.

Currently, the northern 100 feet of N. Cherry Avenue is a graveled road with no other City street design standard improvements. However, N. Cherry Avenue located north and south of this section of the right-of-way is unimproved. Requiring the improvement of the northern 100 feet of N. Cherry Avenue as it abuts the subject property will result in a discontinuous street section. The Planning Commission and the City Council have granted similar Variance requests when the requirement to improve the street would result in a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the improvements along the northern 100 feet of N. Cherry Avenue be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvement.

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