

STAFF REPORT  
February 10, 2005

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**No. 05SV005 - Variance to the Subdivision Regulations to waive the requirement to allow platting half of the Elm Street right-of-way and to postpone construction of Elm Street as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 29**

GENERAL INFORMATION:

PETITIONER	Centerline, Inc. for Lazy P-6 Land Co. Inc.
REQUEST	<b>No. 05SV005 - Variance to the Subdivision Regulations to waive the requirement to allow platting half of the Elm Street right-of-way and to postpone construction of Elm Street as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	N1/2 NW1/4 NW1/4, Government Lot 1, Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 thru 53, Lazy P-6 Land Company, Inc. Subdivision all located in N1/2 NW1/4 NW1/4, Government Lot 1, Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 20.00 acres
LOCATION	East of Parkview Drive and north of Catron Boulevard
EXISTING ZONING	Low Density Residential II District
SURROUNDING ZONING	
North:	General Agricultural District
South:	Medium Density Residential District
East:	General Agricultural District
West:	General Agricultural District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	01/18/2005
REVIEWED BY	Patsy Horton / Bob Dominicak

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to allow platting one half of the right-of-way and to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water, storm sewer and pavement along Elm Street as it abuts the subject property as per Chapter 16.16 of the Rapid City Municipal Code be denied.

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GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations requesting that the applicant be allowed to plat one half of the right-of-way and to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water, storm sewer and pavement along Elm Avenue as it abuts the subject property. On January 6, 2005 the Planning Commission recommended approval of a Layout Plat to subdivide the subject property into 53 residential lots. A stipulation of the Layout Plat approval requires that upon submittal of a Preliminary Plat, the entire 100 feet of the Elm Avenue right-of-way be dedicated at the same time or the applicant seek a variance to allow the platting of one-half of the right-of-way.

The property is located at the southern terminus of Parkview Drive on the east side of Parkview Drive, with the proposed extension of Elm Avenue laying on the east side of the property.

STAFF REVIEW:

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

Elm Avenue: Elm Avenue is located along the east lot line of the original parcel and is classified as a minor arterial street on the City's Major Street Plan. As such, staff recommended during the review of the Layout Plat, that road construction plans be submitted for review and approval for Elm Avenue showing the street 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, storm drainage and sewer or a Variance to the Subdivision Regulations must be obtained.

The Layout Plat, as proposed, identified the east half of the Elm Avenue as being located on an adjacent property. As such, staff recommended that upon submittal of a Preliminary Plat, the plat document be revised to show the dedication of the east half of the right-of-way for Elm Avenue located on an adjacent property(s) or the east half of the right-of-way must be dedicated as a part of a separate platting proposal. Either way, the entire right-of-way for Elm Avenue must be dedicated at the same time or a Variance to the Subdivision Regulations must be obtained to allow platting half a right-of-way.

On October 4, 2004, the City Council approved a Preliminary Plat, Kensington Heights, to create a 7.751 acre lot on property located directly north of the subject property. The Preliminary Plat identified the dedication and construction of Elm Avenue, including the portion of Elm Avenue that abuts the property to the north. To date, the Kensington Heights applicant has not submitted a Final Plat and the adjacent Elm Avenue right-of-way to the north has not been dedicated.

The applicant is proposing to dedicate that portion of Elm Avenue right-of-way located on

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the subject property. However, the adjacent property owner is not currently proposing to proceed with platting the adjacent parcel which would subsequently result in the balance of Elm Avenue right-of-way being dedicated. Lazy P-6 has the option of dedicating all of the Elm Avenue right-of-way on the subject property or negotiating an agreement with the adjoining property owner for dedication of the required right-of-way. It should be noted that the adopted Major Street Plan identifies the location of Elm Avenue as lying on the property boundary. Several Layout Plats have been approved in this area showing Elm Avenue as currently proposed.

The potential Preliminary Plat of the subject property results in the dedication of a portion of the western half of the Elm Avenue right-of-way. As such, staff is recommending that the Variance to the Subdivision Regulations be denied.

This request raises significant questions regarding the coordination of improvements for roads that border multiple properties. The Planning Commission and City Council have only waived the requirement to improve the adjacent street in extremely rare instances. In the one instance the staff could identify, the requirement was waived for a section line highway where the adjacent property owner indicated that they did not want to develop their property. Subsequently, the section line highway was vacated resolving the issue.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the February 10, 2005 Planning Commission meeting if this requirement is not met. Staff has visited with the adjacent property owner regarding this proposal.