

STAFF REPORT
September 22, 2005

No. 05SV063 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, pavement, sewer, water and to waive the requirement to dedicate right-of-way as per Chapter 16.16 of the Rapid City Municipal Code

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GENERAL INFORMATION:

PETITIONER	CETEC Engineering Services, Inc. for Olsen Development Company, Inc.
REQUEST	No. 05SV063 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, pavement, sewer and water; to waive the requirement to dedicate right-of-way and to waive the requirement that each lot shall be provided with access from a public street as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	Lot 5, Overlook Subdivision, located in the SW1/4 NW1/4, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 5A, 5B and 5C, Overlook Subdivision, located in the SW1/4 NW1/4, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 9.116 acres
LOCATION	At the eastern terminus of Clark Street
EXISTING ZONING	General Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	General Commercial District (Planned Commercial Development)
South:	Park Forest District
East:	Park Forest District
West:	General Commercial District (Planned Commercial Development) - High Density Residential District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	8/26/2005
REVIEWED BY	Vicki L. Fisher / Bob Dominicak

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RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to reduce the pavement width for West Fulton Street from 27 feet to 24 feet be approved;

That the Variance to the Subdivision Regulations to waive the requirement to install street light conduit and to install curb, gutter and sidewalk along both sides of West Fulton Street be denied;

That the Variance to the Subdivision Regulations to waive the requirement that each lot shall be provided with access from a public street be denied; and,

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, pavement, sewer, water and to waive the requirement to dedicate right-of-way for an access easement to proposed Lot 5B be denied.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to install curb, gutter, sidewalk, street light conduit, pavement, sewer and water; to waive the requirement to dedicate right-of-way and to waive the requirement that each lot shall be provided with access from a public street. In addition, the applicant has submitted a Layout Plat to subdivide the subject property into three commercial lots. (See companion item #05PL162.)

On October 15, 2001, the City Council approved an Initial and Final Planned Commercial Development to allow a 6,910 square foot office building to be constructed in the southwest corner of the property. On June 24, 2002, a Minor Plat was approved to create Lot 5A leaving the balance of the property as a non-transferable parcel. The Minor Plat was subsequently rescinded at the applicant's request.

The property is located at the eastern terminus of Clark Street and West Fulton Street. Currently, an office building is located on proposed Lot 5A.

STAFF REVIEW:

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

West Fulton Street: The Layout Plat identifies West Fulton Street extending west from Jackson Boulevard to serve as access to proposed Lot 5C. West Fulton Street is classified as a sub-collector street requiring that it be located in a minimum 52 foot wide right-of-way and constructed with a minimum 27 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The applicant has submitted a recorded document identifying that a 60 foot wide "perpetual easement and right-of-way" has been granted from the adjacent property owner to allow the extension of West Fulton Street to the subject property. In addition, the applicant has indicated that the street will be constructed with a 24 foot wide

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paved surface, sewer and water. The applicant has also indicated that curb, gutter and sidewalk will be constructed along the south side of the street. The City has allowed curb, gutter and sidewalk on one side of a street in experimental subdivisions where the proposed lots were large in size and where the improvement(s) did not exist along adjacent street sections. However, West Fulton Street, at its current terminus, is constructed with street light conduit and curb, gutter and sidewalk along both sides of the street. Requiring the construction of curb, gutter and sidewalk along both sides of the street will be a continuation of the existing street design. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install street light conduit and curb, gutter and sidewalk along both sides of the street be denied.

As noted above, West Fulton Street is currently a 24 foot wide paved street. Requiring that the balance of West Fulton Street as it extends to the subject property be constructed with a 27 foot wide paved surface would create a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to reduce the pavement width from 27 feet to 24 feet be approved.

Access to Proposed Lot 5B: The Layout Plat does not identify any access to proposed Lot 5B.

The applicant has submitted a letter stating that proposed Lot 5B, a 3.9 acre parcel, is reserved as open space and, as such, public access and utilities are not being provided to the proposed lot. In addition, the applicant has indicated that the existing Planned Commercial Development may serve as surety for any future subdivision improvements needed to the lot if it should be developed. However, Chapter 16.12 of the Subdivision Regulations states that each lot shall be provided with access to a public street and that the street shall be constructed to City Street Design Standards. As such, the applicant has requested a Variance to the Subdivision Regulations to waive the requirement that each lot be provided with access from a public street, to waive the requirement that right-of-way be dedicated and to waive the requirement that the street be constructed with curb, gutter, sidewalk, street light conduit, water, sewer and pavement.

Staff has noted that an access street across Lot 5C to proposed Lot 5B could be shown on the plat document and that the Initial and Final Planned Commercial Development could serve as surety for the improvement of the street until such time as the lot develops. However, topographic constraints within this area may make it difficult to construct a street as identified. Staff has also noted that an access street extending from Skyline Drive across City owned property would provide legal access to the site. This appears to be the most feasible access based on the applicant's proposed lot layout. The topographic characteristics within this area appear to be such that a street could be built on the property. However, the applicant must submit for review and approval by the Planning Commission a SDCL 11-6-19 Review to construct a street across public property and the City Council must approve of the use of the public land to allow a street to serve a private property. The applicant also has the option of revising the plat document to incorporate proposed Lot 5C into one of the other proposed lots or into an adjacent property as long as that property abuts a public street.

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The Subdivision Regulations require that access be provided to each lot upon platting of the property. Staff has noted several options that would provide legal and physical access to proposed Lot 5B. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement that each lot be provided with access from a public street, to waive the requirement that right-of-way be dedicated and to waive the requirement that the street be constructed with curb, gutter, sidewalk, street light conduit, water, sewer and pavement be denied.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the September 22, 2005 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.