

STAFF REPORT
December 7, 2006

No. 06SV073 - Variance to the Subdivision Regulations to reduce the width of the common access easement from 59 feet to 35 feet and to waive the requirement to install water, sewer, sidewalk, street light conduit along the common access easement as per Chapter 16.16 of the Rapid City Municipal Code

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GENERAL INFORMATION:

PETITIONER	Ferber Engineering Co., Inc. for FMLC, Inc.
REQUEST	No. 06SV073 - Variance to the Subdivision Regulations to reduce the width of the common access easement from 59 feet to 35 feet and to waive the requirement to install water, sewer, sidewalk, street light conduit along the common access easement as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	The NE1/4 of Section 30, T2N, R8E, lying north of Rushmore Mall Drive; Lot C of Lot L2 of Marshall Heights Tract, less Lot H1 and the west half of the vacated March Avenue adjacent to Lot C; Tract G of Marshall Heights Subdivision No. 2, less Lot 1 of Tracts G and H and the west half of the vacated March Avenue; the unplatted part of the W1/2 NE1/4 lying south of Rushmore Mall Drive and the E1/2 vacated March Avenue; and a portion of Lot H3 of the NW1/4, all located in the NE Section 30 T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots 1 and 2 of Block 1 of East Mall Business Center Subdivision, formerly the NE1/4 of Section 30, T2N, R8E, lying north of Rushmore Mall Drive; Lot C of Lot L2 of Marshall Heights Tract, less Lot H1 and the west half of the vacated March Avenue adjacent to Lot C; Tract G of Marshall Heights Subdivision No. 2, less Lot 1 of Tracts G and H and the west half of the vacated March Avenue; the unplatted part of the W1/2 NE1/4 lying south of Rushmore Mall Drive and the E1/2 vacated March Avenue; and a portion of Lot H3 of the NW1/4, all located in the NE Section 30 T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 13 acres
LOCATION	Southeast of the intersection of Lacrosse Street and East Mall Drive

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EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	11/15/2006
REVIEWED BY	Vicki L. Fisher / Todd Peckosh

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to reduce the width of the common access easement from 59 feet to 35 feet be denied; and,

That the Variance to the Subdivision Regulations to waive the requirement to install water, sewer, sidewalk, street light conduit along the common access easement be approved with the following stipulation:

1. Sidewalk shall be provided along one side of the access easement.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to reduce the width of the common access easement from 59 feet to 35 feet and to waive the requirement to install water, sewer, sidewalk and street light conduit along the access easement.

On August 10, 2006, the Planning Commission recommended approval of a Preliminary Plat to subdivide the subject property into two commercial lots. The City Council will consider this item at their December 4, 2006 City Council meeting. (See companion item No. 06PL117.)

The property is located in the southeast corner of the intersection of E. Mall Drive and LaCrosse Street and is currently void of any structural development.

STAFF REVIEW:

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

Common Access Easement: A 30 foot wide common access easement was previously platted along a portion of the south lot line of proposed Lot 1 of Block 1 as shown on the associated

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Preliminary Plat. In particular, the common access easement extends east from LaCrosse Street a distance of 85 feet along the subject property. The common access easement is classified as a commercial street requiring that it be located in a minimum 59 foot wide easement and constructed with a minimum 26 foot wide paved street, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, the street has been constructed with a 26 foot wide paved surface. The associated Preliminary Plat identifies the dedication of an additional five feet of easement width for a total of 35 feet along the common access easement. The applicant has requested a Variance to the Subdivision Regulations to reduce the easement width from 59 feet to 35 feet, however, in the past the City Council and the Planning Commission have denied similar requests. In particular, it has been noted that the minimum easement and/or right-of-way width must be maintained in order to secure a sufficient area for the street to function and/or continue to function as a commercial street. As such, staff is recommending that the Variance to the Subdivision Regulations to reduce the width of the easement as identified be denied.

Currently, City water and sewer mains exist in the LaCrosse Street and Disk Drive rights-of-way. The applicant has submitted a utility plan identifying that the existing mains will serve the adjacent proposed lot. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install water and sewer along the common access easement be approved.

Street lights currently exist along LaCrosse Street and Disk Drive. In addition, lights have been constructed in the parking lot located south of the common access easement within the existing commercial parking lot for the Denny's restaurant. Lights must also be provided on the subject property within any future commercial parking lot constructed as a part of any development of the subject property. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install street light conduit along the common access easement be approved.

As noted above, the property is zoned General Commercial District and is located within an area of existing commercial use(s). As such, staff is recommending that a sidewalk be provided along one side of the common access easement to provide a pedestrian walkway between properties. In particular, staff is recommending that the Variance to the Subdivision Regulations to provide a sidewalk along both sides of the common access easement be approved with the stipulation that a sidewalk be provided along one side of the easement.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the December 7, 2006 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.