

STAFF REPORT
July 26, 2007

No. 07SV037 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, water along North Elk Vale Road; to waive the requirement to install sidewalk along the west side of North Elk Vale Road; and, to waive the requirement to install curb, gutter, sidewalk, water and sewer along Interstate 90 Right-of-way as per Chapter 16.16 of the Rapid City Municipal Code

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GENERAL INFORMATION:

PETITIONER	FMG, Inc. for City of Rapid City
REQUEST	No. 07SV037 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, water along North Elk Vale Road; to waive the requirement to install sidewalk along the west side of North Elk Vale Road; and, to waive the requirement to install curb, gutter, sidewalk, water and sewer along Interstate 90 Right-of-way as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	The NE1/4 SE1/4 less Right-of-way and S1/2 SE1/4 NE1/4 less Discovery Subdivision less Lot H2 and Less Right-of-way, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Tract 3 of Discovery Subdivision and dedicated Right-of-way and dedicated public right-of-way formerly the NE1/4 SE1/4 less Right-of-way and S1/2 SE1/4 NE1/4 less Discovery Subdivision less Lot H2 and Less Right-of-way, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 32.74 acres
LOCATION	West of Elk Vale Road and South of East Mall Drive
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District - General Commercial District (Planned Commercial Development)
East:	Box Elder
West:	General Commercial District (Planned Commercial Development)
PUBLIC UTILITIES	City sewer and water

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DATE OF APPLICATION

6/29/2007

REVIEWED BY

Vicki L. Fisher / Todd Peckosh

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter and water along North Elk Vale Road be approved with the following stipulation:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessments for the improvements.

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along the west side of North Elk Vale Road be denied without prejudice; and,

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, water and sewer along Interstate 90 be approved with the following stipulation:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessments for the improvements.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, water along North Elk Vale Road; to waive the requirement to install sidewalk along the west side of North Elk Vale Road; and, to waive the requirement to install curb, gutter, sidewalk, water and sewer along Interstate 90. In addition, the applicant has submitted a Layout and Preliminary Plat (#07PL089) to plat a parcel of land into a 32.456 acre commercial lot.

The property is located in the southwest corner of the intersection of North Elk Vale Road and E. Mall Drive. Currently, the Visitor Information Center is located on the property.

STAFF REVIEW:

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

Interstate 90: Interstate 90 is located along the south lot line of the subject property and is classified as a principal arterial street on the City's Major Street Plan. To date, curb, gutter, sidewalk, street light conduit, water and sewer have not been constructed along the street. Requiring that the street be improved as it abuts the subject property will create a discontinuous street section. In the past, the Planning Commission and the City Council have granted similar requests when the improvement would create a discontinuous street section. As such, staff is recommending that the Variance to the Subdivisions to waive the

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requirement to install curb, gutter, sidewalk, street light conduit, water and sewer be approved with the stipulation that prior to City Council approval, the applicant sign a waiver of right to protest any future assessment for the improvements.

North Elk Vale Road: North Elk Vale Road is located along the east lot line of the property and is classified as a principal arterial street on the City's Major Street Plan. The street is currently located in a 200 foot wide right-of-way and constructed with a 24 foot wide paved surface, a ten inch sewer main and a force main. To date, curb, gutter, sidewalk and water have not been constructed along the street. The South Dakota Department of Transportation is currently constructing the "Exit 61" construction project which includes the construction of two through lanes in each direction with a center turning lane and a sidewalk along the east side of the North Elk Vale Road. City staff has noted that it may be appropriate to provide a sidewalk along both sides of North Elk Vale Road in order to improve pedestrian access since significant additional commercial growth is anticipated in a short time frame for this area. Local South Dakota Department of Transportation staff has indicated support of changing the construction project to include a sidewalk along the west side of North Elk Vale Road to the south lot line of the subject property if the applicant provides a sidewalk along North Elk Vale Road as it abuts the subject property. However, changing the construction plans at this time will require approval from the South Dakota Department of Transportation's Office in Pierre. As such, a final decision has not been made at this time. Staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to provide a sidewalk along the North Elk Vale Road as it abuts the subject property be denied without prejudice. If the South Dakota Department of Transportation does not construct that portion of the sidewalk located south of the subject property, the applicant may submit a Variance to the Subdivision Regulations to waive the requirement to provide the sidewalk as it abuts the subject property without paying any additional fees.

The applicant has submitted information identifying that the ditches along North Elk Vale Road will be designed to accommodate drainage. In the past, the Planning Commission and the City Council have granted similar Variance requests when the associated plat did not result in any increase in density and when the ditches were being designed to accommodate drainage. The associated Layout and Preliminary Plat proposes to plat one parcel into one commercial lot with no increase in density. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb and gutter along North Elk Vale Road be approved with the stipulation that the applicant sign a waiver of right to protest any future assessment for the improvement.

Currently, a water main is located along E. Mall Drive and extends north along North Elk Vale Road serving the subject property and the surrounding properties. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install water along North Elk Vale Road as it abuts the property be approved with the

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stipulation that the applicant sign a waiver of right to protest any future assessment for the improvement.

Notification Requirement: As of this writing, the receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the July 26, 2007 Planning Commission meeting if this requirement has not been met.