

STAFF REPORT
August 23, 2007

No. 07SV044 - Variance to the Subdivision Regulations to reduce the right-of-way requirement from 68 feet to 54.6 feet for a 481 foot portion of the proposed extension of Philadelphia Street **ITEM 19**

GENERAL INFORMATION:

APPLICANT/AGENT	Brian Gonzalez for Century Development Co.
PROPERTY OWNER	Bryan Gonzales/Century Development Co.
REQUEST	No. 07SV044 - Variance to the Subdivision Regulations to reduce the right-of-way requirement from 68 feet to 54.6 feet for a 481 foot portion of the proposed extension of Philadelphia Street
EXISTING LEGAL DESCRIPTION	The north 327.2 feet of the N1/2 SE1/4, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota; excepting therefrom the W1/2 NW1/4 SE1/4 and excepting therefrom Lot 1 of Lot B of the NE1/4 SE1/4, as shown on the plat filed in Plat Book 3, Page 103; and excepting therefrom North Boulevard Addition; and excepting therefrom Lot RU-302A of the Original Townsite of Rapid City, Pennington County, South Dakota, as shown on the plat filed in Plat Book 14, Page 53; and excepting therefrom Lot RU-302B of the Original Townsite of Rapid City, Pennington County, South Dakota, as shown on the plat filed in Plat Book 14, Page 94; and excepting therefrom any streets or highway rights of way
PROPOSED LEGAL DESCRIPTION	Lots 1 thru 28 of Block 1 and Lots 1 thru 24 of Block 2 of LaVilla Vista Subdivision and dedicated Right-of-Way, located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 7.98 acres
LOCATION	1400 Philadelphia Street
EXISTING ZONING	Office Commercial District
SURROUNDING ZONING	
North:	Park Forest District
South:	Flood Hazard District
East:	Medium Density Residential District
West:	Office Commercial District

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PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	7/30/2007
REVIEWED BY	Vicki L. Fisher / Todd Peckosh

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to reduce the right-of-way requirement from 68 feet to 54.6 feet for a 481 foot portion of Philadelphia Street be continued to the September 6, 2007 Planning Commission meeting.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to reduce the right-of-way width for the eastern 481 feet of Philadelphia Street as it abuts the property from 68 feet to 54.6 feet. In addition, the applicant has submitted a Preliminary Plat (#07PL090) to subdivide the property into 52 lots. The applicant has also submitted an Initial and Final Planned Residential Development (#07PD047) to allow the development of 51 townhome units and a clubhouse on the property.

On January 5, 2006, the Planning Commission approved an Initial Residential Development Plan (#05PD079) to construct a 96 unit condominium development on the property. On July 5, 2007, the Planning Commission approved a SDCL 11-6-19 Review (#07SR025) to construct Philadelphia Street and 11th Street located adjacent to the property. The applicant has subsequently revised the proposed development plan for the property and submitted the Initial and Final Planned Residential Development application as identified above. In addition, the applicant is currently constructing Philadelphia Street and 11th Street.

The property is located between Founders Park Drive and west of 11th 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:

Philadelphia Street: The City's Major Street Plan shows Philadelphia Street, located along the south lot line of the property, as a collector street requiring that the street be located in a minimum 68 foot wide right-of-way and constructed with a minimum 32 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. However, the applicant is proposing to relocate Philadelphia Street from the south lot line to the north lot line of the property. As such, the construction plans must show the street located within a minimum 68 foot wide right-of-way and constructed as identified above. The plat identifies the western 655 feet of Philadelphia Street within an existing 68 foot wide access and utility easement. In addition, the plat document identifies the eastern 481 feet of Philadelphia Street within an existing 30 foot wide dedicated right-of-way and an existing 24.62 foot wide access and utility easement for a total width of 54.62. The construction plans reviewed and approved as

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a part of the SDCL 11-6-19 Review (#07SR025) stipulated that the future location of Philadelphia Street along the north lot line must be located within a minimum 68 foot wide right-of-way and/or an access and utility easement. As such, the plat document must be revised to show the eastern portion of Philadelphia Street located within 68 feet of right-of-way, or 13.38 additional feet of right-of-way, or a Variance to the Subdivision Regulations must be obtained. Please note that the construction plans submitted with the SDCL 11-6-19 Review application identified the street being constructed within 68 feet of right-of-way. In particular, the construction plans identified the construction of a retaining wall within the northern 13.38 feet of right-of-way. Since approval of the SDCL 11-6-19 Review, staff has become aware that an easement and/or right-of-way was not obtained from the adjacent property. Instead, the applicant has indicated that the retaining wall is being constructed within an existing 13.90 foot wide utility easement currently located along the south lot line of the adjacent property. The applicant has also indicated that the retaining wall is needed as an appurtenance to the existing overhead electric lines in order to support the poles. Staff has met with the applicant and a representative from Black Hills Power and have indicated that a statement from Black Hills Power is needed stating that the retaining wall is an appurtenance to their utility or the applicant must secure an access easement from the adjacent property owner or the street must be redesigned to show the entire dedication of the 68 feet of right-of-way from the owner's property.

Staff met with the applicant and his representative again on August 14, 2007 to discuss this project. It was identified that visitor parking at a ratio of one parking space per residence located within 300 feet of the residence must be provided, or in this case 51 visitor parking spaces. The applicant indicated that visitor parking would be provided along Philadelphia Street. Even if Black Hills Power indicates that the retaining wall may be located within their utility easement as an appurtenance to their utility, additional right-of-way along Philadelphia Street may be required in order to provide the minimum required visitor parking spaces.

To date, the applicant has not identified visitor parking for the proposed townhome development. In addition, Black Hills Power has not indicated that the retaining wall is an appurtenance to their utility line. As such, staff is recommending that the Variance to the Subdivision Regulations be continued to allow the applicant to submit the additional information as identified.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the August 23, 2007 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.