

STAFF REPORT  
January 10, 2008

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**No. 07SV067 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along E. Anamosa Street, Luna Avenue and Riley Avenue and the intersection of Riley Avenue and Sunnyside Avenue as per Chapter 16.16 of the Rapid City Municipal Code**

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**ITEM 74**

GENERAL INFORMATION:

APPLICANT/AGENT	Dream Design International, Inc.
PROPERTY OWNER	Ray T. Flack Family Trust/Peter Hendrickson
REQUEST	<b>No. 07SV067 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along E. Anamosa Street, Luna Avenue and Riley Avenue and the intersection of Riley Avenue and Sunnyside Avenue as per Chapter 16.16 of the Rapid City Municipal Code</b>
EXISTING LEGAL DESCRIPTION	A portion of the SE1/4 of the NW1/4 of the SE1/4, a portion of the SW1/4 of the NE1/4 of the SE1/4, a portion of the SW1/4 of the SE1/4, and a portion of the SE1/4 of the SE1/4, all in Section 30, T2N, R8E, BHM; vacated Lots 1 thru 21 , and vacation portion of alley of Block 11, vacated portion of Sunnyside Avenue, and Poplar Avenue, all in Plainview Second Addition, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Tracts A and B of Rushmore Center, located on a portion of the SE1/4 of the NW1/4 of the SE1/4, a portion of the SW1/4 of the NE1/4 of the SE1/4, a portion of the SW1/4 of the SE1/4, and a portion of the SE1/4 of the SE1/4, all in Section 30, T2N, R8E, BHM; vacated Lots 1 thru 21 , and vacation portion of alley of Block 11, vacated portion of Sunnyside Avenue, and Poplar Avenue, all in Plainview Second Addition, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 35.0 acres
LOCATION	North of E. Anamosa Street, South of Eglin Street and east of North LaCrosse Street
EXISTING ZONING	Medium Density Residential District - General Agriculture District - General Commercial District (Planned Commercial Development) – Low Density Residential

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District

SURROUNDING ZONING

North: General Commercial District (Planned Commercial Development)

South: Medium Density Residential District

East: Medium Density Residential District - General Commercial District (Planned Commercial Development)

West: General Commercial District (Planned Commercial Development)

PUBLIC UTILITIES City sewer and water

DATE OF APPLICATION 12/12/2007

REVIEWED BY Vicki L. Fisher / Ted Johnson

**RECOMMENDATION:**

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Riley Avenue and Sunnyside Avenue be approved with the following stipulation:

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

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Luna Avenue be denied; and,

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along E. Anamosa Street be denied.

**GENERAL COMMENTS:**

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along E. Anamosa Street, Luna Avenue and Riley Avenue and the intersection of Riley Avenue and Sunnyside Avenue. In addition, the applicant has submitted a Preliminary Plat (#07PL167) to subdivide the two parcels into two lots.

On August 1, 2005, the City Council approved a Layout Plat (#05PL085) to create 17 lots, which includes this property. On March 19, 2007, the City Council approved a Comprehensive Plan Amendment to the Major Street Plan (#06CA028) to change Eglin Street from an arterial street to a collector street, to eliminate Cambell Street as a collector street and to relocate Luna Street, a collector street.

The property is located north of E. Anamosa Street, south of Eglin Street and east of North

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LaCrosse Street. Currently, the property is void of any structural development.

STAFF REVIEW:

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

Riley Avenue/Sunnyside Avenue: Riley Avenue and Sunnyside Avenue are existing 76 foot wide unimproved rights-of-way located along a portion of the east lot line. The streets are classified as commercial streets requiring that they be located in a minimum 59 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Requiring that the streets be improved as they abut 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 Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement 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.

E. Anamosa Street: The Major Street Plan identifies E. Anamosa Street, a minor arterial street, abutting the western 210 feet of the south lot line of the property within a section line highway, requiring that the street be located within a minimum 100 foot wide right-of-way and constructed with a minimum 36 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. E. Anamosa Street, located west of the property, is currently constructed with curb, gutter, sidewalk, streetlight conduit, water, sewer and pavement. Requiring the improvement of E. Anamosa Street as it abuts the property would not create a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to improve E. Anamosa Street be denied.

Federal funding has been approved to cover a majority of the improvement cost for the street. In addition, the City has contracted with Kadrmas Lee and Jackson for the design of this portion of E. Anamosa Street. The Public Works Department anticipates a bid letting date for the project in June of 2008. The Public Works staff has also met with the property owner to discuss the possible cost sharing of a portion of the utility extensions required along this section of the street and to provide additional right-of-way from the property to accommodate the Kadrmas Lee and Jackson construction plans. The City is willing to enter into an agreement with the applicant to allow the Federal funding to serve as surety for E. Anamosa Street. The applicant must submit a cost estimate for the street construction and post surety for any shortfall.

Luna Avenue: As previously indicated, on March 19, 2007, the City Council approved a Comprehensive Plan Amendment to the Major Street Plan (#06CA028) to change the classification of Elgin Street from an arterial street to a collector street as it extends from LaCrosse Street to E. North Street, to eliminate a collector street (Cambell Street) as a

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north-south street extension through Rushmore Crossing and to relocate Luna Street, a collector street through this property.

As a part of the Comprehensive Plan Amendment application, the applicant submitted a Traffic Impact Study. In particular, the study demonstrated that the future extension of Luna Avenue from Eglin Street to E. Anamosa Street would accommodate the north-south traffic with the elimination of Cambell Street from the Major Street Plan as it extends north of E. Anamosa Street. The applicant was also put on notice that "approval of the Comprehensive Plan Amendment to the Major Street Plan as proposed requires that Luna Avenue and Eglin Street be constructed in compliance with the Traffic Impact Study". With the recent plat and Planned Commercial Development approvals for Rushmore Crossing, Luna Avenue must be constructed to provide a north-south street connection as per the Traffic Impact Study. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to improve Luna Avenue be denied. It should be noted that a Variance to the Subdivision Regulations to waive the requirement to dedicate the right-of-way for Luna Avenue has not been requested.

Tax Increment District #56 has been approved by the City Council which includes the cost of the design and construction of Luna Avenue up to \$1,755,000. If the applicant signs a developer's agreement, the Tax Increment District can serve as surety for the design and construction of the street up to the approved amount. Surety must be posted for any shortfall.

Legal Notification Requirement: The receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the January 10, 2008 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquires regarding this proposal.