

STAFF REPORT
August 21, 2008

No. 08SV039 - Variance to the Subdivision Regulations to waive the requirement to provide sidewalk along both sides of West Fulton Street; to waive the requirement that each lot shall be provided with access from a public street and to waive the requirement to improve the access from a public street with a minimum 59 foot wide access easement or right-of-way and to construct the access with a minimum 26 foot wide paved surface, curb, gutter sidewalk, street light conduit, sewer and water as per Chapter 16.16 of the Rapid City Municipal Code **ITEM 51**

GENERAL INFORMATION:

APPLICANT/AGENT	Phillip S. Olsen for Olsen Development Company, Inc.
PROPERTY OWNER	Olsen Development Co., Inc., Phillip S. Olsen, President
REQUEST	No. 08SV039 - Variance to the Subdivision Regulations to waive the requirement to provide sidewalk along both sides of West Fulton Street; to waive the requirement that each lot shall be provided with access from a public street and to waive the requirement to improve the access from a public street with a minimum 59 foot wide access easement or right-of-way and to construct the access with a minimum 26 foot wide paved surface, curb, gutter sidewalk, street light conduit, sewer and water as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	Balance of Lot 5 of Overlook Subdivision, located in the SW1/4 NW1/4, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lot 8 of Overlook Subdivision, located in the SW1/4 NW1/4, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 3.0 acres
LOCATION	At the eastern terminus of West Fulton Street and west of Skyline Drive
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)

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	Development)
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	7/24/2008
REVIEWED BY	Vicki L. Fisher / Karley Halsted

RECOMMENDATION:

If the Planning Commission concurs with the previous action of the City Council, they should recommend that the Variance to the Subdivision Regulations to waive the requirement that each lot shall be provided with access from a public street and to waive the requirement to improve the access from a public street with a minimum 59 foot wide access easement or right-of-way and to construct the access with a minimum 26 foot wide paved surface, curb, gutter sidewalk, street light conduit, sewer and water be approved; and that the Variance to the Subdivision Regulations to waive the requirement to provide sidewalk along both sides of West Fulton Street be approved with the following stipulation:

1. A sidewalk shall be provided along the south side of West Fulton Street.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to provide sidewalk along both sides of West Fulton Street; to waive the requirement that each lot shall be provided with access from a public street and to waive the requirement to improve the access from a public street with a minimum 59 foot wide access easement or right-of-way and to construct the access with a minimum 26 foot wide paved surface, curb, gutter sidewalk, street light conduit, sewer and water. In addition, the applicant has submitted a Preliminary Plat (File #08PL111) to subdivide the property creating a three acre commercial lot.

On January 16, 2006, the City Council approved a Preliminary Plat (File #05PL238) to create a three acre commercial lot as shown on this plat document. In addition, the City Council approved a Variance to the Subdivision Regulations (File #05SV063) to waive the requirement to provide sidewalk along the north side of West Fulton Street and to waive the requirement that each lot shall be provided with access from a public street with the stipulation that proposed Lot 7 be identified as a No Build Easement. The approved Preliminary Plat has subsequently expired and, as such, the applicant has resubmitted this Preliminary Plat application.

The property is located at the eastern terminus of West Fulton Street and west of Skyline Drive. Currently, the property is void of any structural development.

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STAFF REVIEW:

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

West Fulton Street: West Fulton Street serves as access to the property and is classified as a commercial street requiring that it 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. Currently, West Fulton Street is located in a 60 foot wide private drive and utility easement and has been constructed to City Street Design Standards with the exception of sidewalk along the north side of the street.

In 2006, the City Council granted this Variance to the Subdivision Regulations waiving the requirement that a sidewalk be constructed along the north side of West Fulton Street with the stipulation that a sidewalk be constructed along the south side of the street. The applicant has subsequently, constructed the sidewalk along the south side of the street. Staff has also noted that constructing a sidewalk along the north side of this portion of West Fulton Street would not provide a pedestrian connection to any other sidewalks within the area. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to construct a sidewalk along both sides of West Fulton Street be approved with the stipulation that a sidewalk be provided along the south side of the street as currently constructed.

Access: Lot 7, Overlook Subdivision is located directly east of this proposed lot. To date, an easement and/or right-of-way have not been dedicated providing access to Lot 7. In 2006 the City Council granted a Variance to the Subdivision Regulations waiving the requirement to provide access to Lot 7 across Lot 8, the associated Preliminary Plat creating Lot 8 expired requiring that the applicant submit a new Preliminary Plat application triggering the requirement that the Variance to the Subdivision Regulations also be obtained again.

During the review and approval of the previously granted Variance to the Subdivision Regulations to waive the requirement that Lot 7 shall be provided with access from a public street, the applicant indicated that a "No Build" Covenant would be filed on Lot 7. In addition, the applicant noted that the property between Lot 7 and Skyline Drive is owned by the City and could provide access to the site from Skyline Drive in lieu of West Fulton Street. Subsequently, the Planning Commission and the City Council approved the Variance to the Subdivision Regulations to waive the requirement to provide access. The applicant has filed a "No Build" Covenant on the property. In addition, the applicant subsequently transferred Lot 7 to the Skyline Preservation Committee who in turn transferred the property to the City of Rapid City.

If the Planning Commission concurs with the previous action of the City Council, they should

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recommend approval of the Variance to the Subdivision Regulations to waive the requirement that each lot shall be provided with access from a public street and to waive the requirement to improve the access from a public street with a minimum 59 foot wide access easement or right-of-way and to construct the access with a minimum 26 foot wide paved surface, curb, gutter sidewalk, street light conduit, sewer and water.

Legal Notification Requirement: The receipts from the certified mailings have been returned. As of this writing, staff has not received any calls or inquires regarding this proposal.