

STAFF REPORT  
September 24, 2009

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**No. 08SR076 - SDCL 11-6-19 Review to allow the acquisition of right-of-way and construction of Minnesota Street**      **ITEM 28**

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GENERAL INFORMATION:

APPLICANT/AGENT	Dream Design International, Inc.
PROPERTY OWNER	Plum Creek Development, LLC
REQUEST	<b>No. 08SR076 - SDCL 11-6-19 Review to allow the acquisition of right-of-way and construction of Minnesota Street</b>
EXISTING LEGAL DESCRIPTION	Right-of-way located in the NW1/4 of the SW1/4 and in the S1/2 of the S1/2, Section 16, T1N, R8E, also in the NE1/4 of the NW1/4 and in the N1/2 of the NE1/4 of Section 21, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 13.226 Acres
LOCATION	East of Elk Vale Road and south of the existing Plum Creek Development
EXISTING ZONING	General Agriculture District - Low Density Residential II District (PDD) - General Commercial District (PDD) - Medium Density Residential District (PDD)
SURROUNDING ZONING	
North:	General Commercial District (PDD) - Medium Density Residential District (PDD) - Low Density Residential District (PDD)
South:	General Agriculture District
East:	Low Density Residential II District (PRD) - General Agriculture District
West:	General Agriculture District - General Commercial District (PDD)
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	8/29/2008
REVIEWED BY	Vicki L. Fisher / Mary Bosworth

RECOMMENDATION:

Staff will recommend that the SDCL 11-6-19 Review to allow the construction of Phase Two and Three of Minnesota Street be **approved if all red line comments are addressed as needed prior to Planning Commission approval.**

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GENERAL COMMENTS:

(Update, September 12, 2009. All revised and/or added text is shown in bold print.) This item was continued at the September 10, 2009 Planning Commission meeting to allow the South Dakota Department of Transportation staff to complete the review of the construction plans for the signal at the intersection of Minnesota Street and Elk Vale Road and to allow the applicant to address the red line comments as a result of that review. Staff will notify the Planning Commission at the September 24, 2009 meeting if the red line comments have not been addressed.

(Update, August 28, 2009. All revised and/or added text is shown in bold print.) This item was continued at the August 27, 2009 Planning Commission meeting to allow the South Dakota Department of Transportation staff to complete the review of the construction plans for the signal at the intersection of Minnesota Street and Elk Vale Road and to allow the applicant to address the red line comments as a result of that review. Staff will notify the Planning Commission at the September 10, 2009 meeting if the red line comments have not been addressed.

(Update, August 14, 2009. All revised and/or added text is shown in bold print.) This item was continued at the August 6, 2009 Planning Commission meeting to allow the South Dakota Department of Transportation staff to complete the review of the construction plans for the signal at the intersection of Minnesota Street and Elk Vale Road and to allow the applicant to address the red line comments as a result of that review. Staff will notify the Planning Commission at the August 27, 2009 meeting if the red line comments have not been addressed.

(Update, July 24, 2009. All revised and/or added text is shown in bold print.) This item was continued at the July 23, 2009 Planning Commission meeting to allow the South Dakota Department of Transportation staff to complete the review of the construction plans for the signal at the intersection of Minnesota Street and Elk Vale Road and to allow the applicant to address the red line comments as a result of that review. Staff will notify the Planning Commission at the August 6, 2009 meeting if the red line comments have not been addressed.

(Update, July 9, 2009. All revised and/or added text is shown in bold print.) This item was continued at the July 9, 2009 Planning Commission meeting to allow the applicant to submit additional information and to address red line comments. As of this writing, all of the required information has not been submitted for review and approval. Staff will notify the Planning Commission at the July 23, 2009 meeting if this information has not been submitted as required.

(Update, June 29, 2009. All revised and/or added text is shown in bold print.) This item was continued at the June 25, 2009 Planning Commission meeting to allow the applicant to submit additional information and to address red line comments. As of this writing, all of the required information has not been submitted for review and approval. Staff will notify the Planning Commission at the July 9, 2009 meeting if this information has not been submitted

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as required.

(Update, June 25, 2009. All revised and/or added text is shown in bold print.) This item was continued at the June 4, 2009 Planning Commission meeting to allow the applicant to submit additional information and to address red line comments. As of this writing, all of the required information has not been submitted for review and approval. Staff will notify the Planning Commission at the June 25, 2009 meeting if this information has not been submitted as required.

(Update, May 22, 2009. All revised and/or added text is shown in bold print.) This item was continued at the May 21, 2009 Planning Commission meeting to allow the applicant to submit additional information and to address red line comments. As of this writing, all of the required information has not been submitted for review and approval. Staff will notify the Planning Commission at the June 4, 2009 meeting if this information has not been submitted as required.

(Update, May 11, 2009. All revised and/or added text is shown in bold print.) On May 5, 2009, the applicant submitted revised construction plans for review and approval. Staff will notify the applicant if any red line comments must be addressed as they review the plans.

Staff recommends that the SDCL 11-6-19 Review to allow the construction of Phase Two and Phase Three of Minnesota Street be approved if all red line comments are addressed as needed prior to Planning Commission approval of this item.

The applicant should be aware that the installation of the signal at the intersection of Minnesota Street and Elk Vale Road will be required as future development and/or platting warrants the installation.

(Update, April 24, 2009. All revised and/or added text is shown in bold print.) On March 4, 2009, the applicant submitted a plan view for that portion of Minnesota Street extending east from Marlin Drive through proposed Phase Two and Phase Three of Elks Crossing Subdivision. Staff has reviewed the plan view for the street and has noted some minor revisions. The applicant is subsequently working on completing the revisions to the construction plans.

Staff recommends that the SDCL 11-6-19 Review to allow the construction of Phase Two and Phase Three of Minnesota Street be approved if revised construction plans are submitted, reviewed and approved prior to Planning Commission approval of this item.

(Update, April 14, 2009. All revised and/or added text is shown in bold print.) On March 4, 2009, the applicant submitted a plan view for that portion of Minnesota Street extending east from Marlin Drive through proposed Phase Two and Phase Three of Elks Crossing Subdivision. Staff has reviewed the plan view for the street and has noted some minor revisions. The applicant is subsequently working on completing the revisions to the construction plans.

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Staff recommends that the SDCL 11-6-19 Review to allow the construction of Phase Two and Phase Three of Minnesota Street be approved if revised construction plans are submitted, reviewed and approved prior to Planning Commission approval of this item.

(Update, March 15, 2009. All revised and/or added text is shown in bold print.) On March 4, 2009, the applicant submitted a plan view for that portion of Minnesota Street extending east from Marlin Drive through proposed Phase Two and Phase Three of Elks Crossing Subdivision. Staff has reviewed the plan view for the street and has noted some minor revisions. The applicant is subsequently working on completing the revisions to the construction plans.

Staff recommends that the SDCL 11-6-19 Review to allow the construction of Phase Two and Phase Three of Minnesota Street be approved if revised construction plans are submitted for review and approval prior to Planning Commission approval of this item.

(Update, February 24, 2009. All revised and/or added text is shown in bold print.) On February 17, 2009, the City Council approved a Preliminary Plat for Phase One of Elks Crossing Subdivision which also included the construction plans for that portion of Minnesota Street located between Elk Vale Road through the intersection of Marlin Drive. To date, the construction plans for Minnesota Street extending east from Marlin Drive through proposed Phase Two and Three of Elks Crossing Subdivision have not been approved. Upon meeting with staff to review construction plan revisions, the applicant has requested that this item be continued to the March 26, 2009 Planning Commission meeting to allow them additional time to complete the revisions.

Staff recommends that the SDCL 11-6-19 Review be continued to the March 26, 2009 Planning Commission meeting at the applicant's request.

(Update, January 12, 2009. All revised and/or added text is shown in bold print.) On November 24, 2008, the Planning Commission approved the request to allow the acquisition of right-of-way for Minnesota Street and continued the request to construct Minnesota Street to allow the applicant to submit revised construction plans. The applicant met with staff on January 14, 2009, to discuss possible changes to the location of the water main within the Minnesota Street right-of-way and to discuss the number of driving lanes to be constructed at this time along Minnesota Street as it extends east from the intersection of Minnesota Street and Marlin Drive. The applicant has subsequently requested that this item be continued to the March 5, 2009 Planning Commission meeting to allow them additional time to revise the plans as needed.

Staff recommends that the SDCL 11-6-19 Review be continued to the March 5, 2009 Planning Commission meeting at the applicant's request.

(Update, November 24, 2008. All revised and/or added text is shown in bold print.) On November 24, 2008, the Planning Commission approved the request to allow the acquisition of right-of-way for Minnesota Street and continued the request to construct Minnesota Street to allow the applicant to submit revised construction plans. As of this writing, the revised

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construction plans have not been resubmitted for review and approval. Staff will notify the Planning Commission at the December 4, 2008 Planning Commission meeting if this stipulation of approval has been met.

(Update, November 7, 2008. All revised and/or added text is shown in bold print.) This item was to be heard at the November 6, 2008 Planning Commission Meeting. However, due to inclement weather, the Planning Commission was unable to meet. Staff will notify the Planning Commission at the November 20, 2008 Planning Commission meeting if the stipulations of approval as noted above have been met.

(Update, October 27, 2008. All revised and/or added text is shown in bold print.) This item was continued at the October 23, 2008 Planning Commission meeting to allow the applicant to submit revised construction plans addressing the red line comments and drainage calculations. As of this writing, the revised construction plans and the drainage calculations have not been resubmitted for review and approval. Staff will notify the Planning Commission at the November 6, 2008 Planning Commission meeting if this stipulation of approval has been met.

(Update, October 10, 2008. All revised and/or added text is shown in bold print.) This item was continued at the October 9, 2008 Planning Commission meeting to allow the applicant to submit additional information. The applicant has submitted revised construction plans showing revised handicap ramps. In addition, the applicant has submitted preliminary design plans for the balance of Minnesota Street to the eastern boundary of the E1/2NE1/4 of T1N, R8E, Section 21. The applicant has also submitted revised the construction plans showing the three proposed lanes on one-side of the 100 foot wide right-of-way in lieu of centered within the right-of-way. Staff has reviewed the construction plans and has noted redline comments that must be addressed. As of this writing, the construction plans have not been resubmitted addressing the red line comments. Staff will notify the Planning Commission at the October 23, 2008 Planning Commission meeting if this stipulation of approval has been met.

(Update, September 26, 2008. All revised and/or added text is shown in bold print.) This item was continued at the September 25, 2008 Planning Commission meeting to allow the applicant to submit additional information. As of this writing, the required information has not been submitted for review and approval. Staff will notify the Planning Commission at the October 9, 2008 Planning Commission meeting if the stipulations of approval have been met.

The applicant has submitted a SDCL 11-6-19 Review to allow the acquisition of right-of-way and the construction of Minnesota Street. In particular, the applicant is proposing to construct Minnesota Street from Elk Vale Road east, approximately 3,100 feet, to the ¼ Section Line, or the eastern boundary of the "Plum Creek Subdivision". In addition, the applicant is requesting the acquisition of right-of-way for Minnesota Street from Elk Vale Road east, approximately 5,800 feet, to the Section Line Highway located between Section 15 and 16, or the eastern boundary of "Elks Country Estates". The applicant has submitted a Layout Plat (File #08PL127) to create 132 lots, leaving an unplatted non-transferable

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balance on property located north of Minnesota Street. The applicant has indicated that the development will now be known as Elks Crossing in lieu of Plum Creek Subdivision.

On October 16, 2006, the City Council approved a Layout Plat (File #06PL143) to create 107 residential lots, which included portions of this property.

The property is located east of Elk Vale Road and south of the existing Plum Creek Development. Currently, the property is void of any structural development.

South Dakota Codified Law 11-6-19 states that "...whenever any such municipal council has adopted a comprehensive plan, then no street, park or other public way, ground, place, space, no public building or structure, no public utility, whether publicly or privately owned, if covered by the comprehensive plan or any adopted part thereof, shall be constructed or authorized in the municipality or within its subdivision jurisdiction until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". The proposed acquisition of right-of-way and construction of Minnesota Street is a public improvement. In addition, the property is identified as being located within the area covered by the Rapid City Comprehensive Plan requiring that the improvement be reviewed and approved by the Rapid City Planning Commission.

STAFF REVIEW:

Staff has reviewed the SDCL 11-6-19 Review and has noted the following considerations:

Construction Plans: Minnesota Street is classified as a minor arterial street on the City's Major Street Plan requiring that it be located within a 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. The construction plans show the street within a 100 to 101 foot wide right-of-way and constructed with a 42 foot wide paved surface, consisting of four lanes and a median along the western portion of the street. In addition, a southeast bound left turn lane is shown at the intersection of Elk Vale Road and Minnesota Street. The construction plans show the street constructed within the center of the right-of-way which may require a greater cost to expand the street with additional lanes in the future. As such, staff is recommending that the construction plans be revised to show the three proposed lanes on one-side the 100 foot wide right-of-way in lieu of centered within the right-of-way. In addition, the construction plans must be revised to show the final five lane section for reference and show the location of proposed improvements required to facilitate the future expansion of the street.

The applicant has also submitted a phasing plan showing Minnesota Street constructed in three phases. Phase One will include the construction of the street from Elk Vale Road to the intersection of the rearage road, or Marlin Drive. Phase Two will include constructing Minnesota Street from the rearage road to the intersection of Fieldstone Drive and Phase Three will include constructing the street from the intersection of Fieldstone Drive to the eastern boundary of the Plum Creek Subdivision, now known as Elks Crossing.

Utilities: As previously indicated, the construction plans show the installation of City water and sewer along this section of Minnesota Street. Prior to connecting to City sewer and/or

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water, an H Lot and/or utility easements must be recorded at the Register of Deed's Office.

H Lot: The applicant has submitted a plat document showing the dedication of Minnesota Street right-of-way as a plat document requiring Certificates of Title in lieu of an H Lot document. The applicant has subsequently indicated that this document will be revised to comply with the H Lot standards.

The applicant should be aware that upon authorization from the Planning Commission to allow the acquisition of right-of-way, a request must be submitted to the Public Works Committee and, subsequently, the City Council to authorize the preparation of the H Lot and authorize acceptance of the deed.

(Update: February 24, 2009.) The City Council authorized the preparation of the H Lot and authorized acceptance of the deed. Subsequently, the H Lot has been recorded for Minnesota Street from Elk Vale Road to the west lot line of Elks Country Estates.

Sidewalks: The construction plans must be revised to show the handicap access ramps located perpendicular to streets at all intersections as shown on Figure 4-2 per the Street Design Criteria Manual. The handicap access ramps must conform to City of Rapid City Standard Specifications for Public Works Construction, Standard Detail 61-5. At the locations where medians are within the street right-of-way, the median must be extended as necessary and a curb cut provided within the median for pedestrian access. Staff is recommending that the construction plans be revised as identified prior to Planning Commission approval.

Permits: An Air Quality Permit must be obtained from the City prior to any surface disturbance of one or more acres. A Stormwater Quality Management Plan in accordance with the adopted Stormwater Quality Manual must also be obtained prior to the start of construction. A Permit to Work in the Right-of-way must also be obtained prior to any construction within Elk Vale Road.

Tax Increment District: On September 4, 2007, the City Council approved Tax Increment District #65 to assist in the future extension of Minnesota Street from the Southeast Connector to the eastern boundary of the E1/2 NE1/4 of T1N, R8E of Section 21, as well as grading, storm sewer, underground utilities, a traffic signal, a drainage facility and an irrigation pipe. Stipulations of the agreement require that within 90 days of approval of the agreement, the developer agrees to plat H lots for Minnesota Street. In addition, a completed design for Minnesota Street from the Southeast Connector to the eastern boundary of the SE1/4SW1/4, T1N, R8E, Section 16 must be submitted by September 1, 2008. Preliminary design plans for the balance of Minnesota Street to the eastern boundary of the E1/2NE1/4 of T1N, R8E, Section 21 must also be submitted by September 1, 2008. The construction plans submitted with this application include that portion of Minnesota Street located between the Southeast Connector and the eastern boundary of the SE1/4SW1/4, T1N, R8E, Section 16. The applicant has submitted a grading plan for the balance of Minnesota Street to the eastern boundary of the E1/2NE1/4 of T1N, R8E, Section 21. However, to date, the City has not received preliminary design plans for this portion of

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the street. As such, staff is recommending that prior to Planning Commission approval preliminary design plans be submitted for review and approval as per the terms of the amended contract for private development, Tax Increment District Number 65.

The agreement also identifies that Minnesota Street will be constructed in phases. The first phase will include construction of Minnesota Street from its intersection with the Southeast Connector to the intersection of a rearage road which will then connect Minnesota Street to Willowbend Drive or some other suitable street to provide a secondary access to Plum Creek and Elks Country Estates. The second phase will include constructing Minnesota Street from its intersection with the rearage road to the eastern boundary of the SE1/4SW1/4, T1N, R8E, Section 16, which is the eastern boundary of Plum Creek. Phase Three will include constructing Minnesota Street to the eastern boundary of the E1/2NE1/4, T1N, R8E, Section 21, or the eastern boundary of Elks Country Estates. The applicant should be aware that this SDCL 11-6-19 Review application does not include the construction of the rearage road to Willowbend Drive as required in Phase One. Prior to construction of the rearage road, a Preliminary Plat application or a SDCL 11-6-19 Review application, with complete construction plans, must be submitted for review and approval.

**The location and extent of the proposed construction of this section of Minnesota Street is consistent with the adopted Comprehensive Plan and the related regulations. As such, staff will recommend that the SDCL 11-6-19 Review to allow the construction of Phase Two and Three of Minnesota Street be approved if all red line comments are addressed as needed prior to Planning Commission approval.**