

# STAFF REPORT

April 8, 2010

**No. 10SR023 - SDCL 11-6-19 Review to authorize the acceptance of H Lots**

**ITEM 29**

## GENERAL INFORMATION:

APPLICANT	Rushmore Properties, LLC
AGENT	Bob Brandt
PROPERTY OWNER	Rushmore Properties, LLC
REQUEST	<b>No. 10SR023 - SDCL 11-6-19 Review to authorize the acceptance of H Lots</b>
EXISTING LEGAL DESCRIPTION	The unplatted parcel located in the SW1/2 SE1/4 and Block 14 of Mallow's Addition to Rapid City, located in Lot 3 of Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.82 acres
LOCATION	1400 Philadelphia Street
EXISTING ZONING	Office Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	Park Forest District
South:	Flood Hazard District
East:	Office Commercial District (Planned Commercial Development)
West:	Office Commercial District (Planned Commercial Development)
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	3/12/2010
REVIEWED BY	Vicki L. Fisher / Mary Bosworth

## RECOMMENDATION:

Staff recommends that the Planning Commission acknowledge the applicant's withdrawal of the SDCL 11-6-19 Review to authorize the acceptance of H Lots.

## GENERAL COMMENTS:

The applicant has submitted a SDCL 11-6-19 Review to authorize the acceptance of two H Lots for a portion of Philadelphia Street. In addition, the applicant has submitted a Preliminary Plat (File #10PL015) to create two townhome lots as a part of the Settlers Creek

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Townhome Development.

On October 4, 2007, the Planning Commission approved an Initial and Final Planned Residential Development (File #07PD047) to allow a 49 unit townhome development with a clubhouse to be constructed on the property. At that time, the development was to be known as LaVilla Vista Subdivision. The applicant has since changed the name of the subdivision to Settlers Creek Townhomes.

On December 17, 2007, the City Council approved a Preliminary Plat (File #07PL090) to subdivide the property into 50 lots. To date, a Final Plat has not been submitted for review and approval.

On March 25, 2010, the Planning Commission approved a Major Amendment to the Planned Residential Development to allow the previously approved clubhouse to be converted into two townhome units, to construct decks on the townhomes located south of Settlers Creek Place and to extend the completion date of the project to October 1, 2014.

The property is located east of Founders Park Drive and west of 11<sup>th</sup> Street. A portion of Philadelphia Street has been constructed within the area of the proposed H Lots.

South Dakota Codified Law 11-6-22 states that "...the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land for any street or other public way, ground, place, property, or structure shall be subject to submission and approval similar to that provided in SDCL 11-6-19 to 11-6-21 inclusive, and failure to approve may be similarly overruled". As such, the acquisition of the H Lots must be reviewed and approved by the Rapid City Planning Commission.

#### **STAFF REVIEW:**

Staff has reviewed the SDCL 11-6-19 Review to authorize the acceptance of H Lots and has noted the following considerations:

**Preliminary Plat:** The previously approved Preliminary Plat (File #07PL090) for Settlers Creek Townhomes identifies Philadelphia Street located along the north lot line within a 68 foot wide right-of-way. The applicant is now proposing to secure H Lots for the northern portion of the street in lieu of dedicating the entire street as right-of-way as shown on the approved Preliminary Plat. Chapter 16.08.035 of the Rapid City Municipal Code states that no changes to the Final Plat from the Preliminary Plat are allowed except any changes required by the City as part of the Preliminary Plat approval or minor changes in dimensions or angles, or minimal changes in lot size. Pursuant to Chapter 16.08.035, securing a portion of Philadelphia Street in an H Lot in lieu of dedicating the entire street as public right-of-way is not in compliance with the previously approved Preliminary Plat. The applicant has, subsequently, withdrawn this request to authorize the acceptance of the H Lots. The applicant has indicated that a Final Plat will be submitted dedicating the entire street as right-of-way as per the previously approved Preliminary Plat.

Staff recommends that the Planning Commission acknowledge the applicant's withdrawal of

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