

STAFF REPORT
January 5, 2012

No. 11SV022 - Variance to the Subdivision Regulations to waive the requirement to install water and sidewalk along Cherry Avenue, to construct a minimum 26 foot wide paved surface and a sidewalk along the north side of East St. Francis Street and to dedicate 17 additional feet of right-of-way along East St. Patrick Street as per Chapter 16.16 of the Rapid City Municipal Code

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GENERAL INFORMATION:

APPLICANT	John Roberts Trust
AGENT	Britton Engineering and Land Surveying, Inc.
PROPERTY OWNER	John Roberts Trust
REQUEST	No. 11SV022 - Variance to the Subdivision Regulations to waive the requirement to install water and sidewalk along Cherry Avenue, to construct a minimum 26 foot wide paved surface and a sidewalk along the north side of East St. Francis Street and to dedicate 17 additional feet of right-of-way along East St. Patrick Street as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	Tract A of NW1/4 of the NE1/4 located in Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lot 1 and Lot 2 of John Roberts Subdivision
PARCEL ACREAGE	Approximately 3.67 acres
LOCATION	At the southwest corner of the intersection of East Saint Patrick Street and Cherry Avenue
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	Medium Density Residential District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	11/23/2011

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REVIEWED BY

Vicki L. Fisher / Ted Johnson

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install water along Cherry Avenue, to construct a minimum 26 foot wide paved surface along East St. Francis Street and to dedicate 17 additional feet of right-of-way along East St. Patrick Street as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulations:

1. Prior to approval by the City Council, the applicant shall sign a waiver of right to protest any future assessments for the street improvements;
2. Prior to submittal of a Final Plat application, the applicant shall enter into a Covenant Agreement securing the commitment to dedicate 17 additional feet of right-of-way along East St. Patrick Street and to remove the existing encroaching buildings should the property be further subdivided, redeveloped or if necessitated by corridor growth; and,
3. Prior to submittal of a Preliminary Plat application, the plat document shall be revised to dedicate a usable access easement for the existing manhole located on proposed Lot 1; and,

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Cherry Avenue and a sidewalk along the north side of East St. Francis Street be denied.

GENERAL COMMENTS:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install water and sidewalk along Cherry Avenue, to construct a minimum 26 foot wide paved surface and a sidewalk along the north side of East St. Francis Street and to dedicate 17 additional feet of right-of-way along East St. Patrick Street as they abut the property.

On November 7, 2011, the City Council approved a Layout Plat (File #11PL054) to subdivide the property into two lots creating a 0.543 acre lot and a 3.127 acre lot, respectively. The lots are to be known as Lots 1 and 2 of John Roberts Subdivision.

The property is located at the southwest corner of the intersection of East Saint Patrick Street and Cherry Avenue. Currently, a commercial building is located on proposed Lot 1 and a commercial building, two sheds and a sign are located on proposed Lot 2.

STAFF REVIEW:

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

East St. Patrick Street: East St. Patrick Street is located along the north lot line and is classified

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as a principal arterial street on the City's Major Street Plan 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. Currently, East St. Patrick Street is located within a 72 foot wide right-of-way and constructed with a 50 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Since insufficient right-of-way currently exists for the arterial street, the Subdivision Regulations require that 17 additional feet of right-of-way along East St. Patrick Street be dedicated as a part of the associated plat. As a result of dedicating the right-of-way, the applicant must remove any structural encroachments within this 17 feet and a Variance from the Zoning Board of Adjustment must be obtained to reduce the minimum required 25 foot front yard setback for the structures along East St. Patrick Street. In lieu of dedicating the right-of-way and removing the structural encroachments, the applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to dedicate the right-of-way as a part of the approval of a Preliminary and/or Final Plat to subdivide the property into two lots.

Staff has reviewed the request and noted that the City does not currently have plans to improve this portion of St. Patrick Street. As such, the right-of-way is not needed at this time. Deferring the dedication of right-of-way will allow the applicant to continue to utilize the existing buildings on the property. However, the right-of-way may be needed to accommodate future improvements along the arterial street. As such, staff recommends that in consideration of granting a Variance to the Subdivision Regulations to waive the requirement to dedicate the right-of-way as a part of the associated plat, the applicant enter into a Covenant Agreement securing the commitment to dedicate 17 additional feet of right-of-way along East St. Patrick Street and to remove the existing structural encroachment should the property be further subdivided, redeveloped or if necessitated by corridor growth. Staff is also recommending that upon submittal of a Preliminary Plat application, the plat document be revised to dedicate a usable access easement for the existing manhole located on proposed Lot 1.

Cherry Avenue: Cherry Avenue is located along the east lot line of the property and is classified as a commercial street requiring that it be located within 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, Cherry Avenue is located within a 35 foot wide right-of-way and constructed with a 26 foot wide paved surface, curb, gutter, street light conduit and sewer. As previously noted, the applicant has submitted a Variance request to waive the requirement to install sidewalk and water along Cherry Avenue. Upon submittal of a Preliminary Plat application, the plat document must show the dedication of 12 additional feet of right-of-way.

Staff has reviewed the Variance request to waive the installation of a water main along Cherry Avenue and noted that a water main is not needed along this portion of Cherry Avenue to serve the applicant's property or the surrounding properties. As such, staff

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recommends that the Variance to the Subdivision Regulations to waive the requirement to install water along Cherry Avenue be approved with the stipulation that prior to approval by the City Council, the applicant sign a waiver of right to protest any future assessments for the street improvement. The applicant should be aware that the waiver of a water main along Cherry Avenue does not include waiver of Fire Safety requirements for any existing or future development of the property.

Staff has also reviewed the Variance request to waive the installation of sidewalks along Cherry Avenue and noted that the City Council has directed staff to obtain sidewalks wherever possible, even if they are obtained in a piece meal fashion. As such, staff recommends that the Variance to the Subdivision Regulations to install sidewalk along Cherry Avenue as it abuts the property be denied. The applicant should be aware that the sidewalks must be shown on the construction plans as a part of the Preliminary Plat application but are not required to be constructed until a building permit is obtained with the exception of handicap ramp(s). In addition, with the exception of the handicap ramp(s), surety is not required for the installation of a sidewalk as a part of the Final Plat approval.

East St. Francis Street: East St. Francis Street is located along the south lot line of the property and is classified as a commercial street requiring that it be located within 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, East St. Francis Street is located within a 60 foot wide right-of-way and constructed with a 24 foot wide paved surface, curb, gutter, street light conduit, water, sewer and a sidewalk along the south side of the street. As previously noted, the applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install the additional two feet of pavement and to install a sidewalk along the south side of the street.

Staff has reviewed the Variance request to waive the requirement to construct two additional feet of pavement along East St. Francis Street and noted that requiring the improvement would create a discontinuous street design. In the past, the Planning Commission and the City Council have granted similar Variance requests when a discontinuous street design would result. As such, staff recommends that the Variance to the Subdivision Regulations to waive the requirement to provide additional pavement along East St. Francis Street be approved with the stipulation that prior to approval by the City Council, the applicant sign a waiver of right to protest any future assessments for the street improvement.

Staff has also reviewed the Variance request to waive the installation of a sidewalk along the south side of East St. Francis Street. As noted above, the City Council has directed staff to obtain sidewalks wherever possible, even if they are obtained in a piece meal fashion. As such, staff recommends that the Variance to the Subdivision Regulations to install a sidewalk along the south side of East St. Francis Street as it abuts the property be denied. The applicant should be aware that the sidewalk must be shown on the construction plans

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as a part of the Preliminary Plat application but is not required to be constructed until a building permit is obtained with the exception of handicap ramp(s). In addition, with the exception of the handicap ramp(s), surety is not required for the installation of a sidewalk as a part of the Final Plat approval.

Legal Notification Requirement: As of this writing, the white slips and green cards from the certified mailings have not been returned. Staff will notify the Planning Commission at the January 5, 2012 Planning Commission meeting if this requirement is not met. Staff has not received any calls or inquiries regarding this proposal.