

Staff Recommendation

A. Steve Miller General Contracting, LLC, Flagg Road. Extension to meet precedent conditions for 7-lot subdivision. Case # 259-29-A-08

- I recommend approval of the requested extension – to February 24, 2012 – with the condition that this be the last extension granted.

Please note the following:

- The present deadline is February 24, 2011. The \$100 fee has been paid
- Note that the applicant seeks to perform construction of infrastructure on site rather than pay a surety to cover the infrastructure. This approach is permitted as a precedent condition, and is a legitimate approach, though it is pursued by developers rarely. Developers who are also builders – as is Steve Miller – sometimes choose this option to avoid paying a surety. Usually the developer completes most of the infrastructure and then pays a surety for whatever remains. Recall that the board at one point discussed eliminating this approach but rejected that, recognizing that it would not be appropriate to foreclose this acceptable option for developers.
- The downside of this approach is that it is more time consuming for the developer and dependent on season and weather.
- The project was approved two years ago, on February 23, 2009 so it is appropriate that this be the last extension. It is the third request. If the applicant is not able to do the construction work by next February, then he can simply place the full financial surety to meet the precedent conditions. Once the surety is placed, the precedent conditions are met, and the plat recorded, then RSA 674:39 largely controls the timeframe for the work. There is no requirement to break ground after recording the plat but if an applicant fails to do so within 12 months of recording then they risk losing vesting in the future should ordinances change.
- The original deadline was August 24, 2009. It was extended once to February 24, 2010. It was then extended a second time to February 24, 2011, the present deadline.
- The standard language on the approval regarding doing the construction work as a precedent condition follows:

- 4) *Provide surety for installation of infrastructure (including for placement of all property monuments) satisfactory to the Public Works and Planning Departments. Note that if the City calls the surety, the City may use the funds to install infrastructure and/or reclaim the site, as appropriate.*

Alternatively, the infrastructure may actually be constructed without a full infrastructure surety provided that:

- a) *no ground disturbance/site work commences until:*
- i) *the Public Works and Planning Departments are informed;*
 - ii) *all of the other precedent conditions have been met;*
 - iii) *conditions regarding the pre-construction meeting and erosion control, below, are met; and*
 - iv) *an appropriate reclamation surety is placed to ensure stabilization and reclamation of the site should construction commence but not be completed*

and

- b) *Prior to issuance of any building permit or driveway permit:*
- i) *the road leading to any structures for which the permit is sought must be built to, and maintained in, a condition that would allow passage of fire trucks (with a gravel base in place);*
 - ii) *the City Engineer reviews and approves the condition of the roughed in road pursuant to i), immediately above; and*
 - iii) *Appropriate surety is in place to cover any items not yet completed*

Note that if the applicant seeks this alternative approach, this condition is not considered to be met unless the infrastructure is completed and deemed acceptable to Public Works and Planning. In the event it is not completed, a surety would still be required for any outstanding work or deficiencies prior to certification of these plans.

- I am not aware of any regulatory or neighborhood changes that should affect this project.
- Most other precedent conditions have not yet been met (often the applicants bring in everything together)
- A copy of the approved subdivision is enclosed.