

STAFF REPORT

August 7, 2003

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**No. 03VE005 - Vacation of a portion of a 33 foot wide Private Access Easement** **ITEM 9**

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GENERAL INFORMATION:

PETITIONER	Dream Design International for Art Janklow
REQUEST	<b>No. 03VE005 - Vacation of a portion of a 33 foot wide Private Access Easement</b>
EXISTING LEGAL DESCRIPTION	A portion of Tract C of the NE1/4 NW1/4, Section 17, T2N, R7E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .335 acres
LOCATION	Cimarron Mobile Home Park
EXISTING ZONING	Suburban Residential District (County)
SURROUNDING ZONING	
North:	Suburban Residential District (County)
South:	Suburban Residential District (County)
East:	Suburban Residential District (County)
West:	Suburban Residential District (County)
DATE OF APPLICATION	05/23/2003
REPORT BY	Jeff Marino

RECOMMENDATION:

Staff recommends that the Vacation of a portion of a 33 foot wide Private Access Easement **be approved.**

GENERAL COMMENTS: (Updates to the staff report are shown in bold.) This request **was continued from the July 24, 2003 Planning Commission meeting to allow the applicant to submit additional information. The applicant submitted a copy of a recorded easement document, a revised exhibit, and the required signatures for the vacation. The applicant has received all of the proper signatures from the adjacent land owners.**

As per a phone conversation with the applicant on July 16, 2003, the additional signatures necessary for the proposed vacation of easement are in the process of being collected. In addition, additional information on the alternate access for the affected property owners is in the process of being obtained. The applicant has stated that the additional information will be submitted to the Planning Department for review and approval, once it has been finalized. Staff The applicant is proposing to vacate a portion of a 33 foot wide access easement located at Cimarron Park. This is located near the corner of South Dakota

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Highway 79 and Merritt Road. This mobile home park has more than 55 mobile homes located within its boundaries. A stretch of these mobile homes encroach onto part of the 33 foot wide private access easement. In order to maintain the current location of the mobile homes, the 33 foot wide private access easement would need to be vacated. There are six lots that are legally provided access by this private access easement; however, some of these lots are not currently utilizing the access easement. Those lots are taking access off of Key Lane. The legal access off Key Lane needs to be clarified.

STAFF REVIEW: has reviewed the proposed vacation of a private access easement, and has noted the following issues.

Access: If the vacation of the proposed private access easement is approved, it appears it will eliminate any legal access to the adjoining platted properties. The six lots that are legally serviced by this access easement are currently using Key Lane for access. Key Lane does not appear to be a legal access point. It does not appear to be right of way, and it does not appear that an access easement has been filed on the property. Prior to Planning Commission approval, a document shall be submitted for review and approval verifying that Key Lane is a legal access route for the properties that are currently using that route for access. If Key Lane is not a legal access point, than an access easement shall be secured at this location to verify that the lots will have proper and adequate access at all times. **The applicant submitted a recorded plat document identifying an easement 260 feet long and 25 feet wide at the location of Key Lane. This information verifies that if the vacation of the access easement is approved, the existing lots will still have legal access to their properties.**

Signatures: Whenever a vacation of access is being proposed whether it is a public access easement, a private access easement, public right of way, or a private drive, signatures of the owners of both sides of the property must be submitted for review and approval to the Planning Department to verify that all parties involved are aware that legal access to their properties is going to change in some way. The signatures that were submitted with the proposed application were not on a "Petition of Vacation of a Private Access Easement." These signatures must be notarized and on a "Petition of Vacation of a Private Access Easement" in order for City Staff to verify that the signatures are the actual signatures of the owners of the abutting properties and that they are concurring in the vacation request as required by state statute. In addition, the "Petition of Vacation of a Private Access Easement" helps to ensure the owners are aware of the what the ramifications of the proposed vacation. **The applicant submitted the signatures on the required forms with the required signatures notarized. This verifies that all of the adjacent property owners who will be affected by the proposed vacation are aware of the vacation and they are in agreement with the vacation.**

Staff is recommending that the proposed request **be approved**. Staff notes that Vacation of Access Easement proposals do not require direct notification of neighboring property owners. In addition, South Dakota Codified Law does not require that Vacation of Access Easement proposals be advertised in a local newspaper. Vacation of Access Easements

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will be reviewed by the City of Rapid City Planning Commission, and then they are considered by the City of Rapid City Public Works Committee which forwards the decision on to the City of Rapid City Council.