

STAFF REPORT

January 22, 2004

No. 03VR012 - Vacation of Right-of-Way

ITEM 23

GENERAL INFORMATION:

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| PETITIONER | Alvin Ficek for Heartland GMAC Real Estate for Barbara Van Ekeren and Peggy Kelly |
| REQUEST | No. 03VR012 - Vacation of Right-of-Way |
| EXISTING LEGAL DESCRIPTION | A portion of undeveloped Oriole Drive right-of-way adjoining Lots 2 and 3 in Block 7 and Lots 5 and 6 in Block 8 of Lot A of Morningside Subdivision, Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE | Approximately .26 acres |
| LOCATION | Along Oriole Drive west of West Boulevard North |
| EXISTING ZONING | High Density Residential District |
| SURROUNDING ZONING | |
| North: | Low Density Residential District |
| South: | Low Density Residential District w/Planned Residential Development |
| East: | Medium Density Residential District/Public District |
| West: | Medium Density Residential District |
| PUBLIC UTILITIES | City water and sewer |
| DATE OF APPLICATION | 11/18/2003 |
| REPORT BY | Todd Tucker |

RECOMMENDATION:

Staff recommends that the Vacation of Right-of-Way be continued to the **March 25, 2004** Planning Commission Meeting.

GENERAL COMMENTS:

(Updates to the staff report are shown in bold.) This item was continued from the December 18, 2003 Planning Commission meeting to allow the applicant time to submit the required information.

The applicant is proposing to vacate approximately 194 feet of an undeveloped portion of Oriole Drive. The proposed portion of Oriole Drive to be vacated abuts Lots 2 and 3 of Block 7 and Lots 5 and 6 of Block 8 in the Morningside Addition Addendum. Currently the adjacent lots are

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vacant, but the applicant has indicated that a church will be constructed on these properties. The applicant has indicated that the proposed church construction will require the vacation of Oriole Drive between Lots 2 and 3 of Block 7 and Lots 5 and 6 of Block 8 in the Morningside Addition Addendum.

Oriole Drive was originally platted in 1962 as a public right of way. Currently, no street has been constructed in this portion of Oriole Drive; however public utilities are located in the right of way.

STAFF REVIEW:

Staff has reviewed the proposed Vacation of Right of Way and noted the following issues:

Utilities:

The Engineering Division Staff noted that there are existing water and sewer mains located in the right of way. This request would eliminate access to the dead-end manhole, and place curbing and landscaping directly over the water main and sanitary sewer main.

The area proposed for vacation would need to be retained as a utility easement. This would require that the property owner enter into a covenant to insure that all future removals and/or restoration of surface improvements be the sole responsibility of the owner. **At this time no covenant has been submitted.**

Access:

The vacation on this right of way will result in an existing lot not having any legal access. Lot 5 of Block 8 will abut Oriole Drive by only one single point which does not provide sufficient access to the lot. The applicant has indicated that they would be willing to enter into a developmental lot agreement to tie Lots 2 and 3 of Block 7 and Lots 5 and 6 of Block 8 together; however, a developmental lot agreement will not prevent the owner from selling the lots individually which would leave Lot 5 of Block 8 with no legal access. Replatting the property into a single parcel would facilitate the vacation of the easement, allow the identification of the necessary easements, and insure that legal and physical access is provide to all lots. **The applicant has submitted an application for a Layout Plat; however at this time no Final Plat approval has been obtained. As such, staff is recommending this item be continued until Final Plat approval is obtained.**

Staff recommends this item be continued to the **March 25, 2004** Planning Commission meeting to allow the applicant time to address the issues as identified above.