

STAFF REPORT

March 25, 2004

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

ITEM 63

GENERAL INFORMATION:

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 Planning Commission acknowledge the applicant's request to withdraw the application.

GENERAL COMMENTS:

(Updates to the staff report are shown in bold.) This item was continued from the January 22, 2004 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. **The applicant has indicated that they will request the Vacation of Right-of-Way with their request for a Layout Plat for these properties. As such, Staff recommends that the Planning Commission acknowledge the applicant's request to withdraw the application.**