

STAFF REPORT  
September 14, 2004

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**No. 04VE020 - Vacation of Utility Easement**

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GENERAL INFORMATION:

PETITIONER	James Steele for Arthur Barrett
REQUEST	<b>No. 04VE020 - Vacation of Utility Easement</b>
EXISTING LEGAL DESCRIPTION	Lot 4, Steele Subdivision, located in NW1/4 SE1/4 and NE1/4 SE1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .71 acres
LOCATION	2944 Evergreen Drive
EXISTING ZONING	Low Density Residential District
SURROUNDING ZONING	
North:	Low Density Residential District
South:	Low Density Residential District
East:	Low Density Residential District
West:	Low Density Residential District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	8/31/2004
REVIEWED BY	Vicki L. Fisher /

RECOMMENDATION:

Staff recommends that the Vacation of Utility Easement be denied and that the structural encroachment into the existing utility easement be removed or that the applicant sign an agreement to hold harmless the City for any damages to the structure due to the maintenance, repair and/or replacement of the City sewer main and that if the structural encroachment is ever removed for any reason, no additional structural encroachments shall be allowed.

GENERAL COMMENTS:

The applicant has submitted a Vacation of Utility Easement to vacate 8.49 feet of an existing 16.49 foot utility easement. In 1999, the property was platted as a part of the Steele Subdivision development.

On August 2, 2004, the City Council denied a Vacation of Utility Easement request to vacate a portion of an existing utility easement located along the west lot line of the subject property. The applicant has re-submitted the Vacation of Utility Easement request.

The subject property is located at the southern terminus of Evergreen Drive. Currently, a

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single family residence with an attached garage is located on the property.

STAFF REVIEW:

Staff has reviewed the Vacation of Utility Easement request and has noted the following considerations:

Sewer Main: When the property was originally platted, a section of Evergreen Drive located along the west lot line was vacated. It was noted at that time that a City sewer main was located within this section of Evergreen Drive right-of-way. As such, a 32.98 foot wide utility easement was retained along the common lot line of Lots 4 and 5. A portion of the attached garage is located 8.49 feet into the existing utility easement. The applicant has submitted a site plan identifying that the garage is located five feet from the existing sewer main. As such, staff is recommending that the Vacation of Utility Easement request be denied and that the existing structural encroachment be removed or that the applicant sign an agreement to hold harmless the City for any damages to the structure due to the maintenance, repair and/or replacement of the City sewer main and that if the structural encroachment is ever removed for any reason, no additional structural encroachments will be allowed within the easement.

Utilities: All of the affected utilities have indicated concurrence with the proposed Vacation of Utility request. In particular, the utilities have indicated that none of their services are located within that portion of the easement to be vacated.

Staff is recommending that the Vacation of Easement request be denied with the options identified above.