

STAFF REPORT
August 10, 2010

No. 10VE010 - Vacation of a portion of a Utility and Minor Drainage Easement **ITEM**

GENERAL INFORMATION:

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| APPLICANT | Caleb Arceneaux Isis Hospitality |
| AGENT | Janelle Finck for Fisk Land Surveying & Consulting Engineers |
| PROPERTY OWNER | Atlantis, LLC |
| REQUEST | No. 10VE010 - Vacation of a portion of a Utility and Minor Drainage Easement |
| EXISTING LEGAL DESCRIPTION | Lot 1 revised of Atlantis Subdivision, located in the W1/2 SW1/4 of Section 27, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE | Approximately 6.32 acres |
| LOCATION | 1314 and 1416 North Elk Vale Road |
| EXISTING ZONING | General Commercial District |
| SURROUNDING ZONING | |
| North: | Box Elder |
| South: | General Commercial District |
| East: | General Commercial District |
| West: | General Commercial District |
| PUBLIC UTILITIES | City water and sewer |
| DATE OF APPLICATION | 7/15/2010 |
| REVIEWED BY | Jim Flaaen / Karley Halsted |

RECOMMENDATION:

Staff recommends that the Vacation of a portion of a Utility and Drainage Easement be approved with the following stipulation:

1. Prior to City Council approval, a revised Exhibit A shall be submitted clarifying the specific Plat Book(s) and Page Number(s) establishing the original easements; and,
2. Prior to City Council approval, a copy of the recorded Utility and Minor Drainage Easement shall be submitted to the Growth Management Department.

GENERAL COMMENTS: The applicant is proposing to vacate a portion of the Utility and Minor Drainage Easement as shown in Exhibit "A" on Lot 1 Revised of Atlantis Subdivision.

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In particular, the applicant is proposing to vacate the existing 8 foot Utility and Minor Drainage Easement located in the interior of the lot approximately 318 feet west of the east lot line. The applicant has also proposed to dedicate an additional 6 feet of Utility and Minor Drainage Easement on the east side of an existing 10 foot Utility and Minor Drainage Easement is located adjacent to and immediately east of the proposed area of vacation. As of this writing, the proposed easement has not been dedicated. As such, prior to City Council approval, the additional Utility and Minor Drainage Easement must be recorded with the Register of Deeds Office and a copy of the recorded Easement submitted to the Growth Management Department.

The property is located at 1300 North Elk Vale Road, on the east side of Elk Vale Road, south of Interstate 90 and north of the DM&E Railroad tracks. A hotel and waterpark are currently located on the property.

STAFF REVIEW: Staff has reviewed the Vacation of Utility and Minor Drainage Easement request and has noted the following issues:

Utility Company Approval: The vacation of utility easement requires permission of all affected utility companies. Staff noted that all affected utility companies have been contacted. All affected utility companies have provided written documentation indicating that they do not have any objections to the proposed vacation.

Easements: Staff review has identified that the proposed Utility and Minor Drainage Easement is not used for drainage purposes as the property has been developed. As such, the proposed vacation will not affect drainage patterns on the property. In addition, as previously stated, the applicant has proposed to dedicate an additional 6 feet of Utility and Minor Drainage Easement on the east side of an existing 10 foot Utility and Minor Drainage Easement located adjacent to and immediately to the east of the proposed area of vacation. The proposed dedication would result in a net loss of two feet of Utility and Minor Drainage Easement on the property with the proposed vacation. As of this writing, the proposed easement has not been dedicated. As such, prior to City Council approval, the additional Utility and Minor Drainage Easement must be recorded with the Register of Deeds Office and a copy of the recorded Easement submitted to the Growth Management Department.

Retaining wall: Staff review identified that an existing retaining wall is located within the Utility and Minor Drainage Easement proposed to be vacated by this application. The applicant should be aware that if the proposed vacation is not approved by City Council, a letter of approval must be obtained from the City Engineer to allow the existing retaining wall to remain in the easement, or the retaining wall must be relocated outside of the Utility and Minor Drainage Easement.

Exhibit A: The Register of Deeds office has indicated that two separate Plat Books and Pages are identified on Exhibit A for the proposed vacation and consequently, it was unclear as to which plat document the proposed vacation would be coming from. As such, prior to approval by the Public Works Committee, a revised Exhibit must be submitted clarifying the specific Plat Book(s) and Page(s) establishing the original easement.

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Staff recommends that the Vacation of Utility and Minor Drainage Easement be approved with the stipulation identified above.