

STAFF REPORT  
June 23, 2005

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**No. 05SR036 – SDCL 11-6-19 Review to allow the construction of a public street on public property**      **ITEM 15**

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GENERAL INFORMATION:

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| PETITIONER                 | Steve and Trisha Nolan   |
| REQUEST                    | <b>No. 05SR036 – SDCL 11-6-19 Review to allow the construction of a public street on public property</b> |
| EXISTING LEGAL DESCRIPTION | Lot 2, Tract 1, Par Subdivision, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota  |
| PARCEL ACREAGE             | Approximately 3.5 acres  |
| LOCATION                   | At the southeast corner of Catron Boulevard and Tartan Court   |
| EXISTING ZONING            | General Agriculture District   |
| SURROUNDING ZONING         |  |
| North:                     | General Agriculture District   |
| South:                     | General Agriculture District   |
| East:                      | General Agriculture District   |
| West:                      | General Agriculture District   |
| PUBLIC UTILITIES           | Private  |
| DATE OF APPLICATION        | 5/27/2005  |
| REVIEWED BY                | Todd Tucker / Bob Dominicak  |

RECOMMENDATION:

Staff recommends that the SDCL 11-6-19 Review to allow the construction of a public street in a public right-of-way be approved with the following stipulations:

1. Tartan Court shall be constructed with a minimum pavement width of 24 feet with sidewalk and street light conduit on the west side of Tartan Court;
2. The requirement to install curb, gutter, water and sewer on both sides of Tartan Court, and sidewalks and street light conduit along the east side of Tartan Court is hereby waived. In addition, the applicant shall sign a Waiver of Right to Protest any future assessment for the improvement;

GENERAL COMMENTS: The subject property is located at the southwest corner of Catron Boulevard and Tartan Court. The applicant is proposing to convert the existing building located on the subject property from a church to a child care center. Section 17.50.270 of the Rapid City Municipal Code requires that access to commercial development be through a paved access. Tartan Court, which is the physical access to the subject property is not currently paved. As such, the applicant is requesting approval of an SDCL 11-6-19 Review

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to allow the construction of a public street on public property.

South Dakota Codified Law 11-6-19 states that "...whenever any such municipal council has adopted a comprehensive plan, then no street, park or other public way, ground, place, space, no public building or structure, no public utility, whether publicly or privately owned, if covered by the comprehensive plan or any adopted part thereof, shall be constructed or authorized in the municipality or within its subdivision jurisdiction until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". The proposed street will serve as a public right-of-way and is located on public property requiring that the proposed construction be reviewed and approved by the Rapid City Planning Commission as a part of an SDCL 11-6-19 Review as the property is not being platted.

**STAFF REVIEW:** Staff has reviewed the proposed SDCL 11-6-19 Review and has noted the following issues:

**Pavement:** The applicant is proposing to construct Tartan Court which is identified as a lane/place street. The Street Design Criteria Manual requires that a minimum right-of-way of 49 feet be provided with a minimum 24 foot pavement width. The Tartan Court right-of-way currently has a width of 60 feet. The applicant is proposing to construct the pavement within the right-of-way at a width of 24 feet to meet the minimum requirements.

**Curb, Gutter, Water, Sewer, Sidewalk and Street Light Conduit:** The applicant is requesting that the requirements to install curb, gutter, water, sewer, sidewalks and street light conduit be waived. The Planning Commission and City Council have previously supported and approved subdivision variances to waive the requirements to install curb, gutter, water, sewer, sidewalks and street light conduit when the density of development is not being increased. In this situation, there are no additional lots being created and the density of development is not increasing. Based on the Planning Commission and City Council's previous action, staff recommends approval of the request to waive the requirement to install curb, gutter, water and sewer on both sides of Tartan Court and sidewalks and street light conduit along the east side of the Tartan Court right-of-way as per Chapter 16.16 of the Rapid City Municipal Code with the stipulation that the applicant sign a Waiver of Right to Protest any future assessment for the improvement.

However, due to the proposed child care center proposed to be located on the west side of Tartan Court, staff has concerns about not installing sidewalk and street light conduit along Tartan Court. As such, staff recommends that sidewalk and street light conduit be installed along the east side of Tartan Court as it abuts the subject property.

Staff is recommending approval of the SDCL 11-6-19 Review with the above stated stipulations.