

STAFF REPORT  
December 6, 2007

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**No. 05VR014 - Vacation of Section Line Highway**

**ITEM 43**

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GENERAL INFORMATION:

PETITIONER	Sperlich Consulting, Inc. for Doeck, LLC
REQUEST	<b>No. 05VR014 - Vacation of Section Line Highway</b>
EXISTING LEGAL DESCRIPTION	That portion of the statutory Section Line Right-of-Way lying in the NE1/4, SE1/4, Section 13, T2N, R7E, and that portion of the statutory Section Line Right-of-Way, lying in Tract 5, Sletten Addition, located in the NW1/4, SW1/4, Section 18, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 2.0 acres
LOCATION	At the northwest corner of the north to east curve of West Nike Road
EXISTING ZONING	Low Density Residential District - No Use District
SURROUNDING ZONING	
North:	General Agriculture District (Pennington County)
South:	Low Density Residential District (Planned Residential Development)
East:	General Agriculture District (Pennington County)
West:	General Agriculture District (Pennington County)
PUBLIC UTILITIES	None
DATE OF APPLICATION	11/9/2005
REVIEWED BY	Mike Maxwell/Emily Fisher/Marcia Elkins/ <b>Vicki Fisher</b>

RECOMMENDATION:

Staff recommends that the Vacation of Section Line Highway request be **continued to the January 10, 2008** Planning Commission meeting.

GENERAL COMMENTS:

**(Update November 21, 2007. All revisions to this report are shown in bold.)** On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. However, the Preliminary Plat did not provide access to the property located directly north of the subject property. On January 10, 2007, the applicant submitted a revised Preliminary Plat showing a street connection to the adjacent property. The revised Preliminary Plat was approved by the City Council on November 5, 2007. To date, a Final Plat has not been submitted for review and approval. As such, staff is recommending that the Vacation of Section Line Highway request be continued to the January 10, 2008

STAFF REPORT  
December 6, 2007

---

**No. 05VR014 - Vacation of Section Line Highway**

**ITEM 43**

---

**Planning Commission meeting to ensure that an alternate street is provided to the adjacent property.**

(Update October 12, 2007. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. However, the Preliminary Plat did not provide access to the property located directly north of the subject property. On January 10, 2007, the applicant submitted a revised Preliminary Plat showing a street connection to the adjacent property. The revised Preliminary Plat will be considered at the November 5, 2007 City Council meeting. The earliest date a Final Plat may be submitted is November 6, 2007 resulting in action of the plat on or before November 27, 2007. As such, staff is recommending that the Vacation of Section Line Highway request be continued to the December 6, 2007 Planning Commission meeting to ensure that an alternate street is provided to the adjacent property.

(Update September 11, 2007. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. However, the Preliminary Plat did not provide access to the property located directly north of the subject property. On January 10, 2007, the applicant submitted a revised Preliminary Plat showing a street connection to the adjacent property. The revised Preliminary Plat will be considered at the September 17, 2007 City Council meeting. The earliest date a Final Plat may be submitted is September 18, 2007 resulting in action of the plat on or before October 4, 2007. As such, staff is recommending that the Vacation of Section Line Highway request be continued to the October 25, 2007 Planning Commission meeting to ensure that an alternate street is provided to the adjacent property.

(Update August 10, 2007. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. However, the Preliminary Plat did not provide access to the property located directly north of the subject property. On January 10, 2007, the applicant submitted a revised Preliminary Plat showing a street connection to the adjacent property. The revised Preliminary Plat will be considered at the August 20, 2007 City Council meeting. The earliest date a Final Plat may be submitted is August 21, 2007 resulting in action of the plat on or before September 7, 2007. As such, staff is recommending that the Vacation of Section Line Highway request be continued to the September 20, 2007 Planning Commission meeting to ensure that an alternate street is provided to the adjacent property.

(Update May 25, 2007. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. However, the Preliminary Plat did not provide access to the property located directly north of the subject property. As such, this item has been continued several times to allow the applicant to identify access to the adjacent property. Staff is recommending that this item be continued to the August 23, 2007 Planning Commission meeting with the applicant's concurrence.

(Update May 12, 2007. All revisions to this report are shown in bold.) On August 11, 2006,

STAFF REPORT  
December 6, 2007

---

**No. 05VR014 - Vacation of Section Line Highway**

**ITEM 43**

---

the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. However, the Preliminary Plat did not provide access to the property located directly north of the subject property. As such, this item has been continued several times to allow the applicant to identify access to the adjacent property. On January 10, 2007, the applicant submitted a revised Preliminary Plat showing a street connection to the adjacent property. The revised Preliminary Plat will be considered at the May 21, 2007 City Council meeting. The earliest date a Final Plat may be submitted is May 22, 2007 resulting in action of the plat on or before June 7, 2007. As such, staff is recommending that the Vacation of Section Line Highway request be continued to the June 7, 2007 Planning Commission meeting to ensure that an alternate street is provided to the adjacent property.

(Update April 27, 2007. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. However, the Preliminary Plat did not provide access to the property located directly north of the subject property. As such, this item has been continued several times to allow the applicant to identify access to the adjacent property. On January 10, 2007, the applicant submitted a revised Preliminary Plat showing a street connection to the adjacent property. The revised Preliminary Plat will be considered at the May 7, 2007 City Council meeting. The earliest date a Final Plat may be submitted is May 8, 2007 resulting in action of the plat on or before May 24, 2007. As such, staff is recommending that the Vacation of Section Line Highway request be continued to the May 24, 2007 Planning Commission meeting to ensure that an alternate street is provided to the adjacent property.

(Update April 14, 2007. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. However, the Preliminary Plat did not provide access to the property located directly north of the subject property. As such, this item has been continued several times to allow the applicant to identify access to the adjacent property. On January 10, 2007, the applicant submitted a revised Preliminary Plat showing a street connection to the adjacent property. The revised Preliminary Plat will be considered at the April 16, 2007 City Council meeting. The earliest date a Final Plat may be submitted is April 17, 2007 resulting in action of the plat on or before May 2, 2007. As such, staff is recommending that the Vacation of Section Line Highway request be continued to the May 10, 2007 Planning Commission meeting to ensure that an alternate street is provided to the adjacent property.

(Update March 24, 2007. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. However, the Preliminary Plat did not provide access to the property located directly north of the subject property. As such, this item has been continued several times to allow the applicant to identify access to the adjacent property. On January 10, 2007, the applicant submitted a revised Preliminary Plat showing a street connection to the adjacent property. The revised Preliminary Plat will be considered at the April 2, 2007 City Council meeting. The earliest date a Final Plat may be submitted is April 3, 2007 resulting in action of the plat on or before April 20, 2007. As such, staff is recommending that the Vacation of Section Line Highway request be continued to

STAFF REPORT  
December 6, 2007

---

**No. 05VR014 - Vacation of Section Line Highway**

**ITEM 43**

---

the April 26, 2007 Planning Commission meeting to ensure that an alternate street is provided to the adjacent property.

(Update March 13, 2007. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. However, the Preliminary Plat did not provide access to the property located directly north of the subject property. As such, this item has been continued several times to allow the applicant to identify access to the adjacent property. On January 10, 2007, the applicant submitted a revised Preliminary Plat showing a street connection to the adjacent property. The revised Preliminary Plat will be considered at the March 19, 2007 City Council meeting. The earliest date a Final Plat may be submitted is March 20, 2007 resulting in action of the plat on or before April 5, 2007. As such, staff is recommending that the Vacation of Section Line Highway request be continued to the April 5, 2007 Planning Commission meeting to ensure that an alternate street is provided to the adjacent property.

(Update January 12, 2007. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. However, the Preliminary Plat did not provide access to the property located directly north of the subject property. As such, this item has been continued several times to allow the applicant to identify access to the adjacent property. On January 10, 2007, the applicant submitted a revised Preliminary Plat showing a street connection to the adjacent property. The revised Preliminary Plat will be considered at the February 8, 2007 Planning Commission meeting and, subsequently, at the February 19, 2007 City Council meeting. The earliest date a Final Plat may be submitted is February 20, 2007 resulting in action of the plat on or before March 8, 2007. As such, staff is recommending that the Vacation of Section Line Highway request be continued to the March 22, 2007 Planning Commission meeting to ensure that an alternate street is provided to the adjacent property.

(Update December 14, 2006. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. The Preliminary Plat also identified a street connection to be provided to the property located directly north of the subject property. However, on September 18, 2006, the applicant submitted a revised Preliminary Plat eliminating the street connection to the north as a part of this phase of the development. As such, vacating the Section Line Highway as proposed will leave a parcel of land located directly north of the subject property without legal access. Staff is recommending that the Vacation of Section Line Highway be continued to January 25, 2007 Planning Commission meeting to allow the applicant to revise the Preliminary Plat as identified and to allow a Final Plat to be submitted for review and approval and, subsequently, recorded in order to provide an alternate street connection to the adjacent property.

(Update October 28, 2006. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. The Preliminary Plat also identified a street connection to be provided to the property located directly north of the subject property. However, on September 18, 2006, the applicant submitted a revised Preliminary Plat

STAFF REPORT  
December 6, 2007

---

**No. 05VR014 - Vacation of Section Line Highway**

**ITEM 43**

---

eliminating the street connection to the north as a part of this phase of the development. As such, vacating the Section Line Highway as proposed will leave a parcel of land located directly north of the subject property without legal access. Staff is recommending that the Vacation of Section Line Highway be continued to December 4, 2006 Planning Commission meeting to allow the applicant to revise the Preliminary Plat as identified and to allow a Final Plat to be submitted for review and approval and, subsequently, recorded in order to provide an alternate street connection to the adjacent property.

(Update September 23, 2006. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. The Preliminary Plat also identified a street connection to be provided to the property located directly north of the subject property. However, on September 18, 2006, the applicant submitted a revised Preliminary Plat eliminating the street connection to the north as a part of this phase of the development. As such, vacating the Section Line Highway as proposed will leave a parcel of land located directly north of the subject property without legal access. Staff is recommending that the Vacation of Section Line Highway be continued to November 9, 2006 Planning Commission meeting to allow the applicant to revise the Preliminary Plat as identified and to allow a Final Plat to be submitted for review and approval and, subsequently, recorded in order to provide an alternate street connection to the adjacent property.

(Update August 24, 2006. All revisions to this report are shown in bold.) On August 11, 2006, the applicant submitted a Preliminary Plat to create 52 residential lots on property located directly west of the section line highway. The Preliminary Plat also identifies a street connection to be provided to the property located directly north of the subject property. The Preliminary Plat will be considered at the September 7, 2006 Planning Commission and, subsequently, the September 18, 2006 City Council meeting. The earliest date a Final Plat may be submitted is September 19, 2006 resulting in action on the plat on or before October 5, 2006. As such, staff is recommending that the Vacation of Section Line Highway request be continued to the October 5, 2006 Planning Commission meeting to ensure that an alternate street is provided to the adjacent property.

(Update August 17, 2006. All revisions to this report are shown in bold.) When contacted today, the applicant's engineer indicated that a Preliminary Plat has been submitted for consideration in conjunction with this Section Line Highway Vacation request. That related request is scheduled to be considered on September 7, 2006. For that reason, staff recommends that the Vacation of Section Line Highway be continued to the September 7, 2006 Planning Commission meeting.

(Update July 21, 2006. All revisions to this report are shown in bold.) As of this writing, no additional information has been received relative to this application. Staff attempted to contact the applicant's representative to determine the status of this project; however, they were not available. For that reason, staff is recommending that the request be continued to the August 24, 2006 Planning Commission meeting.

(Update, June 1, 2006.) Staff contacted the applicant's representative who indicated that they are currently drafting the plans for the next phase of development. It is anticipated that the new phase will provide an alternative road connection that could provide access to the

STAFF REPORT  
December 6, 2007

---

**No. 05VR014 - Vacation of Section Line Highway**

**ITEM 43**

---

surrounding properties in lieu of the section line highway that the applicant is seeking to vacate. Sperlich Consulting anticipates submission of the plat application in approximately 30 days and have requested that this item be continued to the July 27, 2006 Planning Commission meeting to allow the items to be considered concurrently.

(Update, January 18, 2006. All revised and/or added text is shown in bold print.) The applicant has requested that the application for the Vacation of Section Line Highway be continued to the June 8, 2006 Planning Commission.

The applicant has submitted a Vacation of Section Line Highway request to vacate that portion of the statutory Section Line Right-of-Way lying in the NE1/4, SE1/4, Section 13, Township 2 North, Range 7 East, and that portion of the statutory Section Line Right-of-Way, lying in Tract 5, Sletten Addition, located in the NW1/4, SW1/4, Section 18, Township 2 North, Range 8 East, BHM, Rapid City, Pennington County, South Dakota. The subject property is located at the northwest corner of the north to east curve of West Nike Road.

The applicant deeded Lot H-1 of Tract 5 Sletten Addition to the City of Rapid City as part of the development of the Brookfield Subdivision. This roadway (Cobalt Drive) is identified as a proposed collector street on the Major Street Plan.

The applicant has submitted a petition to vacate the section line highway right-of-way stating that the topography does not support construction of the section line highway.

STAFF REVIEW:

Staff has reviewed the Vacation of Section Line Highway request and has noted the following considerations:

Roadway Layout and Subdivision Design: The Rapid City Council has previously approved a Layout Plat of Brookfield Subdivision for the property lying along the western half of the section line highway that the applicant is requesting to vacate. In addition, a Preliminary Plat and Final Plat have been approved for the southern portion of the property. As part of that platting process a roadway layout has been approved. The right of way has been dedicated for Cobalt Drive along a portion of the section line highway at the southern terminus of the area proposed to be vacated. Additionally, an H Lot has been deeded to the City along the eastern portion of the section line highway at the southern terminus of the area proposed to be vacated. The roadway layout as approved as part of the Layout Plat does not require the construction of any roads within the section line highway. However, it should be noted that only a portion of the Brookfield Subdivision has been final platted and developed to date. When development of the Brookfield Subdivision is complete, the section line highway will not be required, as alternate roadways will be developed.

Existing Terrain: Staff reviewed the gradient of this portion of the section line highway and noted that the existing grade of the terrain is approximately 16 percent. Staff noted that the section line highway has a gradient greater than that allowed by the Street Design Criteria Manual for a finished road section. Based on the existing terrain in the area, it does not appear that it would be appropriate to construct a road in this area unless significant grading is completed. Based on the existing terrain it would appear appropriate to vacate this

STAFF REPORT  
December 6, 2007

---

**No. 05VR014 - Vacation of Section Line Highway**

**ITEM 43**

---

portion of the section line highway.

Access to Adjacent Properties: In evaluating the appropriateness of the request to vacate the section line highway, staff reviewed the impact of the requested vacation on access to the surrounding properties.

As previously noted, the land lying directly west of the section line highway is part of the Brookfield Subdivision, a portion of which has been platted. The balance of the property has been approved for development as part of a Layout Plat. The section line highway that is proposed for vacation is not needed to serve the Brookfield Subdivision.

The adjacent property located directly east of the section line highway proposed to be vacated and legally described as Tract 5, Sletten Addition has direct access to the south from West Nike Road. Tract 5 does not require access from the section line highway.

The land lying north and east of the section line highway proposed to be vacated is described as Government Lots 1 and 2, Section 18, Township 2 North, Range 8 East, Black Hills Meridian. Both of these lots have direct access onto Nike Road along their eastern property boundaries and do not require access from the section line highway.

The land located north and west of the section line highway proposed to be vacated is described as the E1/2 NE1/4 Section 13, Township 2 North, Range 7 East, BHM, Pennington County, South Dakota. Currently, the only legal access to the property is from the north-south section line highway proposed to be vacated and the east-west section line highway located along the northern property boundary. The Layout Plat for Brookfield Subdivision identifies several internal access points from the south to provide cross access. At the time the Brookfield Subdivision is platted and developed both legal and physical access will be available from the south. However, the two identified section line highways provide the only legal access to the property at this time.

Staff evaluated the east-west section line highway located along the northern boundary of the adjacent property and noted that the existing gradients along this route exceed 20 percent. While neither section line highway provides good natural grades for roadway construction, the north-south section line highway appears to be a better location for the construction of a road. As such, staff cannot support the vacation of the section line highway until such time as the internal roadway network within the Brookfield Subdivision is in place. At that time, legal access would be provided to the E1/2 NE1/4 of Section 13, Township 2 North, Range 7 East, BHM, Pennington County, South Dakota. Alternatively, the applicant may be able to provide documentation of other access to the property to insure that the property is not left without reasonable access.

Utilities: In reviewing right-of-way and section line highway vacation requests, the staff requests that the applicant contact the utility companies to insure that there are no existing or planned utilities proposed for the corridor. As of this writing, staff has not received any comments from the utilities companies as to whether or not they support the section line highway vacation.

STAFF REPORT  
December 6, 2007

---

**No. 05VR014 - Vacation of Section Line Highway**

**ITEM 43**

---

Based on the impact of the proposed section line highway vacation on access to adjacent property, staff is recommending that the Vacation of Section Line Highway be denied without prejudice. As additional platting occurs in the Brookfield Subdivision, alternative access will be provided to the adjacent properties and the vacation of the section line highway will be appropriate. Alternatively, the applicant may wish to work with the adjacent property owner to insure that alternative access can be provided.