

STAFF REPORT
April 13, 2004

No. 04VE006 - Vacation of Easement

GENERAL INFORMATION:

PETITIONER	Davis Engineering Inc. for Jerry and Therese Shoener
REQUEST	No. 04VE006 - Vacation of Easement
EXISTING LEGAL DESCRIPTION	Tract C of South Meadowwood Subdivision except a strip of land 10 feet in width running parallel to the westerly boundary line of said Tract C, and also except the east 145 feet of said Tract C, SW1/4 of Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.231 acres
LOCATION	4012 Clover Street
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 water and sewer
DATE OF APPLICATION	03/12/2004
REPORT BY	Todd Tucker

RECOMMENDATION:

Staff recommends that the Vacation of Easement be approved with the following stipulations:

1. Prior to City Council approval, a revised exhibit showing the vacation of only that portion of the creek easement which is being encroached upon by the existing structure shall be submitted; and,
2. Prior to City Council approval, a separate document showing the creation of a new major drainage easement must be submitted.

GENERAL COMMENTS: The applicant is proposing to vacate a 13 foot by 60 foot portion of an existing 20 foot wide creek easement. The creek easement runs generally east and west through the middle of the subject property, and the adjacent property to the east.

The property is located on the north side of Clover Street approximately 200 feet east of North 40th Street. Currently a single family residence is located on the property. The applicant has indicated that a portion of the structure encroaches approximately 13 feet into

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the easement. The actual location of Lime Creek is approximately 95 feet south of the creek easement. The applicant is now proposing to vacate the creek easement and relocate it in the location of the actual creek.

As previously indicated, the actual location of the creek is approximately 95 feet south of the location of the creek easement. Staff noted that the creek appears to have been relocated from its proposed location, where the current creek easement is located to its current location, at some point in time after the creation of the Federal Emergency Management Agency's maps. This was at least 25 years ago.

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

Revised Exhibit: The original exhibit submitted with the application showed the entire 20 foot creek easement being vacated with this request. As previously indicated, the creek easement is also located on the adjacent property to the east. Staff noted that the vacation of the entire creek easement on the subject property would create a discontinuous section of the creek easement located on the adjacent property to the east. The applicant has indicated that they would be submitting a revised exhibit showing only that portion of the creek easement to be vacated which is being encroached by the existing structure. This will bring the property into compliance and not create a discontinuous portion of the existing creek easement. Prior to City Council approval, a revised exhibit showing only that portion of the creek easement which is being encroached upon by the existing structure must be submitted.

New Easement: As part of the submitted exhibit, the creation of a new 20 foot wide creek easement was being requested. Staff noted that the creation of a new easement must be submitted on a separate document. Prior to City Council approval, a separate document showing the creation of a new major drainage easement must be submitted.

Letter of Map Amendment: Staff also noted that an existing driveway acts as a dam and has modified the floodplain. The driveway has two culverts stacked vertically. It is questionable if larger water flows could make the abrupt change in direction. Likely flood waters will be diverted into the adjacent street. Staff suggests that a letter of map amendment be obtained to reflect the current location of Lime Creek and the correct location of the floodplain.

Staff is recommending that this item be approved with the above stated stipulations.