

STAFF REPORT  
November 8, 2007

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**No. 07VE029 - Vacation of Access Easement**

**ITEM 68**

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GENERAL INFORMATION:

APPLICANT	Dean Kelly for Dean Kelly Construction
AGENT	Doug Sperlich for Sperlich Consulting, Inc.
PROPERTY OWNER	Dean Kelly Construction, Inc.
REQUEST	<b>No. 07VE029 - Vacation of Access Easement</b>
EXISTING LEGAL DESCRIPTION	Lot 8R of Flannery Subdivision No. 2, located in the NW1/4 of the NE1/4, Section 21, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 2.17 acres
LOCATION	4944 Ireland Place
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	8/24/2007
REVIEWED BY	Travis Tegethoff / Mary Bosworth

RECOMMENDATION:

Staff recommends that the Vacation of Access Easement be denied without prejudice with the following stipulation:

1. **Prior to issuance of a Certificate of Occupancy for the residence, the applicant shall record the required easement at the Register of Deeds office as previously approved as part of the Final Plat or an alternative emergency vehicle access easement shall be submitted for review and approval and recorded at the Register of Deeds office.**

GENERAL COMMENTS: This staff report has been revised as of October 31, 2007. All revised and/or added text is shown in bold print. This item was continued to the November 8, 2007 Planning Commission Meeting to allow the applicant to submit additional information. On October 24, 2007, the applicant requested that this item be denied without prejudice.

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The applicant is proposing to vacate a portion of a Fire Department access easement located on Lot 8R of Flannery Subdivision No. 2. The property is located east of Ireland Place and south of Corral Drive. The property is currently void of structural development.

On April 7, 2003, City Council approved a Preliminary and Final Plat (#02PL115) with the following stipulations for the property:

Engineering Division Recommendations:

1. Prior to Final Plat approval by the City Council, the applicant shall provide documentation of the legal entity that will provide sewer maintenance for the sewer main that has been constructed within the Dublin Court right of way;
2. Prior to Final Plat approval by the City Council, the plat note reading, "Access and Utility Easement" along Dublin Court shall be eliminated;
3. Prior to Final Plat approval by the City Council, Plat Note Number 2 shall read, "Eight foot wide utility and drainage easement on interior side of all lot lines";

Fire Department Recommendations:

4. Prior to Final Plat approval by the City Council, a Wildland Fire Mitigation Plan shall be submitted for review and approval;
5. Prior to Final Plat approval by the City Council, the Fire Department Access Easement shall remain as previously platted, or an alternative emergency vehicle access easement shall be submitted for review and approval;
6. Prior to Final Plat approval by the City Council, a note shall be placed on the plat stating, "If driveway or street grades exceed 16 percent, then fire sprinklers shall be required for all residences";

Urban Planning Division Recommendations:

7. Prior to Final Plat approval by the City Council, the applicant shall record the approved Dublin Court right-of-way vacation document with the Pennington County Register of Deeds;
8. Prior to Final Plat approval by the City Council, a subdivision estimate form for the unfinished subdivision improvements shall be submitted for review and approval; and,
9. Prior to Final Plat approval by the City Council, surety for the unfinished improvements shall be posted and the subdivision inspection fees shall be paid.

The applicant is now proposing to construct a single-family residence on the property and is requesting to vacate the Fire Department Access Easement to accommodate the proposed construction.

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

Fire Department Access Easement: Staff noted that one of the stipulations of platting the property required that the Fire Department Access Easement shall remain as previously platted, or an alternative emergency vehicle access easement shall be submitted for review and approval. The applicant has not demonstrated a need for the requested vacation of the existing Fire Department Access Easement and has not submitted an alternative emergency vehicle access easement for review and approval. As such, staff is recommending that this

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item be continued to the October 4, 2007 Planning Commission meeting to allow the applicant to submit a site plan demonstrating a need for the requested vacation and submit an alternative emergency access easement for review and approval.

On September 12, 2007 the applicant submitted a site plan showing the location of a proposed residence and information that only the area demonstrated on Exhibit "A" remains as a Fire Department Access Easement. However, a stipulation of the Final Plat (#02PL115) required that a Fire Department Access Easement remain or an alternative emergency vehicle access easement shall be submitted for review and approval. The International Fire Code requires a turn around for driveways that exceed 150 feet in length and this easement provides for emergency vehicles to turn around in the event of a wild fire.

**On August 23, 2007, a building permit was issued to construct a single-family residence on the property.**

**On October 23, 2007, the applicant requested that the Vacation of Access Easement request be denied without prejudice. However, the existing easement does not meet the requirements of the approved plat. As such, staff recommends that the Vacation of Access Easement request be denied with the stipulation that prior to issuance of a Certificate of Occupancy for the residence, the applicant shall record the required easement at the Register of Deeds office as previously approved as part of the Final Plat or an alternative emergency vehicle access easement shall be submitted for review and approval and recorded at the Register of Deeds office.**