

STAFF REPORT
January 13, 2009

No. 08VE031 - Vacation of a portion of a Utility and Minor Drainage Easement **ITEM**

GENERAL INFORMATION:

APPLICANT/AGENT	Larry Berube
PROPERTY OWNER	Larry Berube
REQUEST	No. 08VE031 - Vacation of a portion of a Utility and Minor Drainage Easement
EXISTING LEGAL DESCRIPTION	Lot 1R of Block 2 of Mountain View No. 2, Section 3, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.42 acres
LOCATION	1712 Mesa Drive
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	11/19/2008
REVIEWED BY	Jared Ball / Karley Halsted

RECOMMENDATION:

Staff recommends that the Vacation of a Portion of a Minor Drainage be denied without prejudice.

GENERAL COMMENTS: **(Update, January 7, 2008. All revised and/or added text is shown in bold print.) This item was continued at the December 30, 2008 Public Works Committee meeting. On January 7, 2009 the applicant submitted a revised exhibit and drainage calculations which have been linked to the agenda. Staff is in the process of reviewing the information and will make a recommendation at the January 13, 2009 Public Works Committee meeting.** The property is located at 1712 Mesa Drive. The property is currently zoned Low Density Residential District. The adjacent properties to the north, south, east, and west are also zoned Low Density Residential District. The applicant is proposing to vacate a 28 foot section of an 8 foot wide Utility and Minor Drainage

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Easement on the north lot line of the property. The applicant has indicated that the vacation of easement is needed for a proposed expansion of the residence that is currently located on the property.

On November 18, 2008 the Zoning Board of Adjustments considered a variance request to reduce the side yard set back for the proposed expansion from the required eight feet to one foot. The variance request was continued to allow the applicant to make this application for the vacation of the Utility and Minor Drainage Easement.

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

Drainage: On December 14, 2008 the applicant submitted an aerial photograph of the property showing the contour lines and a letter from a Registered Professional Engineer stating that the proposed addition will not adversely affect the local drainage characteristics. However the applicant has not provided drainage calculations for the site. Staff has concerns that the proposed addition will cause an increase in runoff onto the adjacent property to the north. Staff comments indicate that a drainage easement is needed on the adjacent property to the north to ensure that drainage flows will not adversely affect the adjacent property to the north. In addition, the applicant could construct a smaller addition and reduce the size of the vacation of a portion of a Utility and Minor Drainage Easement that is needed. As such, staff recommends that the Vacation of a portion of a Utility and Minor Drainage Easement be denied without prejudice.

(Updated January 8, 2009) On January 5, 2009 the applicant submitted a plat of the adjacent property to the north identifying an existing eight foot minor drainage and utility easement on the interior of all side and rear lot lines. On January 7, 2009 the applicant submitted a revised exhibit and drainage calculations. Staff reviewed the revised exhibit and drainage calculations. The calculations indicate that the Vacation of the Utility and Minor Drainage Easement will not negatively impact the drainage through the existing easement or the adjacent property to the north.

Side Yard setback: The applicant has indicated that the Vacation of a portion of a Utility and Minor Drainage Easement is needed for a proposed addition to the residence that is located on the property. Staff noted that the proposed addition does not meet the required eight foot side yard set back in the Low Density Residential District.

Staff has concerns that the proposed addition may cause runoff from the east to be discharged onto the adjacent property to the north. As such, staff recommends that the Vacation of a portion of a Utility and Minor Drainage Easement be denied without prejudice.

Utility Company Approval: The vacation of a utility easement requires review by all affected utility companies. All of the affected utility companies have responded to the request. Qwest submitted a letter indicating that they did not object to the request to vacate a portion of the Utility and Minor Drainage Easement as long as a one foot easement is retained and that a

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four inch conduit is provided by the property owner along the north side of the foundation wall adjacent to the proposed addition. It should be noted that a one foot easement will not be sufficient to allow maintenance of the utilities.

Preservation of Utility Easements: Utility and minor drainage easements are required along all property lines and are held in trust for the public to insure that areas are available to accommodate future development. As a matter of policy and practice, easements such as this one have only been vacated to accommodate structures that were erroneously built into the easement and only the portion of the easement where the structure is located had been vacated. The City Council has not typically vacated these easements to accommodate new structures. There are currently no structures located in this easement. The vacating of the easement will impact the existing utility located in the easement. The applicant could construct improvements on the site and have reasonable use of the property without vacating a portion of this easement. Staff recommends that the Vacation of a portion of a Utility and Minor Drainage Easement be denied without prejudice.

Staff recommends that the Vacation of a portion of a Utility and Minor Drainage Easement be denied without prejudice.