

STAFF REPORT  
October 4, 2007

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**No. 07VR011 - Vacation of a portion of Right-of-way**

**ITEM 38**

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GENERAL INFORMATION:

APPLICANT/AGENT	Bryan Gonzalez
PROPERTY OWNER	Century Development, Co., Inc.
REQUEST	<b>No. 07VR011 - Vacation of a portion of Right-of-way</b>
EXISTING LEGAL DESCRIPTION	That portion of Philadelphia Street which is situated directly south of the north 327.2 feet of the N1/2 of the SE1/4 lying west of I90 Right-of-way, excepting therefrom the W1/2 of the NW1/4 of the SE1/4, and less North Boulevard Addition, located in the unplatted (9779); and, the east 670 feet of the south 30 feet of the SW1/4 NE1/4, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1400 East Philadelphia Street
PARCEL ACREAGE	Approximately 1.32 Acres
LOCATION	Philadelphia Street north of Founders Park Drive and west of West Boulevard North
EXISTING ZONING	Office Commercial District (Planned Development Designation)
SURROUNDING ZONING	
North:	Park Forest District
South:	Flood Hazard District
East:	Medium Density Residential District
West:	Office Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	9/7/2007
REVIEWED BY	Vicki L. Fisher / Todd Peckosh

RECOMMENDATION:

Staff recommends that the Vacation of a portion of Right-of-way be approved with the following stipulations:

1. Prior to Planning Commission approval, an Air Quality Permit shall be obtained or the existing Air Quality Permit shall be renewed;
2. Prior to Planning Commission approval, construction plans showing an eight foot wide sidewalk within the southern portion of the Philadelphia Street right-of-way shall be

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- submitted for review and approval;
3. Prior to Public Works Committee approval, a miscellaneous document shall be recorded at the Register of Deed's Office securing a minimum eight foot wide pedestrian access easement within the southern portion of the existing Philadelphia Street Right-of-way to be vacated. In addition, a copy of the recorded easement shall be submitted to the Growth Management Department for review and approval;
  4. Prior to Public Works Committee approval, plans showing the demolition of existing Philadelphia Street shall be submitted for review and approval;
  5. Prior to Public Works Committee approval, the applicant shall enter into an agreement with the City identifying the terms for the demolition and restoration of the existing Philadelphia Street;
  7. Prior to Public Works Committee approval, a temporary access easement shall be recorded at the Register of Deed's Office to ensure that the street remains in place until the existing Philadelphia Street is constructed in its new location along the north lot line of the property, opened and accepted by the City;
  8. Prior to Public Works Committee approval, a Drainage Easement shall be recorded at the Register of Deed's Office for that portion of the existing Philadelphia Street being vacated as needed. In addition, a copy of the recorded easement shall be submitted to the Growth Management Department for review and approval;
  9. Prior to City Council approval, surety shall be posted for the demolition and restoration of the existing Philadelphia Street; and,
  10. Prior to City Council approval, a Comprehensive Plan Amendment to the Major Street Plan shall be reviewed and approved to relocate Philadelphia Street to the north lot line of the property.

**GENERAL COMMENTS:**

The applicant has submitted a request to vacate the existing Philadelphia Street right-of-way located along the south lot line of the property. In addition, the applicant has submitted a Comprehensive Plan Amendment to the Major Street Plan (#07CA045) to relocate Philadelphia Street, a collector street, to the north lot line of the property and to eliminate 11<sup>th</sup> Street as a collector street. The applicant has also submitted a Preliminary Plat (#07PL090) to subdivide the property into 52 lots. In addition, the applicant has submitted a Variance to the Subdivision Regulations (#07SV044) to reduce the right-of-way width for the eastern 481 feet of Philadelphia Street as it abuts the property from 68 feet to 54.6 feet. The applicant has also submitted an Initial and Final Planned Residential Development (#07PD047) to allow the development of 51 townhome units and a clubhouse on the property.

The applicant has subsequently requested that the Variance to the Subdivision Regulations to reduce the right-of-way width along Philadelphia Street as identified above be withdrawn. On September 20, 2007, the Planning Commission acknowledged the applicant's request to withdraw the Variance to the Subdivision Regulations application. In addition, the Planning Commission has continued the associated Preliminary Plat request and the Initial and Final Planned Residential Development request to their October 4, 2007 Planning Commission meeting to allow the applicant to submit additional information.

The property is located between Founders Park Drive and west of 11<sup>th</sup> Street and is currently void of any structural development.

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STAFF REVIEW:

Staff has reviewed the Vacation of Right-of-way request and has noted the following considerations:

Philadelphia Street: The City's Major Street Plan identifies the existing Philadelphia Street, located along the south lot line of the property, as a collector street. However, the applicant has submitted a Preliminary Plat showing the relocation of Philadelphia Street to the north lot line of the property. In addition, the applicant has submitted a Comprehensive Plan Amendment to the Major Street Plan to relocate Philadelphia Street as shown on the plat document. Staff is recommending that prior to City Council approval, a Comprehensive Plan Amendment to the Major Street Plan be reviewed and approved to relocate Philadelphia Street to the north lot line of the property as proposed.

Relocating Philadelphia Street as proposed continues to provide an east-west street connection within this area. In addition, the applicant has demonstrated that the topography along the north side of the property supports the street construction. The applicant has also indicated that construction plans showing the construction of an eight foot wide sidewalk along the south side of the existing Philadelphia Street right-of-way to be vacated will be submitted for review and approval. The Parks and Recreational Department Director has indicated concurrence with the concept of constructing a sidewalk along the southern portion of the existing Philadelphia Street. However, as of this writing, the construction plans have not been submitted for review and approval. As such, staff is recommending that prior to Planning Commission approval, the construction plans showing an eight foot wide sidewalk within the southern portion of the existing Philadelphia Street right-of-way be submitted for review and approval. In addition, staff is recommending that prior to Public Works Committee approval, a miscellaneous document be recorded at the Register of Deed's Office securing a minimum eight foot wide pedestrian access easement within the southern portion of the existing Philadelphia Street Right-of-way. In addition, a copy of the recorded easement must be submitted to the Growth Management Department for review and approval.

The applicant has also submitted construction plans with the associated Preliminary Plat application showing a drainage channel along the balance of the existing Philadelphia Street. As such, staff is recommending that prior to Public Works Committee approval, a Drainage Easement be recorded at the Register of Deed's Office as needed within that portion of the existing Philadelphia Street being vacated. In addition, a copy of the recorded easement must be submitted to the Growth Management Department for review and approval.

The timing of the actual construction of Philadelphia Street along the north lot line and the vacation of the existing Philadelphia Street right-of-way along the south lot line must be coordinated to ensure that a physical street connection is being provided to adjacent properties as needed. In addition, plans showing the demolition of the existing Philadelphia Street must be submitted for review and approval. As such, staff is recommending that prior to Public Works Committee approval, plans showing the demolition of Philadelphia Street be submitted for review and approval. In addition, the applicant must post surety and enter into an agreement for the removal and restoration of the street. The applicant must also record a temporary access easement at the Register of Deed's Office to ensure that the street

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remains in place until the existing Philadelphia Street is constructed in its new location along the north lot line of the property, opened and accepted by the City.

Staff is recommending that the Vacation of Right-of-way request be approved with the stipulation of approval as identified above.