

Department of Community Planning and Economic Development - Planning Division
Easement Vacation
Vacation 1567

Date: April 26, 2010

Applicant: Aeon for Augustana Village LP and East Village Housing Corporation

Address of Property: 1105 – 8th Street South and 1401 11th Avenue South

Contact Person and Phone: Becky Landon – 651-647-3547

Planning Staff and Phone: Jim Voll 612-673-3887

60-Day Review Decision Date: Not Applicable

Ward: 7 Neighborhood Organization: Elliot Park

Existing Zoning: R5 Multiple-family Residence District, C1 and C2 Commercial Districts, and the DP Downtown Parking Overlay District.

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 20

Legal Description: Dedicated drainage and utility easements in Lots 1 and 2, Block 1, East Village Subdivision, being 5 feet in width unless otherwise indicated, and adjoining lot lines, and 10 feet in width unless otherwise indicated and adjoining right-of-way lines, as shown on the plat as recorded by the Hennepin County Surveyor, Hennepin County, Minnesota.

Existing Use: Planned unit development with three buildings, 175-units, and 11,000 square feet of retail.

Concurrent Review: Drainage and utility easements vacations. No other applications are necessary at this point.

Background: The City Planning Commission approved a planned unit development (C-1915), side yard and parking variances (V-4329), a site plan review (PR-461), a vacation of 12th Avenue South between 8th and 9th Streets (Vac-1210), a vacation of a part of 8th Street South (Vac-1250), and a replatting of the site (PL-35) in 1998, to allow a 175-unit planned unit development in three buildings with 11,000 square feet of retail. The approval of the project and preliminary plat were completed first, the final site plan was approved by staff (PW#6590), and then a final plat was approved by the City Planning Commission at a subsequent meeting. In this process drainage and utility easements were inadvertently reserved along the perimeter of the lots, some 10 feet and others 5 feet, in areas where parts of the easements are in the same location as the constructed buildings. In the process of

refinancing this year, the project partners discovered this error. They have now applied to vacate the easements around the perimeter of Lots 1 and 2 to correct this error.

There are no utilities in any of the easements, with the exception of a small part of the east sides of Lots 1 and 2, where Xcel has facilities (please see utilities section below). The approved drainage plan is independent of the easements. For these reasons, staff is recommending approval of the vacation request.

As of the writing of this staff report no comments have been received from the neighborhood group. Staff will forward comments, if any, to the Planning Commission.

Development Plan: Please see attached preliminary plat from 1998.

Responses from Utilities and Affected Property Owners: Xcel has facilities that run in parts of the established easement (see attached drawing) and requests that an easement be reserved for those facilities. The city can not reserve an easement beyond the easement currently established, as a part of a vacation process. The applicant and Xcel are working to establish a private easement for Xcel's facilities. If this is done, then the City will not need to reserve any easement. Otherwise the City will reserve those parts of the existing easement along the easterly sides of Lots 1 and 2 where Xcel's facilities are located.

Findings: The Public Works Department and Community Planning and Economic Development Department – Planning Division find that the drainage and utility easements proposed for vacation are not be needed for public purpose and that they should be vacated.

Recommendation of the Community Planning and Economic Development Department - Planning Division:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission and the City Council adopt the above findings and **approve** the vacation of the dedicated drainage and utility easements in Lots 1 and 2, Block 1, East Village Subdivision, subject to the reservation of an easement to Xcel along the easterly property line of Lots 1 and 2, where Xcel has indicated there are utilities, unless the applicant and Xcel agree on a private easement for Xcel's facilities.