

STAFF REPORT  
May 6, 2004

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**No. 04VR001 - Vacation of Right-of-Way**

**ITEM 13**

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GENERAL INFORMATION:

PETITIONER	Geiger Architecture for Taco Bell Corp.
REQUEST	<b>No. 04VR001 - Vacation of Right-of-Way</b>
EXISTING LEGAL DESCRIPTION	The east 15 feet of Cherry Street right-of-way adjoining Tracts A and E in Block 1 Feigel Subdivision, section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .086 acres
LOCATION	Along North Cherry Avenue
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Light Industrial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	04/05/2004
REVIEWED BY	Vicki L. Fisher / Dave Johnson

RECOMMENDATION:

Staff recommends that the Vacation of Right-of-Way be approved with the following stipulation:

1. Prior to City Council approval, a 15 foot wide utility easement shall be recorded at the Register-of-Deed's Office.

GENERAL COMMENTS:

The applicant has submitted a Vacation of Right-of-Way request to vacate 15 feet of the Cherry Street right-of-way located along Tract A and Tract E, Block 1 of Feigel Subdivision. A Taco Bell fast foot restaurant is currently located on Tract A and Tract E. A representative of Taco Bell has indicated that the restaurant site is being redeveloped and, as such, has requested to vacate a portion of the Cherry Street right-of-way as proposed in order to expand the restaurant and to provide on-site parking and stacking lanes at the drive up windows.

STAFF REVIEW:

Staff has reviewed the Vacation of Right-of-Way request and has noted the following

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considerations:

Cherry Street: Cherry Street is classified as a commercial street requiring that a minimum 59 feet of right-of-way. Currently, Cherry Street is located in an 80 foot wide right-of-way. Vacating 15 feet of the right-of-way as proposed retains a 65 foot wide right-of-way for Cherry Street. It is important to note that the property owner located on the opposite side of Cherry Street as it abuts the subject property has signed the petition to vacate the right-of-way request. Staff is recommending that prior to Planning Commission approval, a typical street section showing the existing pavement width, location of curb, gutter, sewer and water be submitted for review and approval to insure that that the improvements are located in the remaining right-of-way.

Utilities: All of the affected utility companies have submitted written responses to the Vacation of right-of-way request. Black Hills Power has indicated that they do not object to the vacation of Right-of-Way request since they do not have any utilities within this area of Cherry Street. However, Montana Dakota Utility, Mid-Continent Communications, Quest and Black Hills FiberCom have indicated that they currently have utilities within this area of Cherry Street, and, as such, have requested that a 15 foot wide utility easement be retained in lieu of vacating the right-of-way. Staff is recommending that prior to City Council approval, a 15 foot wide utility easement shall be recorded at the Register-of-Deed's Office.

Staff is recommending that the Vacation of Right-of-Way request be approved with the above referenced stipulation of approval.