

STAFF REPORT
August 23, 2007

No. 07VR006 - Vacation of Right-of-Way

ITEM 27

GENERAL INFORMATION:

PETITIONER	Advanced Engineering for Frank Washburn
REQUEST	No. 07VR006 - Vacation of Right-of-Way
EXISTING LEGAL DESCRIPTION	Alley adjacent to Lots 9 thru 20 of Block 7 of Blake's Addition, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.08 Acres
LOCATION	The Alley between East Boulevard North and North Maple Avenue and E. Philadelphia Street and E. New York Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City
DATE OF APPLICATION	6/29/2007
REVIEWED BY	Loren Fuhrmann / Todd Peckosh/ Jonathan Smith

RECOMMENDATION:

Staff is recommending that the request to vacate a public alley be approved with the following stipulation:

- 1. Prior to approval by City Council the applicant shall file and record with the Register of Deeds office a Temporary Utility Easement and a Permanent Utility Easement, or the existing utilities shall be relocated.**

GENERAL COMMENTS:

(Update August 14, 2007. All revised text is shown in bold). Qwest has indicated that they have no utilities on the property and have approved of the applicant's vacation request. Black Hills Power and Light has approved of the applicant's request contingent upon the recording of the Permanent Utility Easement that the applicant has provided with this application. Currently a gas line belonging to Montana-Dakota Utilities Company traverses through the entire length of the alley. The Permanent Utility Easement submitted by the applicant does not cover the entire alley. Montana-Dakota Utilities Company has approved the applicant's request contingent on the relocation and reconnection of the existing gas line located within the public alley. In addition Montana-

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Dakota Utilities Company has stated that the applicant shall pay all costs that incur. The applicant has submitted a Temporary Utility Easement that will allow Montana-Dakota Utilities Company legal access to the existing gas line on the remainder of the property not covered by the Permanent Utility Easement, until relocation of the gas line occurs. Staff recommends that the request to vacate a public alley be approved contingent on the applicant recording the Temporary Utility Easement and the Permanent Utility Easement with the Register of Deeds office.

The property is located in the block northeast of the intersection of East Boulevard North and East New York Street. The property is located within the municipal boundaries of the City of Rapid City.

The applicant is proposing to vacate an alley 16 feet wide by 225 long, located north and south in the block located northeast of the intersection of East Boulevard North and East New York Street.

The applicant is the owner of all the property located adjacent to the alley proposed to be vacated.

Dakota Territory Saddles (302 East Boulevard North), Parkway Restaurant (312 East Boulevard North) and First National Pawn (320 East Boulevard North) are located west of the alley proposed to be vacated. Dakota Hills Counseling, Lutheran Social Services, Western Senior Services, Gab Robins (303 North Maple Avenue) and A-1 construction Inc., Champion Water System (327 North Maple Avenue) are located east of the alley proposed to be vacated.

The applicant has indicated that the First National Pawn is proposing to expand to the east, which will require the vacation of the alley as identified.

On May 26, 1994 the Planning Commission recommended approval of the request to vacate the alley running east and west, adjacent to Lots 1-9 and lots 20-28 in Block 7 of Blake's Addition, with the stipulation that prior to City Council approval the petitioner shall submit a final vacation instrument which shows the entire portion of alley to be vacated being retained as a utility easement. On June 6, 1994 the City Council approved vacating the alley running east and west adjacent to Lots 1-9 and lots 20-28 in Block 7 of Blake's Addition.

STAFF REVIEW:

Staff has reviewed the requests and has noted the following concerns:

Site Plan:

(Update August 2, 2007. All revised text is shown in bold). On July 26, 2007 the applicant submitted a site plan identifying all existing utility services lines, existing drainage, existing easements and proposed easements. The applicant has indicated that they plan to relocate a Montana-Dakota Utilities gas line located within the right-of-way and reconnect the gas line at an alternate location. As of this writing Montana-Dakota Utilities has not approved this request.

The applicant must submit a site plan showing the location of all existing utility services lines, existing drainage, existing easements and proposed easements for review and approval. A site plan is required in order to determine what is located within the right-of-way proposed to be

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vacated.

Utilities:

(Update August 2, 2007. All revised text is shown in bold). As of this writing staff has not received any information that Montana-Dakota Utilities, Black Hills Power, and Qwest approve of the applicant's request. Prairie Wave and Mid-Continent have responded that they have no objections to this request.

Montana-Dakota Utilities Company has indicated that a two inch gas main currently runs north and south through the alley. As such, Montana Dakota Utilities Company has indicated that a utility easement must be granted prior to the vacation of the alley or the gas main must be relocated. If the gas main is relocated, Montana Dakota Utilities Company has indicated that they must be reimbursed for all costs.

To date, Mid-Continent Communications, Prairie Wave, Black Hills Power and Qwest have not responded to the vacation of right-of-way request.

Staff is recommending the request to vacate a public alley be approved assuming compliance with the stipulation.