

STAFF REPORT  
March 26, 2009

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**No. 08VR008 - Vacation of Right-of-way**

**ITEM 7**

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GENERAL INFORMATION:

APPLICANT	William Taylor
AGENT	D.C. Scott Co. Land Surveyors
PROPERTY OWNER	William Taylor
REQUEST	<b>No. 08VR008 - Vacation of Right-of-way</b>
EXISTING LEGAL DESCRIPTION	The Monroe Street right-of-way from the east right-of-way line of Milwaukee Street to the west right-of-way line of the D.M. & E. railroad, located between and adjacent to Lots 11 thru 17 of Block 13, and Lot A of Block 18 of Wise's Addition to Rapid City, located in the S1/2 NW1/4 of Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .55 Acres
LOCATION	Monroe Street between Milwaukee Street and Waterloo Street and west of the DM&E Railroad Right-of-way
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 sewer and water
DATE OF APPLICATION	12/24/2008
REVIEWED BY	Vicki L. Fisher / Karley Halsted

RECOMMENDATION:

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

- 1. Prior to City Council approval, the Exhibit "A" to create a utility easement for the existing City water main located within the northern portion of the Monroe Street right-of-way to be vacated shall be revised to show the easement as a "Permanent Public Water Easement". In addition, the easement shall be signed by Pennington County Housing & Redevelopment.**

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GENERAL COMMENTS:

(Update, March 15, 2009. All revised and/or added text is shown in bold print.) This item was continued at the February 19, 2008 Planning Commission meeting to allow the two adjacent property owners to review various options which would allow a fence to be constructed within this area of Monroe Street upon vacation of the right-of-way. However, since the northern portion of the easement must be secured as a permanent public water easement, a fence can not be constructed within this portion of the vacated right-of-way. Subsequently, the applicant has indicated that DM&E Railroad Company will allow a fence to be constructed along the eastern portion of their property. Even though this is a private negotiation between property owners, the applicant has indicated that a copy of the executed agreement for the construction of the fence on DM&E Railroad Company property will be submitted to the City.

**Staff recommends that the Vacation of Right-of-way request be approved with the stipulation of approval as noted above.**

(Update, February 9, 2009. All revised and/or added text is shown in bold print.) This item was continued at the February 5, 2008 Planning Commission meeting to allow the applicant to submit additional information as outlined below. Subsequently, the applicant has submitted drainage information and a copy of a proposed utility easement(s). However, the proposed utility easement for the existing water main would preclude the property owner located along the north side of Monroe Street, Pennington County Housing and Redevelopment, from constructing a fence within this area. Pennington County Housing and Redevelopment staff as well as the property owner along the south side of the right-of-way, William Taylor, have indicated that the purpose for vacating the right-of-way is to allow both property owners to construct a fence within this area. As such, the applicant has requested a meeting with staff to consider other options which may allow a fence within a portion of the proposed right-of-way to be vacated.

Staff recommends that the Vacation of Right-of-way request be continued to the March 26, 2009 Planning Commission meeting with the applicant's concurrence.

(Update, January 23, 2009. All revised and/or added text is shown in bold print.) This item was continued at the January 22, 2008 Planning Commission meeting to allow the applicant to submit additional information as outlined below. To date, all of the information has not been submitted for review and approval. As such, staff is recommending that the Preliminary Plat be continued to the February 19, 2009 Planning Commission meeting to allow the applicant to submit the information.

The applicant has submitted a Vacation of Right-of-way request to vacate approximately 300 feet of Monroe Street right-of-way located east of the intersection of Milwaukee Street and Monroe Street.

Currently, a City water main and an overhead electric line are located within the right-of-way. This portion of the Monroe Street right-of-way has not been improved with curb, gutter, sidewalk, street light conduit, sewer or pavement.

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STAFF REVIEW:

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

Utilities: As noted above, a City water main and an overhead electric line are currently located in the north half of the right-of-way. The applicant has indicated that a surveyed site plan will be submitted for review and approval showing the specific location of the utilities. In addition, the applicant has indicated that a utility easement will be recorded for this portion of the right-of-way that includes the area of the existing utilities. Staff recommends that the Vacation of Right-of-way request be continued to allow the applicant to submit the surveyed site plan and to submit a utility easement as proposed.

(Update: February 9, 2009) The applicant has submitted a proposed permanent utility easement to secure a 20 foot wide utility easement within the Monroe Street right-of-way for that portion of the existing water main located within the right-of-way. However, the proposed 20 foot wide easement is not centered on the existing water main nor does the exhibit show the dimensions and bearings data. As such, staff is recommending that prior to City Council approval, a revised exhibit be submitted for review and approval showing the proposed 20 foot wide permanent utility easement centered 10 feet on either side of the water main. In addition, the exhibit must show the dimensions and bearings for the permanent utility easement.

**(Update: March 15, 2009) The applicant has submitted a 39.97 foot wide “permanent utility easement” to secure the existing water main and curb stops located within the northern portion of the right-of-way to be vacated within an easement. Staff recommends that prior to City Council approval, the Exhibit “A” to create the utility easement be revised to show the easement as a “Permanent Public Water Easement”. In addition, the easement must be signed by Pennington County Housing & Redevelopment.**

To date, the applicant has not submitted written documentation from all of the affected utility companies indicating concurrence with the Vacation of Right-of-way request. As such, staff recommends that this item be continued to allow the applicant to submit the written documentation as required.

(Update: January 23, 2009) All of the affected utility companies have submitted written documentation indicating concurrence with the Vacation of Right-of-way request.

Drainage: To date, the applicant has not submitted drainage information to demonstrate whether a drainage easement is needed in the area of the proposed Vacation of Right-of-way. As such, staff is recommending that this item be continued to allow the applicant to submit the drainage information and to secure a drainage easement if needed.

(Update: February 9, 2009) As noted above, the applicant has submitted drainage information for review and approval. The drainage information demonstrates that no part of the existing right-of-way to be vacated must be retained as a drainage easement.

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Property Owner Signatures: This portion of Monroe Street could potentially serve as access to four properties. As such, all four property owners must sign the application and the "Petition to Vacate Public Right-of-way". The applicant has submitted an application and a "Petition to Vacate Public Right-of-way" signed by three of the four property owners. However, the application and the "Petition to Vacate Public Right-of-way" must also be signed by DM&E Railroad Company. Staff recommends that the Vacation of Right-of-way request be continued to allow the applicant to obtain the DM&E Railroad Company property owner's signature as required.

(Update: February 9, 2009) The applicant has submitted a "Petition to Vacate Public Right-of-way" signed by DM&E Railroad Company. As such, all of the affected property owners have signed the petition as required.

**Staff recommends that the Vacation of Right-of-way request be approved with the stipulation of approval as noted above.**