

STAFF REPORT
September 8, 2011

No. 10VR007 - Vacation of Right-of-Way

ITEM 4

GENERAL INFORMATION:

APPLICANT	Marilou Yarber
AGENT	Janelle Finck for Fisk Land Surveying & Consulting Engineers
PROPERTY OWNER	Marilou Yarber
REQUEST	No. 10VR007 - Vacation of Right-of-Way
EXISTING LEGAL DESCRIPTION	A portion of the Van Buren Street Right-of-way lying adjacent to the S1/2 of Lot 8 and the S1/2 S1/2 of Lots 9-11 of Block 20, Scott's Addition, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .24 acres
LOCATION	902 Silver Street
EXISTING ZONING	Medium Density Residential District
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	Medium Density Residential District
East:	Medium Density Residential District
West:	Medium Density Residential District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	9/10/2010
REVIEWED BY	Jim Flaaen / Ted Johnson / Vicki L. Fisher

RECOMMENDATION:

Staff recommends that the Vacation of Right-of-Way be **approved**.

GENERAL COMMENTS:

(Updated: August 26, 2011. All edited and/or revised text is shown in bold print.) This item was continued at the August 25, 2011 Planning Commission meeting to allow the City to complete the Silver Street reconstruction project. The Public Works Department has indicated that this portion of the Silver Street project has been completed. As such, staff recommends that the Vacation of Right-of-way be approved.

(Updated: August 19, 2011. All edited and/or revised text is shown in bold print.) This item was continued at the August 4, 2011 Planning Commission meeting to allow the City to

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complete the Silver Street reconstruction project. However, the City Engineer has indicated that the project may not be completed until the end of September, 2011. As such, staff recommends that the Vacation of Right-of-way request be continued to the September 8, 2011 Planning Commission meeting to allow construction activities to be completed.

(Updated: July 26, 2011. All edited and/or revised text is shown in bold print.) This item was continued at the July 7, 2011 Planning Commission meeting to allow the City to complete the Silver Street reconstruction project. However, the City Engineer has indicated that the project may not be completed until the end of August, 2011. As such, staff recommends that the Vacation of Right-of-way request be continued to the August 25, 2011 Planning Commission meeting to allow construction activities to be completed.

(Updated: July 12, 2011. All edited and/or revised text is shown in bold print.) This item was continued at the May 26, 2011 Planning Commission meeting to allow the City to complete the Silver Street reconstruction project. However, the City Engineer has indicated that the project may not be completed until the first part of August, 2011. As such, staff recommends that the Vacation of Right-of-way request be continued to the August 4, 2011 Planning Commission meeting to allow construction activities to be completed.

(Updated: May 12, 2011. All edited and/or revised text is shown in bold print.) This item was continued at the January 27, 2011 Planning Commission meeting to allow the City to complete the Silver Street reconstruction project. However, the City Engineer has indicated that the project may not be completed until the first part of July, 2011. As such, staff recommends that the Vacation of Right-of-way request be continued to the July 21, 2011 Planning Commission meeting to allow construction activities to be completed.

(Updated January 18, 2011. All edited and/or revised text is shown in bold print.) This item was continued to the January 27, 2011 Planning Commission meeting to allow staff to contact the property owner regarding the revised construction timeline for the Silver Street reconstruction project. Staff has attempted to contact the property owner; however, to date staff has not reached the property owner. The City Engineer has indicated that the reconstruction project is not yet completed and has requested that this item be continued to the May 26, 2011 Planning Commission meeting. As such, staff recommends that this item be continued to the May 26, 2011 Planning Commission meeting to allow construction activities to be completed.

(Updated December 20, 2010. All edited and/or revised text is shown in bold print.) This item was continued to the January 6, 2011 Planning Commission meeting to allow for the Silver Street reconstruction project to be completed. The City Engineer has indicated that the reconstruction project is not yet completed and has requested that this item be continued to the May 26, 2011 Planning Commission meeting. However, as of this writing, the applicant has not indicated their concurrence with that request, as such, staff recommends that this item be continued to the January 27, 2011 Planning Commission meeting to allow staff to update the applicant on the schedule of construction activities.

The applicant has submitted this Vacation of Right-of-Way request to vacate an 8 foot wide by 200 linear foot portion of Van Buren Street adjacent to the above legally described property. The proposed area of vacation is located on the north side of Van Buren Street,

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east of Silver Street and west of Gold Street. The property is located adjacent to Silver Street which is currently under construction as a part of a utility construction project. The construction activities in the area have resulted in the right-of-way adjacent to the applicant's property being occupied for construction. The applicant has indicated that Van Buren Street has an excess amount of right-of-way for the street classification and has requested that the proposed area be vacated.

The right-of-way proposed to be vacated is located on the north side of Van Buren Street, east of Silver Street and west of Gold Street. Multi-family residential structures are located on the parcel on the north side of the section of right-of-way to be vacated.

STAFF REVIEW: Staff has reviewed the proposed Vacation of Right-of-Way and has noted the following issues:

Construction Activities: (Updated December 20, 2010.) The City Engineer has indicated that the Silver Street reconstruction project has not yet been completed and has anticipated a revised completion date near the end of May 2011 and has requested that this item be continued to the May 26, 2011 Planning Commission meeting. However, as of this writing, the applicant has not indicated their concurrence with that request, as such, staff recommends that this item be continued to the January 27, 2011 Planning Commission meeting to allow staff to update the applicant on the schedule of construction activities.

The City Engineer has requested that the vacation of right-of-way not proceed until such time that construction activities are completed in the area. The applicant has indicated that they have no issues with the vacation of right-of-way being continued until the construction project has been completed. The City Engineer has indicated that the project is scheduled for completion around the end of 2010. As such, staff recommends that the vacation of right-of-way be continued to the January 6, 2011 Planning Commission meeting with the applicant's concurrence.

(Updated: August 26, 2011.) As previously noted, the Public Works Department has indicated that this portion of the Silver Street project has been completed. As such, staff recommends that the Vacation of Right-of-way be approved.

Street Networking: Van Buren Street is classified as a sub-collector street and is not identified on the Master Street Plan. Vacating the 8 feet of right-of-way as proposed will result in a 60 foot right-of-way which exceeds the required 52 foot right-of-way for a sub-collector street.

Parking: The applicant is proposing to vacate the Van Buren Street right-of-way to use the area as parking for the multi-family use on the adjacent property. The applicant should be aware that the off-street parking is not in compliance with the Off-Street Parking Ordinance since vehicles are backing into the adjoining right-of-way. Any expansion or change of use on the property will require that off-street parking in compliance with the Off-Street Parking Ordinance must be provided or a Variance from the Zoning Board of Adjustment must be obtained to address the issue.

Utilities: The City's Master Utility Plan does not regulate that the right-of-way be retained for future utility construction. All of the affected private utility companies have been contacted

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regarding the proposed Vacation of Right-of-Way. Two of the utility companies, Black Hills Power and Knology, have indicated that they might have facilities in the area of the proposed vacation. Those companies have stated that a utility easement must be retained on the property prior to their indicating their concurrence with the proposed vacation of right-of-way. As such, prior to approval by the Planning Commission, a revised Exhibit must be submitted identifying the dedicated utility easement. In addition, prior to City Council approval, a copy of the recorded utility easement shall be submitted to the Growth Management Department.

Petition to Vacate Public Right-of-Way: The applicant is the only property owner located adjacent to the proposed area of vacation. As such, the applicant is the only party required to sign the Petition to Vacate Public Right-of-Way. The applicant has signed the required petition.