

STAFF REPORT

March 21, 2002

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**No. 02VR002 - Vacation of Right of Way**

**ITEM 36**

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GENERAL INFORMATION:

PETITIONER	Thurston Design Group, LLC for Rapid City Arts Council
REQUEST	<b>No. 02VR002 - Vacation of Right of Way</b>
EXISTING LEGAL DESCRIPTION	The alley adjacent to Lots 1-5 and Lots 28-32 of Block 103 of the Original Town of Rapid City located in the NW1/4 of the NW1/4 of Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 2500 square feet
LOCATION	713 Seventh Street
EXISTING ZONING	Central Business District
SURROUNDING ZONING	
North:	Central Business District
South:	Central Business District
East:	Central Business District
West:	Central Business District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	1/25/2002
REPORT BY	Vicki L. Fisher

RECOMMENDATION:

**Staff recommends that the Vacation of Right of Way be approved with the following stipulations:**

Engineering Division Recommendations:

- 1. That the alley shall be relocated extending north to Kansas City Street as identified on the original site plan;**
2. Prior to City Council approval, a temporary access easement and a utility easement shall be submitted for review and approval. In addition, the easements shall be recorded at the Register of Deed's Office;
3. Upon submittal of a building permit, construction plans for the relocated alley shall be submitted for review and approval. Prior to issuance of a building permit, a miscellaneous document shall be recorded at the Register of Deed's Office identifying the area of the relocated alley as public right-of-way. In addition, the road shall be constructed or surety posted for the improvement;

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Fire Department Recommendations:

4. Access shall be maintained at all times around the facility and through the alley;
5. Additional on-site fire hydrant(s) shall be installed as required by the Fire Department; and,

Urban Planning Division Recommendations:

6. Upon submittal of a building permit, the site plan shall be revised to provide one van accessible handicap parking space.

GENERAL COMMENTS:

**This item was continued at the February 21, 2002 Planning Commission meeting to allow the applicant to work with the adjacent property owner to address issues regarding the proposed route of the relocated alley. In addition, the applicant indicated that alternate routes for the relocation of the alley would be considered.**

**On March 6, 2002, the applicant submitted a revised site plan identifying an alternate route for the relocated alley extending south to Quincy Street. On March 7, 2002, the Planning Commission continued the item again to allow staff additional time to review the recently submitted site plan. This Staff Report has been revised as of March 12, 2002. All revised or added text is shown in bold text.** The applicant is proposing to vacate 125 feet of the alley located adjacent to Lots 1 thru 5 and Lots 28 thru 32, Block 103 of the Original Town of Rapid City. Currently, the Dahl Fine Arts Center is located on Lots 28 thru 32. The structure located on Lots 1 thru 5 is the site of the Montana Dakota Utilities building. Montana Dakota Utilities Company is in the process of relocating to 718 Steele Avenue. The applicant has indicated that the proposed renovations and/or expansions to the Dahl Fine Arts Center will require the vacation of the alley as identified. In addition, they are proposing to incorporate the Montana Dakota Utilities Company building into the expansion of the Dahl Fine Arts Center.

On January 24, 2002 the Planning Commission denied without prejudice Vacation of Right-of-way request #02VR001 to vacate the alley as currently proposed. Based on concerns from the affected utility companies, staff had recommended that a comprehensive plan, including implementation and design for the relocated and or encased utilities, be submitted for review and approval prior to vacating the alley. The City Council will hear the Vacation of Right-of-way request at the February 18, 2002 City Council meeting.

STAFF REVIEW:

Staff has reviewed the request and has noted the following considerations:

Utilities: The applicant has submitted a conceptual design plan showing the placement of existing and future utilities underground in individual encasements. In particular, the applicant has indicated that the existing overhead electric line will be routed underground from a power pole located west of the proposed building. In addition, a pad mounted switchgear location will be provided adjacent to the building as specified by Black Hills

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Power. The applicant has indicated that casings for the gas and sewer lines will be provided, capped and vented as required by Montana Dakota Utilities and City Engineering. Casings will also be provided for the future needs of US West Communications, Mid-Continent Communications and Black Hills FiberCom.

Black Hills Power, Montana Dakota Utilities and the City Engineering Division have reviewed the conceptual design plan and have indicated approval of the proposed plan with the stipulation that a utility easement and a temporary access easement be recorded at the Register of Deed's Office prior to City Council approval. To date, US West Communications, Black Hills FiberCom and Midcontinent Communications have not responded to the request. Staff is recommending that all of the affected utility companies submit documentation indicating no objection to the vacation request. **As of February 21, 2002, all of the affected utility companies have submitted documentation indicating no objection to the vacation request.** In addition, staff is recommending that the temporary access easement and the utility easement be submitted for review and approval and, subsequently, recorded as identified prior to City Council approval.

Alley Relocation: The applicant has submitted a site plan identifying the relocation of the east 125 feet of the alley to extend north to Kansas City Street, between the Faith Temple Church of God in Christ building and the proposed expanded Dahl Fine Arts Center building. The site plan also identifies 12 parking spaces along the east side of the church and four spaces along the west side of the expanded Dahl Fine Arts Center building. Off-street parking is not required in the Central Business District. However, the Parking Regulations states that parking *provided* in the Central Business District must comply with the "Parking for Persons with Disabilities" requirements. Upon submittal of a building permit, the site plan must be revised to provide one van accessible handicap parking space.

The Fire Department and the Engineering Division have indicated that construction plans for the relocated alley must be submitted for review and approval upon submittal of a building permit. The Engineering Division has also indicated that prior to issuance of a building permit, a miscellaneous document must be recorded at the Register of Deed's Office identifying the area of the relocated alley as public right-of-way. In addition, the road must be constructed or surety posted for the improvement.

The Fire Department has indicated that adequate access must be maintained at all times around the facility and through the alley. The Fire Department has also indicated that additional fire hydrants may be required depending on the final design of the building and the location of existing fire hydrants. Staff is recommending that access be maintained as identified and that fire hydrant(s) be installed as required by the Fire Department.

**At the February 21, 2002 Planning Commission meeting, representatives from the Faith Temple Church of God in Christ Church indicated objection to the proposal to route the relocated alley to the north along the east side of their property. Specifically, the representatives stated that traffic, lighting, and noise could be generated by the relocated alley and would negatively impact the church. In addition,**

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the representatives indicated that having an alley wrap around the church would diminish the value of the church property. The applicant indicated that they would work with the adjacent property owner(s) to address these issues and to consider alternate routes for the relocation of the alley. The applicant indicated that the Planning Commission would be updated at the March 7, 2002 Planning Commission meeting regarding the status of these issues.

On March 6, 2002, the applicant submitted a revised site plan identifying an alternate route for the relocation of the alley extending south to Quincy Street. The Planning Commission continued the item to the March 21, 2002 Planning Commission meeting to allow staff additional time to review the recently submitted site plan. On March 7, 2002, Jan Theberge, the property owner of the lot shown on the applicant's site plan as the alternate route for the alley relocation called the Planning Department asking for information about the proposal noting that she had not been contacted by the applicant. Jan Theberge indicated that previous attempts by the City to purchase the property were unsuccessful. As of this writing, the applicant has indicated that the adjacent property owners, Radiology Associates and the First Christian Church of Rapid City, have not been contacted.

If the applicant wishes to pursue the plan to relocate the alley to the south, the plan must be revised to show the property lines in order to determine if there is sufficient area on the site to relocate the alley and to identify potential impacts the alley relocation may have on the existing parking lot currently located on the site. In addition, the site plan must be revised to show the radius of curve along the north side of the parking lot as it abuts the alley to insure that an adequate turning radius is being provided for fire apparatus and/or delivery trucks.

As a part of the proposal to relocate the alley to the south, the applicant has indicated that the entrance to the parking lot adjacent to the Faith Temple of God in Christ Church and the Montana Dakota Utilities site will be gated along the south side as it abuts the alley in order to preclude vehicles from traveling through the parking lot. In addition, the applicant has indicated that a Knox lock box will be placed on the gate to allow the Fire Department to maintain emergency access to the site if and as necessary. The revised site plan does not provide a turnaround west of the area of the alley to be vacated, requiring that vehicle(s) back down the alley to the location of the proposed relocated alley extending south to Quincy Street. From an access standpoint, relocating the alley north to Kansas City Street as identified in the original plan is the preferred route. Staff concurs that relocating the alley, either north to Kansas City Street or south to Quincy Street, will have an impact on the adjacent property owners. However, the applicant has demonstrated that the alley could be relocated, extending north to Kansas City Street, in order to facilitate the needs of the traveling public through the alley. In addition, the applicant has identified that the proposed south route for the relocated alley will be located on privately owned property requiring that the underlying property owner consent to the proposal.

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**Staff is recommending that the Vacation of Right-of-way be approved, contingent upon the alley relocation extend north to Kansas City Street as shown on the applicant's original site plan, and assuming compliance with the stipulations outlined above. If the Planning Commission or applicant prefers the alternate route for the relocation of the alley extending south to Quincy Street, then staff recommends that this item be continued to allow the applicant to revise the site plan as previously identified and obtain the consent of the underlying property owner.**