

STAFF REPORT
January 10, 2013

No. 12VR006 - Vacation of Right-of-Way

ITEM 2

GENERAL INFORMATION:

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|--------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| APPLICANT | Pat Tlustos - Highway 16 Properties, LLC - |
| PROPERTY OWNER | Highway 16 Properties, LLC |
| REQUEST | No. 12VR006 - Vacation of Right-of-Way |
| EXISTING LEGAL DESCRIPTION | A portion of the Highway 16 Service Road right-of-way and a portion of Section Line right-of-way in the SW1/4 NW1/4 of Section 26, T1N, R7E and in the SE1/4 NE1/4 of Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE | Approximately 1.08 acres |
| LOCATION | The southwest corner of the intersection of US Highway 16 and Catron Boulevard |
| EXISTING ZONING | General Commercial District |
| FUTURE LAND USE DESIGNATION | Commercial |
| SURROUNDING ZONING | |
| North: | General Commercial District |
| South: | No Use |
| East: | General Commercial District |
| West: | Suburban Residential District (Pennington County) |
| PUBLIC UTILITIES | Rapid City water and sewer |
| DATE OF APPLICATION | August 23, 2012 |
| REVIEWED BY | Robert Laroco / Nicole Lecy |

RECOMMENDATION:

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

1. Prior to approval by City Council, an access easement for the portion of right-of-way being vacated shall be submitted to Community Planning and Development Services for review and approval. The access easement shall be recorded at the Register of Deeds in conjunction with the Vacation of right-of-way. The access easement shall be maintained until such time as an alternative means of access is completed by the applicant and accepted by the City;
2. A Covenant Agreement between the City of Rapid City and the applicant shall be recorded. In particular, the Covenant Agreement shall secure the proposed access and drainage easement on the property until such time that an alternative access connecting

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Catron Boulevard and the U.S. Highway 16 Service Road has been completed by the applicant and accepted by the City, at which time the access/ drainage easement may be vacated. A copy of the recorded Covenant Agreement shall be submitted to Community Planning and Development Services; and,

3. Prior to approval by City Council, a sanitary sewer easement shall be submitted for review and approval. The sanitary sewer easement shall be recorded at the Register of Deeds in conjunction with the Vacation of right-of-way.

GENERAL COMMENTS: The applicant has submitted a Vacation of right-of-way request to vacate a portion of the Highway 16 Service Road and a portion of Section Line Highway located southwest of the intersection of U.S. Highway 16 and Catron Boulevard. The portion of right-of-way is 60 feet wide and extends south from Catron Boulevard approximately 150 feet, then turns to the east and proceeds a distance of approximately 220 feet until it meets U.S. Highway 16. The existing right-of-way also crosses a section line highway and as such, the applicant has also requested to vacate a 60 foot long by 66 foot wide portion of the section line highway at the point the right-of-way crosses the section line. An existing 20 foot wide utility easement will remain. The applicant has proposed an access easement remain on the property until such time that an alternative connection between the U.S. Highway 16 Service Road to the north and south of Catron Boulevard is completed and accepted by the City. The property is void of structural development.

STAFF REVIEW: Staff has reviewed the Vacation of right-of-way application and has noted the following considerations:

Utilities: All utility companies with facilities located within the right-of-way have indicated concurrence with the request to vacate the right-of-way and section line, provided that a utility easement is maintained in the existing portion of section line highway. The submitted exhibit shows an existing 20 foot wide utility easement is being retained. Public Works staff has noted that an existing sanitary sewer line is currently located within the right-of-way. The applicant has proposed a sanitary sewer easement for the existing sewer main. Public Works staff has recommended that the proposed sanitary sewer easement be recorded in conjunction with the vacation of right-of-way.

Prior to City Council approval, a sanitary sewer easement must be submitted for review and approval. The sanitary sewer easement must be recorded at the Register of Deeds in conjunction with the Vacation of right-of-way.

Transportation Planning: Transportation Planning staff has noted that the proposed vacation will disconnect the service road along U.S. Highway 16. The U.S. Highway 16 Service Road is identified as collector on the City's adopted Major Street Plan. Transportation Planning staff has also noted that the South Dakota Department of Transportation is currently in the process of redesigning the U.S. Highway 16 and Catron Boulevard intersection. The applicant met with staff several times to discuss these concerns and has proposed to dedicate an access easement to allow the existing roadway to remain until such time as an alternative north-south connection of the U.S. Highway 16 Service Road is completed by the property owner and accepted by the City. Prior to approval by City Council, an access easement for the portion of right-of-way being vacated must be submitted to Community Planning and Development Services for review and approval. The access easement must

STAFF REPORT
January 10, 2013

No. 12VR006 - Vacation of Right-of-Way

ITEM 2

be recorded at the Register of Deeds in conjunction with the Vacation of right-of-way.

A Covenant Agreement securing the proposed access/drainage easement until such time as an alternative connection between Catron Boulevard and the U.S. Highway 16 Service Road must be recorded and a copy must be submitted to Community Planning and Development Services. At the time that the alternative means of connection is constructed by the applicant and accepted by the City, the access/drainage easement may be vacated. The proposed sanitary sewer easement and 20 foot wide utility easement will remain.

South Dakota Department of Transportation: South Dakota Department of Transportation staff noted concerns similar to Rapid City Transportation Planning staff. The applicant has worked with both departments to ensure that the connectivity of the service road was maintained. South Dakota Department of Transportation staff has noted that as long as an access easement is retained through the property until an alternative access can be constructed and accepted by the City, they are in concurrence with the requested Vacation.

Staff recommends the Vacation of right-of-way request be approved with the stipulations noted above.