

STAFF REPORT  
June 22, 2006

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**No. 06RZ014 - Rezoning from Floodway to Light Industrial**

**ITEM 29**

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GENERAL INFORMATION:

PETITIONER	Tim Carlson for DM&E Railroad Corp.
REQUEST	<b>No. 06RZ014 - Rezoning from Flood Hazard to Light Industrial</b>
EXISTING LEGAL DESCRIPTION	DM&E Right-of-way adjacent to Tract 24A, less Lot H1, Rapid City Greenway Tract, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .803 Acres
LOCATION	At the intersection of Third Street and Omaha Street
EXISTING ZONING	Flood Hazard District
SURROUNDING ZONING	
North:	Flood Hazard District
South:	General Commercial District
East:	Flood Hazard District
West:	Flood Hazard District
PUBLIC UTILITIES	N/A
DATE OF APPLICATION	5/12/2006
REVIEWED BY	Karen Bulman / Emily Fisher

RECOMMENDATION: Staff recommends that the Rezoning from Flood Hazard District to Light Industrial District be **denied**.

GENERAL COMMENTS: (**Update June 12, 2006. All revised and/or added text is shown in bold print.**) **This item was continued at the June 8, 2006 Planning Commission meeting to allow the application to be legally advertised.**

This railroad right-of-way contains approximately .803 acres and is located at the intersection of Third Street and Omaha Street. Land located north, east and west of the subject property is zoned Flood Hazard District. Land located south of the property is zoned General Commercial District. In addition to this rezoning application, the applicant has submitted a Comprehensive Plan Amendment to change the Long Range Comprehensive Plan from Floodway to Light Industrial land uses (06CA014).

STAFF REVIEW: The applicant has indicated that future plans are to construct two signal boxes within the railroad right-of-way. Under the current Flood Hazard Zoning District regulation, signal boxes are permitted as a Conditional Use. The property does not need to be rezoned to allow the construction of signal boxes. The applicant will need to submit an application

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---

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---

for a Conditional Use Permit or a SDCL 11-6-19 Review.

The subject property is located adjacent to Flood Hazard and General Commercial Zoning Districts. A change in zoning from Flood Hazard to Light Industrial at this location would be spot zoning. Rezoning this property to Light Industrial District would allow additional uses adjacent to dedicated parkland and Rapid Creek that are inappropriate. Further, the rezoning could allow additional billboards in inappropriate locations.

The applicant is aware that Staff does not support the application to rezone the subject property from Flood Hazard to Light Industrial Zoning District as it is not necessary to accomplish the property owners stated intent, the rezoning constitutes spot zoning and offers the opportunity for inappropriate uses to be introduced in close proximity to Rapid Creek, dedicated park land and Omaha Street, a major arterial in the community.

Staff has reviewed this proposed rezoning for conformance with the four criteria for review of zoning map amendments established in Section 17.54.040(D)(1). A summary of Staff findings are outlined below:

1. *The proposed amendments shall be necessary because of substantially changed or changing conditions of the area and districts affected or in the City in general.*

This railroad right-of-way is currently zoned Flood Hazard District. The property is located adjacent to Omaha Street at the Third Street intersection. The applicant has indicated that future plans are to construct two signal boxes within the railroad right-of-way. Prior to construction, an application for a SDCL 11-6-19 Review or a Conditional Use Permit must be submitted. Rezoning the property to Light Industrial District is not needed to accomplish the property owners stated intent.

2. *The proposed zoning is consistent with the intent and purposes of this ordinance.*

The Light Industrial Zoning District is established to provide areas in which the principal use of land is for light manufacturing and assembly plants, processing, storage, warehousing, wholesaling and distribution in which operations are conducted so that noise, odor, dust and glare are completely confined within an enclosed building. It does not appear that a change in zoning is necessary to accomplish the property owner's intent to be able to install signal boxes. The subject property is located adjacent to Flood Hazard and General Commercial Zoning Districts. A change in zoning from Flood Hazard to Light Industrial at this location would be spot zoning. The Long Range Comprehensive Plan indicates that this property is appropriate for Floodway land uses. The applicant has submitted a Comprehensive Plan Amendment to change the designation of the subject property from Floodway to Light Industrial land use in conjunction with this rezoning application. Light Industrial zoning on property surrounded by dedicated parkland and Rapid Creek are inappropriate and is not consistent with the intent of the zoning ordinance.

3. *The proposed amendment will not adversely affect any other part of the City, nor shall any direct or indirect adverse effects result from such an amendment.*

The subject property is adjacent to General Commercial and Flood Hazard Zoning Districts.

STAFF REPORT  
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In addition, the property is adjacent to and has access from Omaha Street, a major arterial in the community. The applicant has indicated that in the future, two signal boxes may be constructed in the right-of-way. Prior to constructing the signal boxes, a SDCL 11-6-19 Review or a Conditional Use Permit must be submitted. Rezoning this property to Light Industrial District would allow additional uses adjacent to dedicated parkland and Rapid Creek that are inappropriate. Further, the rezoning could allow additional billboards in inappropriate locations. It is not necessary to rezone the property to accomplish the property owners stated intent.

4. *The proposed amendments shall be consistent with and not conflict with the Development Plan of Rapid City including any of its elements, Major Street Plan, Land Use Plan, and Community Facilities Plan.*

The Long Range Comprehensive Plan identifies this area as appropriate for Floodway land use. An application for Comprehensive Plan Amendment to change the land use on the subject property to Light Industrial has been submitted in conjunction with the Rezoning of the subject property. Staff does not support the rezoning of the subject property from Flood Hazard District to Light Industrial District as it is not necessary to accomplish the property owners stated intent, the rezoning constitutes spot zoning and offers the opportunity for inappropriate uses to be introduced in close proximity to Rapid Creek, dedicated park land and Omaha Street, a major arterial in the community

As of this writing, the required rezoning sign has not been posted on the property and the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the June 8, 2006 Planning Commission meeting if these requirements have not been met. Staff has received no inquiries or objections regarding the proposed rezoning at the time of this writing.

A revised legal advertisement for this application was sent to the Rapid City Journal to correct an inaccurate legal description. However, the original incorrect legal advertisement was published. Staff is recommending that the application to rezone the subject property from Flood Hazard District to Light Industrial District be continued to the June 22, 2006 Planning Commission meeting so that the item can be legally advertised. **The legal advertisement has now been published. Staff is recommending that this rezoning from Flood Hazard District to Light Industrial District be denied. (Revised 6-12-06)**