

STAFF REPORT  
July 5, 2007

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**No. 07VE015 - Vacation of a Permanent Overhead Utility Easement**      **ITEM**

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GENERAL INFORMATION:

PETITIONER	enVision Design, Inc.
REQUEST	<b>No. 07VE015 - Vacation of a Permanent Overhead Utility Easement</b>
EXISTING LEGAL DESCRIPTION	A portion of the vacated alley adjacent to Lots 1 thru 5 and Lots 28 thru 32 of Block 103, Original Town of Rapid City, located in the NW1/4 NW1/4, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .05 Acres
LOCATION	West of 7th Street between Kansas City Street and Quincy 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	Public
DATE OF APPLICATION	5/25/2007
REVIEWED BY	Jonathan Smith / Mary Bosworth

RECOMMENDATION:

**Staff recommends that the Vacation of a Permanent Overhead Utility Easement be approved with the following stipulation.**

- 1. Prior to approval of the Vacation of a Permanent Overhead Utility Easement, the applicant shall record the revised Permanent Overhead Utility Easement with the Register of Deeds.**

GENERAL COMMENTS:

**(Update July 18, 2007. All revised text shown in bold.) The proposed replacement Permanent Overhead Utility Easement has been revised. More specifically the revised easement states that all power lines be located at a minimum 40 feet above the ground, 12.5 feet above the roof of the proposed building, and shall not exceed 60 feet above the ground surface. In regard to communication lines the revised easement states that communication lines shall be located a minimum 27.5 feet above the existing ground, 5.5 feet above the roof of the proposed building, and shall not exceed 60 feet above the ground surface. Staff recommends that the Vacation of a Permanent Overhead Utility**

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**Easement be approved with the stipulation that prior to approval of vacation, the applicant shall record the revised Permanent Overhead Utility Easement with the Register of Deeds Office.**

(Update June 26, 2007. All revised text shown in bold.) The applicant has submitted this request to vacate the existing Permanent Overhead Utility Easement and replace it with a revised easement. On June 26, 2007 the applicant met with staff and discussed issues that dealt with the safety of fire and other emergency personnel. Staff suggested revisions to the replacement easement. The suggested revisions will be measured from the ground upward, and include different standards for non-energized lines and energized lines. The applicant has requested that this item be continued to the July 26, 2007 Planning Commission meeting to allow the applicant to review staff's recommendation.

The applicant has submitted a Vacation of a permanent Overhead Utility Easement request. The subject property is located at the southwest intersection of Kansas City Street and 7<sup>th</sup> Street. The subject easement currently is located upon a portion of an alley right-of-way that was vacated (#02VR002). Currently a series of utility poles are located on the subject easement and a structure abuts the easement to the south. The property the easement lies upon is currently zoned Central Business District.

**STAFF REVIEW:**

The applicant has submitted a document identified as Exhibit "A" to vacate a 14.5 feet Overhead Utility Easement. The applicant has proposed the provision of a six foot Overhead Utility Easement in lieu of the current easement.

The existing 14.5 foot Overhead Utility Easement was provided for safe clearance between electric utility lines and the structures below these lines. The applicant has indicated that other non-energized lines are required to be placed beneath the electric lines, and if these other lines were installed would encroach into the 14.5 foot Overhead Utility Easement. Staff has noted that the submitted six foot Overhead Utility Easement is to be measured from the bottom of the lowest power line and the roof of any structure, and does not differentiate between electric utility lines and non-electric utility lines.

Staff has reviewed the proposed easement and noted that the new easement would not provide adequate area above the roof for Fire Department personnel and equipment should they need to access to the roof in an emergency situation. Not only could this result in injuries to the Fire Department personnel, it could hamper rescue operations as well as fire fighting activities. The staff found that the proposed easement was not adequate to protect the public health and safety.

**UTILITIES:**

The Vacation of Right-of-way request requires the permission of all affected utility companies. All of the five utilities companies (Montana-Dakota Gas, Black Hills Power, Qwest, Mid Continent Communications and Prairie Wave) have responded. None of these utility companies expressed objections to the proposed vacation of the Overhead Easement request.

Staff recommends that the Vacation of an Overhead Utility Easement be continued to the July 26, 2007 Planning Commission meeting to allow the applicant time to revise and submit an

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easement that will replace the existing 14.5 foot Overhead Utility Easement.