

STAFF REPORT  
June 7, 2007

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**No. 07SR025 - SDCL 11-6-19 Review to construct a public street**

**ITEM 39**

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GENERAL INFORMATION:

PETITIONER	Brian Gonzales for Century Development Co.
REQUEST	<b>No. 07SR025 - SDCL 11-6-19 Review to construct a public street</b>
EXISTING LEGAL DESCRIPTION	North 327.2 feet of the N1/2 of the SE1/4 lying west of Interstate 90 Right-of-Way, excepting there from the W1/2 of the NW1/4 of the SE1/4, and less North Boulevard Addition, located in the unplatted (9779); and, the East 670 feet of the south 30 feet of the SW1/4 NE1/4, and SW1/4 NE1/4, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 8.96 acres
LOCATION	1400 Philadelphia Street
EXISTING ZONING	Office Commercial District
SURROUNDING ZONING	
North:	Office Commercial District
South:	Flood Hazard District
East:	Medium Density Residential District
West:	Office Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	3/30/2007
REVIEWED BY	Vicki L. Fisher / Emily Fisher

RECOMMENDATION:

Staff recommends that the SDCL 11-6-19 Review to construct public streets be approved with the following stipulations:

1. Prior to Planning Commission approval, an Exception shall be obtained from the City Council to allow retaining walls within the right-of-way or the construction plans shall be revised removing the retaining walls from the right-of-way;
2. Prior to Planning Commission approval, an access and utility easement shall be recorded at the Register of Deed's Office or a Preliminary and Final Plat shall be approved and recorded dedicating the street rights-of-way or the applicant shall obtain authorization from the City Council to prepare an H Lot and authorization to accept the deeds and the H Lot(s) shall be recorded at the Register of Deed's Office for the public street improvement;
3. Prior to Planning Commission approval, a National Pollutant Discharge Elimination

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- System Permit (NPDES Permit) shall be obtained from the South Dakota Department of Environment and Natural Resources;
4. Prior to Planning Commission approval, the construction plans shall be revised to show a sewer main along all street rights-of-way or a Utility Master Plan shall be submitted for review and approval to justify the elimination of a sewer main in portions of the rights-of-way;
  5. The installation of sidewalk is hereby waived along the north side of Philadelphia Street;
  6. Prior to Planning Commission approval, the construction plans shall be revised to show a sidewalk along both sides of 11<sup>th</sup> Street; and,
  7. Prior to Planning Commission approval, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Growth Management Department.

GENERAL COMMENTS:

**(Update, May 25, 2007. All revised and/or added text is shown in bold print.) This item was continued at the May 24, 2007 Planning Commission meeting to allow the applicant to meet all of the stipulations of approval. On May 24, 2007, the applicant submitted copies of recorded access and utility easements along the future locations of Philadelphia Street and 11<sup>th</sup> Street rights-of-way. On May 25, 2007, the applicant submitted an Exception request to allow a retaining wall as a part of a street design to be constructed in the right-of-way. Staff has subsequently reviewed and approved the Exception request with stipulations. The applicant has also submitted a request to City Council to allow the retaining wall structure in the right-of-way. Staff will notify the Planning Commission if all of the stipulations of approval have not been at the June 7, 2007 Planning Commission meeting.**

(Update, May 12, 2007. All revised and/or added text is shown in bold print.) This item was continued at the May 10, 2007 Planning Commission meeting to allow the applicant to meet all of the stipulations of approval. As of this writing, no additional information has been submitted for review and approval. Staff will notify the Planning Commission at the May 24, 2007 Planning Commission meeting if this requirement has not been met.

(Update, April 27, 2007. All revised and/or added text is shown in bold print.) This item was continued at the April 26, 2007 Planning Commission meeting to allow the applicant to meet all of the stipulations of approval. As of this writing, no additional information has been submitted for review and approval. Staff will notify the Planning Commission at the May 10, 2007 Planning Commission meeting if this requirement has not been met.

The applicant has submitted an SDCL 11-6-19 Review request to construct a portion of Philadelphia Street and 11<sup>th</sup> Street located adjacent to an 8.9 acre parcel east of Founder's Park Development and west of West Boulevard North. The street improvements will serve the future development of the 8.9 acre parcel and provide access and utilities to the Founder's Park Development.

The City has issued a grading permit for the site. To date, the property is void of any structural development.

South Dakota Codified Law 11-6-19 states that "...whenever any such municipal council has

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adopted a comprehensive plan, then no street, park or other public way, ground, place, space, no public building or structure, no public utility, whether publicly or privately owned, if covered by the comprehensive plan or any adopted part thereof, shall be constructed or authorized in the municipality or within its subdivision jurisdiction until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". The proposed utility extension is a public improvement and the property is identified as being located within the area covered by the Rapid City Comprehensive Plan requiring that the improvements be reviewed and approved by the Rapid City Planning Commission.

**STAFF REVIEW:**

Staff has reviewed the SDCL 11-6-19 and has noted the following considerations:

**Street Location and Classification:** Currently, Philadelphia Street is located along the south lot line of the 8.9 acre parcel and is classified on the City's Major Street Plan as a collector street. The applicant has indicated that the existing Philadelphia Street right-of-way will be vacated and relocated to the north lot line of the 8.9 acre parcel. The applicant has been made aware during a previous review and approval of an Initial Planned Residential Development for the 8.9 acre parcel that a Comprehensive Plan Amendment to the Major Street Plan must be submitted for review and approval to relocate the collector street prior to vacating the existing right-of-way for Philadelphia Street. To date, the Comprehensive Plan Amendment to the Major Street Plan has not been submitted for review and approval.

The construction plans show Philadelphia Street located in a 68 foot wide right-of-way and constructed with a 32 foot wide paved surface which meets the minimum requirement for a collector street with parking along one side of the street.

The site plan identifies 11<sup>th</sup> Street located along the east lot line of the 8.9 acre parcel. The street is classified as a collector street on the City's Major Street Plan. The construction plans show the street located in a 60 foot wide right-of-way and constructed with a 24 foot wide paved surface which meets the minimum requirement for a collector street with no on-street parking.

**Retaining Wall:** The construction plans show a retaining wall located along the north side of Philadelphia Street within the proposed right-of-way as a part of the street design. Staff is recommending that prior to Planning Commission approval, an Exception be obtained from the City Council to allow retaining walls within the right-of-way or the construction plans must be revised removing the retaining walls from the right-of-way.

**Sidewalk:** The applicant has requested to waive the requirement to provide a sidewalk along both sides of Philadelphia Street and 11<sup>th</sup> Street. In particular, the applicant is requesting to waive the requirement to install a sidewalk along the north side of Philadelphia Street and the east side of 11<sup>th</sup> Street. A steep hill is located along the north side of the future Philadelphia Street right-of-way limiting the area for street improvements. As such, staff is recommending that the Exception be granted to waive the requirement to install a sidewalk along the north side of Philadelphia Street. However, there does not appear to be similar physical constraints and/or justifications precluding the construction of a sidewalk along the east side of 11<sup>th</sup> Street. In addition, a residential development has been proposed for the

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8.9 acre parcel. As such, staff is recommending that prior to Planning Commission approval, the construction plans be revised to show a sidewalk along both sides of 11<sup>th</sup> Street in order to provide safe pedestrian access on both sides of the street.

The applicant should be aware that any future subdivision of the property will require that a Variance to the Subdivision Regulations be granted to waive the requirement to install a sidewalk along both sides of Philadelphia Street.

Water: The City is currently reviewing an associated SDCL 11-6-19 Review (File #07SR017) to construct a 12 inch water main along the two future streets. To date, the Planning Commission has not approved the request. As such, staff is recommending that prior to or in conjunction with Planning Commission approval, the SDCL 11-6-19 Review request for the installation of a 12 inch water main along Philadelphia Street and 11<sup>th</sup> Street (File #07SR017) be approved or the construction plans be revised to show the installation of the water main as a part of this SDCL 11-6-19 Review request.

Easement/Right-of-way: To date, right-of-way for the two future streets has not been dedicated. As such, staff is recommending that prior to Planning Commission approval, an access and utility easement be recorded at the Register of Deed's Office or a Preliminary and Final Plat must be approved and recorded dedicating the street rights-of-way or the applicant must obtain authorization from the City Council to prepare an H-Lot and authorization to accept the deeds and the H Lots must be recorded at the Register of Deed's Office.

Right-of-way Permit/Air Quality Permit: The applicant should be aware that a Permit to Work in the Right-of-way must be obtained from the City as needed. In addition, an Air Quality Permit must be obtained from the City or the existing permit must be amended to include this project.

Staff is recommending that the SDCL 11-6-19 Review be approved with the stipulations as identified above.

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