

STAFF REPORT
November 5, 2009

No. 09SR085 - SDCL 11-6-19 Review request to install public utilities in the public right-of-way **ITEM 41**

GENERAL INFORMATION:

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| APPLICANT/AGENT | Chris Haiar SDN Communications |
| PROPERTY OWNER | Butler CAT |
| REQUEST | No. 09SR085 - SDCL 11-6-19 Review request to install public utilities in the public right-of-way |
| EXISTING LEGAL DESCRIPTION | The right-of-way adjacent to Lot 4 of Tract A less the north 960 feet of Lien Subdivision, located in the NE1/4 SE1/4, Section 21, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE | Approximately .006 acres |
| LOCATION | 3555 Deadwood Avenue North |
| EXISTING ZONING | Light Industrial District |
| SURROUNDING ZONING | |
| North: | Light Industrial District |
| South: | General Agriculture District |
| East: | Light Industrial District (Planned Industrial Development) |
| West: | General Agriculture District |
| PUBLIC UTILITIES | City sewer and water |
| DATE OF APPLICATION | 9/17/2009 |
| REVIEWED BY | Vicki L. Fisher / Karley Halsted |

RECOMMENDATION:

Staff will recommend that the SDCL 11-6-19 Review to install a public utility in the public right-of-way be approved if the following issue is addressed prior to Planning Commission approval of this item:

1. A complete site plan shall be submitted for review and approval showing existing utilities and property lines to insure that the proposed improvements do not interfere with any existing utilities.

GENERAL COMMENTS:

(Update, October 23, 2009. All revised and/or added text is shown in bold print.) This item was continued at the October 22, 2009 Planning Commission meeting to allow the applicant to submit a site plan showing existing utilities and property lines. Staff

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will notify the Planning Commission at the November 5, 2009 meeting if this requirement has not been met.

The applicant has submitted a SDCL 11-6-19 Review to extend a new fiber optic cable and to install a vacant 1.25 inch PVC duct approximately 650 feet along a portion of Deadwood Avenue to serve the Butler CAT business located at 3555 Deadwood Avenue North. The applicant has indicated that the 1.25 PVC duct will allow for future replacement of this section of fiber optic cable or the extension of a second cable if needed along this section of Deadwood Avenue. The project also includes the placement of two conjunction boxes with fiber warning signs located near Tatanka Drive and 70 feet north of the Butler CAT approach.

South Dakota Codified Law 11-6-19 states that “whenever any such municipal council shall have adopted the comprehensive plan of the municipality or any part thereof, then and thenceforth, 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 as defined in § 11-6-26, until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission”. The request to extend the fiber optic cable as identified is a public improvement. In addition, the property is identified within the area covered by the Rapid City Comprehensive Plan requiring that the improvement be reviewed and approved by the Rapid City Planning Commission.

STAFF REVIEW:

Staff has reviewed the SDCL 11-6-19 Review to extend the public utility in public right-of-way and has noted the following considerations:

Utility Conflict Plan: Public and private utilities currently exist within this portion of the Deadwood Avenue right-of-way. As such, prior to Planning Commission approval, a complete site plan must be submitted for review and approval showing existing utilities and property lines to insure that the proposed improvements do not interfere with any existing utilities.

Trench Contractor: The applicant should be aware that the trench contractor must be licensed with the City of Rapid City prior to the start of construction.

Permits: Prior to the start of construction, a Permit to Work in the Right-of-way must be obtained from the City’s Public Works Department. In addition, an Erosion and Sediment Control Permit must be obtained from the Growth Management Department.

The location and extent of the proposed utility extension appears to be consistent with the adopted Comprehensive Plan and the related regulations. As such, staff will recommend that the SDCL 11-6-19 Review be approved if the above noted issue is addressed prior to Planning Commission approval of this item.