

STAFF REPORT
April 22, 2010

No. 10SR016 - SDCL 11-6-19 Review to install public utilities within a public right-of-way **ITEM 27**

GENERAL INFORMATION:

APPLICANT	City of Rapid City
AGENT	TSP Three, Inc.
PROPERTY OWNER	N/A
REQUEST	No. 10SR016 - SDCL 11-6-19 Review to install public utilities within a public right-of-way

EXISTING
LEGAL DESCRIPTION

Catron Boulevard right-of-way more particularly described as located between U.S. Highway 16 and S.D. Highway 79 and Lot H1 of Units 6 and 6A of East Catron Boulevard Commercial Condominiums, located in the SW1/4, Section 19, T1N, R8E, Lot H1 of Tract B of Needles Subdivision, located in the NW1/4, Section 26, T1N, R7E, Lots H1, H2 and H3 of Tract AR2 of the Needles Subdivision, located in the NW1/4, Section 26, T1N, R7E, Lot PE1 of Tract AR2 of the Needles Subdivision, located in the NW1/4, Section 26, T1N, R7E, Lot H1, amending the Original Plat of Lot H1 as recorded in Book of Plats 11- Page 117, dated May 30, 2007 of Lot A of Cleary Subdivision, located in the NW1/4, Section 26, T1N, R7E, Lot H1 of Lot A of Cleary Subdivision, located in the NW1/4, Section 26, T1N, R7E, Lots H1 and H2 of Tract of Meadow View Subdivision, located in the NW1/4, Section 26, T1N, R7E, Lot H2 of the NW1/4 NE1/4, except the S1/2 S1/2 NW1/4 NE1/4, except the South Hill Subdivision, except Wellington Heights Subdivision and except Meadow View Subdivision of Section 26, T1N, R7E, Lot H2 of the unplatted portion of the E1/2 SW1/4 SE1/4 of Section 23, T1N, R7E, Lot H1 of Lots 1, 2 and 4 of Tract 1 of Par Subdivision, located in the SE1/4 Section 23, T1N, R7E, Lot H3 of Lot 4 of Tract 1 of Par Subdivision, located in the SE1/4 Section 23, T1N, R7E, Lot PE1 of Tract 2 of Par Subdivision, located in the SE1/4 Section 23, T1N, R7E, Lot H2 located in the SW1/4 of the SW1/4, the NW1/4 of the SE1/4 and the NE1/4 of the SE1/4 of Section 24, T1N, R7E, Lot H2 of Government Lot 2, except the North 80 Subdivision, located in the NW1/4, Section 19, T1N, R8E, Lot H2 less the MJK Subdivision, located in the E1/2 of the NW1/4, Section 19, T1N, R8E,

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Lot H1 of Parcel B of MJK Subdivision, located in the NE1/4, Section 19, T1N, R8E, Lot A, located in the NE1/4 SW1/4, lying north of the Highway right-of-way, Section 24, T1N, R7E, Lot A of Lot H2 of the unplatted portion of the E1/2 SW1/4 SE1/4, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota

PARCEL ACREAGE Approximately 65 acres

LOCATION Catron Boulevard between U.S. Highway 16 and S.D. Highway 79

EXISTING ZONING General Commercial District - Low Density Residential District - General Agriculture District - Medium Density Residential - Office Commercial District

SURROUNDING ZONING

 North: General Commercial District - Low Density Residential District - General Agriculture District - Medium Density Residential District - Office Commercial District - General Commercial District

 South: Public District - Office Commercial District - Medium Density Residential District - General Agriculture District - General Commercial District

 East: Heavy Industrial District

 West: General Commercial District

PUBLIC UTILITIES City sewer and water

DATE OF APPLICATION 3/2/2010

REVIEWED BY Vicki L. Fisher / Ted Johnson

RECOMMENDATION:

Staff recommends that the Planning Commission acknowledge the applicant's withdrawal of the SDCL 11-6-19 Review to install public utilities within a public right-of-way.

GENERAL COMMENTS:

(Update: April 12, 2010. All revised and/or added text is shown in bold print.) This item was continued at the March 25, 2010 Planning Commission meeting to allow the applicant to address outstanding issues. The applicant has since withdrawn this SDCL 11-6-19 Review request.

Staff recommends that the Planning Commission acknowledge the applicant's withdrawal of the SDCL 11-6-19 Review to install public utilities within a public right-

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of-way.

The applicant has submitted a SDCL 11-6-19 Review to install public utilities within a public right-of-way. In particular, the applicant is proposing to construct a 15 inch gravity sewer main along Catron Boulevard from U.S. Highway 16 to Wellington Drive in order to eliminate the need for the existing lift station located in the northwest corner of the Catron Boulevard and U.S. Highway 16 intersection. The project also includes lowering the existing 12 inch water main located along the south side of Catron Boulevard from U.S. Highway 16 to Wellington Drive and adjusting the manhole(s) located along all of Catron Boulevard between U.S. Highway 16 and S.D. Highway 79 as needed to accommodate the South Dakota Department of Transportation Catron Boulevard road improvement project.

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 install the public utilities within a public right-of-way 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.

REVIEW:

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

Construction Plans: Staff has noted that 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.

H Lots/Easements: The applicant has submitted copies of H lots located along Catron Boulevard for that portion of the project located outside of the Catron Boulevard right-of-way. However, the copies of the H Lots do not show that they have been recorded at the Register of Deed’s Office. As such, prior to Planning Commission approval, a copy of the recorded H Lots must be submitted for review and approval or the applicant must secure utility easements as needed for all portions of the project located outside of the Catron Boulevard right-of-way.

Permits: An Air Quality Permit must be obtained from the City prior to any surface disturbance of one or more acres. Prior to the start of construction, an Erosion and Sediment Control Plan must be submitted for review and approval and an Erosion and Sediment Control Permit must be obtained. In addition, a Permit to Work in the Right-of-way must be obtained from the South Dakota Department of Transportation and a Stormwater Permit must be obtained from the South Dakota Department of Environment and Natural Resources prior to

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any surface disturbance.

The location and extent of the proposed public utilities within a public right-of-way is 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 issues are addressed prior to Planning Commission approval of this item.

Staff recommends that the Planning Commission acknowledge the applicant's withdrawal of the SDCL 11-6-19 Review to install public utilities within a public right-of-way.