

STAFF REPORT  
September 13, 2011

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**No. 11VE021 - Vacation of Utility and Drainage Easement**

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GENERAL INFORMATION:

APPLICANT	Chris Schultz
AGENT	Ted Corean for Corean Construction LLC
PROPERTY OWNER	Chris Schultz
REQUEST	<b>No. 11VE021 - Vacation of Utility and Drainage Easement</b>
EXISTING LEGAL DESCRIPTION	Lot 1B of Lot M and Lot 2 of Lot M of Burson Subdivision, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.25 acres
LOCATION	3800 and 3887 East Highway 44
EXISTING ZONING	General Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	General Commercial District - Suburban Residential District (Pennington County)
South:	Low Density Residential District
East:	General Commercial District - General Commercial District (Pennington County)
West:	Suburban Residential District - General Commercial District (Pennington County)
PUBLIC UTILITIES	Rapid Valley Sanitary District
DATE OF APPLICATION	8/29/2011
REVIEWED BY	Robert Laroco / Ted Johnson

RECOMMENDATION:

Staff recommends that the Vacation of Utility and Drainage Easement be approved with the following stipulations:

1. Prior to Public Works Committee approval, the applicant shall submit a revised Exhibit "A" reducing the area of the proposed easement vacation to reflect the area of the structural encroachment; and,
2. Prior to Public Works Committee approval, letters from affected utility companies indicating concurrence with this Vacation of Easement request shall be submitted to the Growth Management Department.

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GENERAL COMMENTS: On August 29, 2011, the applicant submitted a request to vacate portions of a drainage and utility easement. In particular, the applicant is requesting to vacate portions of the easements located on an interior lot line between two adjoining lots to allow for construction of an addition to current structures.

An Initial and Final Planned Commercial Development to allow an On-Sale Liquor Establishment was approved for the site at the March 10, 2011 Planning Commission meeting (File # 11PD005). A note on the approved site plan indicated that the properties would be platted into one lot.

The properties are located at 3800 and 3887 E. Highway 44. The land is zoned General Commercial District with a Planned Commercial Development. Currently a convenience store, a carwash, and an on-sale liquor establishment are located on the properties.

STAFF REVIEW: Staff has reviewed the request for a Vacation of Drainage or Utility Easement and has noted the following considerations:

Planned Development: A Planned Commercial Development was approved for these properties on March 10, 2011. The approved stipulations from that Planned Development will remain valid with the approval of this Vacation of Easement request.

Developmental Lot Agreement: A Developmental Lot Agreement is required for development occurring across more than one property. The Agreement must be recorded with the Register of Deeds. The applicant has submitted a signed and notarized Developmental Lot Agreement for Lots 2 and 1B of the Burson Subdivision to the Register of Deeds and supplied a copy to the Growth Management Department for review and approval. It appears the Developmental Lot Agreement requirements have been met.

Exhibit "A": The submitted site plan shows the easement to be vacated runs the length of the lot line between Lot 1B and Lot 2. In addition, the site plan shows that only portions of the easement need to be vacated to allow the structural development on the property. As such, prior to Public Works Committee approval, the applicant must submit a revised Exhibit "A" reducing the area of the proposed easement vacation to reflect the area of the structural encroachment.

Utilities: The applicant has sent letters seeking concurrence with the Vacation request to all affected utilities. As of this writing, concurrence with this request has been submitted from all affected utilities but Black Hills Power, West River Electric Association, and SDN Communications. Concurrence is required from all affected utility companies. As such, prior to Public Works Committee approval, letters from all remaining utility companies indicating concurrence with this Vacation of Easement request must be submitted to the Growth Management Department.

Drainage: The submitted application shows that the Easement to be vacated is interior on a common lot line. It does not appear the lot line easements are needed for site drainage.

Staff recommends that the Vacation of Drainage and/or Utility Easement be approved with the stipulations outlined above.

