

STAFF REPORT

March 7, 2002

No. 02RZ007 - Rezoning from Flood Hazard District to General Commercial **ITEM 55**

GENERAL INFORMATION:

PETITIONER	Laverne Anderson for Leone Anderson
REQUEST	No. 02RZ007 - Rezoning from Flood Hazard District to General Commercial
EXISTING LEGAL DESCRIPTION	Lot 3 less the southern portion being described as starting at the Southwest corner of the above described lot thence 337 feet due North, thence 297 feet bearing South 86 degrees 25 feet East, thence 116.68 feet bearing South 73 degrees 50' 34" East, thence 47.6 feet bearing South 04 degrees 36 feet West, thence 280.8 feet bearing South 31 degrees 51 feet West, thence 256.5 feet bearing due West to the point of origin all located in the NW1/4 SW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.87 acres
LOCATION	East of the intersection of Cambell Street and East St. James Street
EXISTING ZONING	Flood Hazard District
SURROUNDING ZONING	
North:	General Commercial District
South:	Flood Hazard District/General Commercial District
East:	Flood Hazard District
West:	Flood Hazard District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	01/29/2002
REPORT BY	Vicki L. Fisher

RECOMMENDATION:

Staff recommends that the Rezoning from Flood Hazard District to General Commercial be denied for the portion of the site located in the hydraulic floodway; and, approved for the southern portion of the site with the following stipulations:

Planning Staff Recommendation:

1. That the applicant provide a metes and bounds survey prepared by a land surveyor for

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the southern portion of the site located outside the hydraulic floodway; and,

Engineering Division Recommendation:

2. That all the fill that has been placed in the hydraulic floodway be removed.

GENERAL COMMENTS: The applicant is seeking to rezone approximately 1.87 acres from Flood Hazard District to General Commercial District. (The subject property is part of a 4.45 acre lot.) The property is located approximately 600 feet north of the East St. Charles Street/Cambell Street intersection along the east side of Cambell Street and is currently void of any structural development.

On August 8, 1988, the City Council approved a rezoning request to change the zoning from Flood Hazard District to General Commercial District on 2.58 acres of the 4.45 acre lot. The applicant is now proposing to rezone the balance of the property to General Commercial District. The area of the lot proposed to be rezoned by this request is located in the northern portion of the lot and a small area located along the south and southeast corner of the property.

STAFF REVIEW: Staff has evaluated the proposed rezoning as it relates to the four criteria for the review of zoning map amendments. A summary of Staff findings is outlined below:

1. *The proposed amendment will not adversely affect any other part of the City, nor shall any direct or indirect adverse effects result from such amendment.*

The Engineering Division has indicated that the area proposed to be rezoned along the northern portion of the lot is located within the hydraulic floodway. The balance of the property is located in the 100 year flood fringe. The Flood Area Construction Regulations were adopted by the City in 1973 and identify the floodway as "the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot". The Flood Hazard District states that no structure or fill shall be allowed unless a Conditional Use Permit is obtained and a Special Exception is granted to allow the structure and/or fill. Even then, the structure and/or fill can not increase the flood heights more than one foot.

The applicant has not demonstrated that any changes and/or improvements have been implemented to lower the base flood elevation within this area of the property. As such, the property remains in the hydraulic floodway. Rezoning the northern portion of the property as proposed will have a direct adverse effect by potentially allowing development that will result in an increase in the flood elevation on the subject property and on adjacent properties.

This is specifically noted as a concern due to fill material previously placed on the subject property resulting in an approximate two foot rise in the base flood elevation within the area. On June 26, 1988, Scott Kenner, Registered Professional Engineer, documented that fill had been brought onto the subject property resulting in a rise in the base flood elevation of

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1.78 feet (see attached letter.) In addition, Mr. Kenner noted that fill had been placed in the hydraulic floodway. The property owner was notified to remove the fill from the floodway and to grade the area to its original contours. On October 7, 1988, the property owner obtained a grading permit to allow 16,000 cubic yards of fill to be located on the portion of the property located outside of the floodway, in the 100 year floodplain. The Engineering Division has indicated that, to date, the fill located within the hydraulic floodway has not been removed as required. (During a recent review to rezone the Select Auto property, located directly north of the subject property, the property owner of Select Auto cited the impact of the increased base flood elevation caused by the fill currently located on the subject property.)

Based on the concerns identified above, staff cannot support the proposed rezoning request for that portion of the property located within the hydraulic floodway. As previously indicated, the balance of the property is located in the 100 year flood fringe, outside of the hydraulic floodway. As such, staff supports the proposed rezoning request for that portion of the subject property located in the southern area of the lot. A revised legal description including only that portion of the property located outside of the hydraulic floodway must be submitted. In addition, the applicant must remove the fill material currently located on the property as specified by the letter from Scott Kenner dated June 26, 1988.

2. *The proposed zoning is consistent with the intent and purposes of this ordinance.*

The purpose of the General Commercial District is "for personal and business services and the general retail business of the city". As previously indicated, that portion of the subject property located within the hydraulic floodway has a significant flood damage potential. Use(s) allowed in the General Commercial District would not be appropriate in this area. As such, staff is recommending that the rezoning request for that portion of the property located within the hydraulic floodway be denied. Staff supports rezoning the balance of the request as proposed contingent upon a revised legal description being submitted and the fill material being removed as outlined. The applicant should be aware that any development within the flood fringe area requires a Floodplain Development Permit.

3. *The proposed amendments shall be necessary because of substantially changed or changing conditions of the area and district affected, or the City in general.*

The applicant has not provided any documentation that the Federal Emergency Management Agency has revised the floodway boundaries on the subject property. In addition, the applicant has not demonstrated that the proposed rezoning is necessary because of substantially changed or changing conditions within the area.

4. *The proposed amendments shall be consistent with and not in conflict with the development plan of Rapid City including any of its elements, major road plan, land use plan, community facilities plan, and others.*

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The Flood Area Construction Regulations was adopted to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions. In addition, the Rapid Creek Floodplain Policy states that "...the Floodplain Boundary Policy Committee finds that it is necessary to restrict the use of the 100 year hydraulic floodway to protect property and the lives of both residents and visitors to the community". As such, staff cannot support the proposed rezoning request for that portion of the subject property located in the hydraulic floodway. Rezoning this portion of the subject property to General Commercial District is in direct conflict with these adopted regulations.

Due to the developmental limitations within the hydraulic floodway, staff is recommending that the proposed rezoning request be denied for that portion of the site located in the hydraulic floodway; and that the rezoning request for the southern portion of the site located in the 100 year floodplain be approved. This action is consistent with the City's adopted Floodplain Policy. A revised request, including a legal description for only that portion of the subject property located outside of the hydraulic floodway, could be supported.

As of this writing, the receipts from the certified mailings have not been returned nor has the sign been posted on the property. Staff will notify the Planning Commission at the March 7, 2000 meeting if these requirements have not been met.