

STAFF REPORT
September 6, 2012

No. 12OA005 - An Ordinance to Amend Requirements for Conditional Use Permits for Oversized Garages by Amending Section 17.08.030 of the Rapid City Municipal Code in the Park-Forest District **ITEM 2**

GENERAL INFORMATION:

APPLICANT	City of Rapid City
REQUEST	No. 12OA005 - An Ordinance to Amend Requirements for Conditional Use Permits for Oversized Garages by Amending Section 17.08.030 of the Rapid City Municipal Code in the Park-Forest District
DATE OF APPLICATION	August 9, 2012
REVIEWED BY	Robert Laroco / Nicole Lecy

RECOMMENDATION:

Staff recommends that the Ordinance to Amend Requirements for Conditional Use Permits for Oversized Garages by Amending Section 17.08.030 of the Rapid City Municipal Code in the Park-Forest District be approved.

GENERAL COMMENTS: Rapid City Municipal Code Chapter 17.08.030 currently permits a residential garage that does not meet the definition of a private garage as a conditional use accessory to the primary residence in the Park Forest District. Approval of the conditional use is contingent upon the following requirements:

1. That the proposed garage is consistent with the residential character of the property on which it is located and the surrounding neighborhood;
2. That the proposed garage shall be used only for residential purposes incidental to the principal use of the property;
3. That landscaping on fencing may be required to screen the garage from neighboring properties;
4. That the applicant submit a site plan and elevation drawings in addition to information on what types of building material will be used for the garage; and,
5. That the applicant shall file a notice with the register of deeds indicating that the garage only be used for residential purposes.

Current regulations for a home occupation do not allow private garages to be used for commercial purposes. As such, stipulation #5, which requires that an applicant enter into a covenant agreement to not use the garage for commercial purposes, creates a redundancy in the Ordinance. On June 21, 2012, the issue was discussed before the Planning Commission. At that time, Planning Commission directed staff to research the issue and bring forth solutions addressing the redundant requirements in the Ordinance. As such, staff has brought forward an Ordinance Amendment to eliminate the requirement to enter into an agreement for garages that do not meet the conditions of approval for a conditional use permit. Associated Ordinance Amendments for the Low Density Residential District and the Mobile Home Residential District (File #s 12OA006 and 12OA007, respectively) have also been submitted.

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STAFF REVIEW: Staff has reviewed the Ordinance Amendment to remove the requirement for an applicant to file notice with the register of deeds and has noted the following considerations:

Rapid City Municipal Code Chapter 17.08.030: Chapter 17.08 identifies the uses and conditional uses allowed in the Park Forest District and states that the Park Forest District is intended to provide the city with an area to be preserved for its natural beauty and open character. Detached single-family dwellings and their accessory structures are permitted uses in the Park Forest District. A private residential garage that does not meet the definition of a private garage is subject to conditions prior to approval. In particular, condition #5 of the Ordinance states, "That the applicant shall file a notice with the register of deeds indicating that the garage only be used for residential purposes."

Rapid City Municipal Code Chapter 17.04.315 defines a private garage as "an accessory building or part of a main building used primarily for storage and which shall not be used for commercial purposes." In addition, staff has noted that Rapid City Municipal Code Chapter 17.50.350.C(1) concerning Home Occupations, states that the use shall be conducted entirely within the dwelling unit and shall be conducted entirely by the residents of the dwelling. The garage is an accessory to the dwelling, and not a part of the dwelling itself. In addition, commercial uses are not permitted in any private garage. The criteria for approval of a home occupation and the definition of a private garage do not permit commercial activities. The requirement in Section 17.08.030 of the Rapid City Municipal Code to sign an agreement not to use a garage for commercial purposes is unnecessary. The City Attorney's Office has reviewed this issue and concurs that the requirement is unnecessary. As such, staff recommends that Section 17.08.030 of the Rapid City Municipal Code be amended to eliminate condition #5 from the required conditions for approval of a private garage not meeting the definition of private garage.