

STAFF REPORT

March 6, 2003

No. 99UR004 - Revocation of a Conditional Use Permit to allow a car wash in the General Commercial District **ITEM 43**

GENERAL INFORMATION:

PETITIONER	City of Rapid City
REQUEST	No. 99UR004 - Revocation of a Conditional Use Permit to allow a car wash in the General Commercial District
EXISTING LEGAL DESCRIPTION	Lot A of M-1 in NW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .82 Acres
LOCATION	2113 N. LaCrosse Street
EXISTING ZONING	General Commercial
SURROUNDING ZONING	
North:	General Commercial
South:	General Commercial
East:	General Commercial
West:	General Commercial
PUBLIC UTILITIES	City Sewer and Water
DATE OF APPLICATION	11/08/2002
REPORT BY	Jeff Marino

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow a car wash in the General Commercial District **be continued to the May 8, 2003 Planning Commission Meeting.**

GENERAL COMMENTS: **(Updates to the staff report are shown in bold.) This request was continued from the January 23, 2003 Planning Commission meeting.** On March 15, 1999, the City Council approved the Conditional Use Permit (formerly known as Use on Review) #99UR004 to allow a Carwash in General Commercial Zoning District with the following stipulations:

1. That the applicant apply for a building permit and receive a Certificate of Occupancy for any construction work to be done;
2. That prior to issuance of a building permit, the applicant submit a landscape plan meeting the requirements of the Landscape Ordinance and that those requirements be

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continually met;

3. That all requirements of the Off Street Parking Ordinance be continually met; and
4. That approval of this Use on Review shall expire if the use is not undertaken and completed within two years of the date of approval by City Council, or if the use as approved has ceased for a period of two years.

The applicants constructed a 1,080 square foot addition to the east side of the existing convenience store. This addition housed a car wash and an expanded storage area for the attached convenience store. The existing car wash on the north side of the building was converted into a service bay for automobile engine repair.

The original convenience store and gas pumps were built in the late 1960's, and the existing car wash was added in 1975. The City of Rapid City amended the General Commercial Zoning District in 1989 to allow car washes in as a Conditional Use Permit formerly known as a Use on Review. The expansion in 1999 required that the property be brought into compliance with all applicable requirements.

STAFF REVIEW: As of December 19, 2001 the Building Inspection Division identified that stipulations one, two, and three of the Use on Review approved in 1999 were not being met. In addition, the Building Inspection Division identified several building codes that are not being met, consisting of mechanical, electrical, and plumbing codes.

The Building Codes, identified by the Building Inspection Division, which are still not being met are:

- Providing 16 striped parking stalls including one signed van accessible stall. Rapid City Municipal Code 17.50.270 H-4, H-A, 6-B.
- The ramp into the building is too steep. The maximum slope is 1:12. ANSI 117.1, 405.2 Pg. 18.
- Complete the required landscaping or provide a surety. Rapid City Municipal Code 17.50.300, Bond is #J.
- The firewall as shown and required on the plans has not been completed. UBC 108.7 Pg. 9
- Correct the drainage problem on east side of the building. It needs to drain away from the building. UBC 108.7 Pg. 9
- Water Closet Stalls in Men's and Women's bathrooms are too narrow. There is a minimum of 60 inches in width.
- Mirrors in Men's and Women's Bathrooms are mounted too high. There is a maximum of 40 inches to bottom edge of reflecting surface.
- The building permit has expired, and the applicant needs to obtain a new one.
- The building is being occupied and used without a Certificate of Occupancy.
- An auto shutdown feature is not in place. Section 608, 1994 UMC.
- The development needs sheet metal fire stops on two unit heater vents. Type B vent installed per manufacturer's specifications.
- Rooftop access may be required. Section 321, 1994 UMC.

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- Install proper backflow prevention on water supply to car wash equipment. Section 10.5, 1996 National Standards Plumbing Code.

The City Building Inspection Division sent a letter to the applicant on November 10, 1999. The letter notified the applicant that they were occupying the car wash addition without a Certificate of Completion. The letter also stated that arrangements must be made by the applicant prior to November 17, 1999 to secure a Certificate of Completion for the approved building permit. On November 19, 1999, the Building Inspection Division performed a site visit at 1:00 p.m.; however, the plans that are required to be on the project site were not available when requested. On December 3rd, 1999 the Building Inspection Division met with the contractors and the owners. During this meeting a Final Inspection date and completion of the project of January 1st, 2000 was discussed. However, there were still Building Codes not being met at that time, and the Assistant City Attorney contacted the applicant on January 12, 2000 stating that the applicant had until January 25, 2000 to schedule a final inspection for the completed building permit or to discuss the issuance of a new building permit, otherwise legal action would be taken. On February 15, 2000, the Building Inspection Division indicated in a letter directed to the Assistant City Attorney that the required steps had not been taken to obtain a Certificate of Completion or to obtain a new building permit. As such, the Building Inspector was recommending that the City Attorney's Office initiate litigation.

Between May 1999 and March 2000 approximately 39 site visits were made by different building inspectors to inspect the construction at the site.

The City Attorney's Staff has recommended that a public hearing be held to consider revocation of the Conditional Use Permit as the conditions of approval along with numerous other Building Code requirements have not been met. An inspection on March 15, 2000 indicated that the violations previously identified have not been resolved. The Building Inspection Division has another inspection scheduled prior to the Planning Commission Meeting on December 5th. On December 13, 2002 Planning Department Staff, Legal Department Staff, Building Inspection Division Staff, and Fire Department Staff met with the applicant and the applicant's attorney. During this meeting a time line was discussed as to when the property could be brought into compliance and a certificate of occupancy could be issued.

The Building Inspection Division notified the Planning Staff on January 13, 2003 that a number of items which have been brought into compliance with the City of Rapid City Municipal Codes. In addition, the applicant appears to be working towards bringing the rest of the non-conforming codes into compliance with City Code.

The Building Inspection Division notified the Planning Staff on February 21, 2003 that the applicant appears to making progress towards correcting all of the code violations. However, some actions require spring weather to complete, such as the landscaping. Staff is recommending that the Conditional Use Permit be continued to

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the May 8, 2003 Planning Commission meeting to allow the applicant sufficient weather to plant all required landscaping. If all the corrections are not completed by May 8, 2003, the staff will recommend revocation of the Conditional Use Permit.

Pursuant to the provisions of Section 17.54.030(J) of the Rapid City Municipal Code, staff is recommending **to continue the Conditional Use Permit to the May 8, 2003 Planning Commission meeting to allow the applicant additional time to bring the property into compliance with the City of Rapid City Municipal Codes.** If the Conditional Use Permit is revoked, the applicant must remove the car wash and the accessory structure currently located on the property.