

STAFF REPORT

April 24, 2003

No. 03SR026 - 11-6-19 SDCL Review of a use in a public place

ITEM 14

GENERAL INFORMATION:

PETITIONER	Carrie Cisle for the Canyon Lake Chophouse
REQUEST	No. 03SR026 - 11-6-19 SDCL Review of a use in a public place
EXISTING LEGAL DESCRIPTION	Tract 1 of Rapid City Greenway Tract, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
LOCATION	2720 Chapel Lane
EXISTING ZONING	Flood Hazard District
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	General Commercial District/Low Density Residential District
East:	Flood Hazard District
West:	Flood Hazard District/General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	03/28/2003
REPORT BY	Jeff Marino

RECOMMENDATION:

Staff recommends that the 11-6-19 SDCL Review of a use in a public place be approved with the following stipulations:

Engineering Division Recommendations:

1. If a tent/canopy is used at any time which is bigger than originally approved, a floodplain development permit shall be obtained;

Fire Department Recommendations:

2. The applicant shall comply with all Uniform Fire Codes for Outdoor Carnivals and Fairs during each temporary use occurrence;
3. The applicant shall have the proposed tent and/or canopy inspected by an approved official prior to each temporary use;

Urban Planning Division Recommendations:

4. No alcoholic beverages shall be allowed in the park;

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5. No music shall be allowed after 10:00 p.m.;
6. The temporary use shall be utilized no more than 15 times a year;
7. The applicant shall provide management or security on site at all times when the canopy is being utilized;
8. The Conditional Use Permit shall be subject to renewal in three years; and
9. The Conditional Use Permit shall be used for private receptions and parties and not open to general restaurant business.

GENERAL COMMENTS: The subject property is located along Jackson Boulevard and is the location of Canyon Lake and Canyon Lake Park. The applicant for this request is the owner of the Canyon Lake Chophouse restaurant. The restaurant is located adjacent to Canyon Lake Park along the west shore of Canyon Lake. This application for an 11-6-19 SDCL Review has been submitted to allow the applicant to erect a 20 foot by 30 foot tent/canopy on the adjacent property on a temporary basis for a maximum of 15 days per calendar year. The applicant has indicated that the tent would be utilized primarily as a dance floor for wedding receptions and other special events the restaurant would be hosting.

The proposed request for a temporary structure in the Flood Hazard Zoning District for 15 event days per year was approved with six stipulations on March 8, 2002 by the Planning Commission through a Conditional Use Permit. The six stipulations of approval were:

1. A Floodplain Development Permit shall be obtained prior to the installation of the canopy;
2. No alcohol beverages shall be allowed in the park;
3. No music shall be allowed in the park;
4. That the applicant shall provide management or security on site at all times when the canopy is being utilized;
5. That the Conditional Use Permit shall be subject to renewal in one year; and,
6. That the Conditional Use Permit shall be used for private receptions and parties and not open to general restaurant business.

In addition to the Conditional Use Permit, a Major Amendment to a Planned Commercial Development was approved at this time to allow an expansion at the Canyon Lake Chophouse.

South Dakota Codified Law 11-6-19 states that "...whenever any such municipal council has adopted a comprehensive plan, then 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 until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". The proposed site is publicly owned property. In addition, the property is located within the area covered by the Rapid City Comprehensive Plan requiring that the proposed expansion be reviewed and approved by the Rapid City Planning Commission as a part of an 11-6-19 SDCL Review.

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STAFF REVIEW: Staff has reviewed the proposed 11-6-19 SDCL Review, and they have noted the following issues:

Expansion of Use: The applicant has stated on previous occasion the proposed temporary use will not be expanding the existing use. The proposed tent/canopy will be relocating existing patrons of the Canyon Lake Chophouse to a different portion of the development. The number of patrons of the establishment will not increase, the patrons will be moving from one portion of the development to another. Due to the fact that the number of patrons will not be increasing, the potential traffic impacts and parking impacts will not be magnified. These impacts shall be staying at the same levels that currently exist.

Park Use: As mentioned previously, the applicant is proposing to erect a tent and conduct a portion of the Canyon Lake Chophouse restaurant business within Canyon Lake Park. The Canyon Lake Chophouse restaurant currently has a liquor license and serves alcoholic beverages to their patrons. Section 5.12.110 of the Rapid City Municipal Code states that "It is unlawful for any person to consume any intoxicating liquor or malt beverage or to mix or blend any alcoholic beverage with any other beverage, regardless of whether such beverage is an alcoholic beverage, in any public place." Staff is concerned that the patrons of the restaurant will consume their alcoholic beverages while on park property creating an enforcement issue for the owners of the restaurant and the City. For this reason, staff is recommending that management or security is present on the site at all times when the canopy is in use.

Staff supports the temporary use due to the ability for the use to function in a safe and appropriate manor in the past. For this reason staff is recommending approval with stipulations the proposed temporary use in the Flood Hazard Zoning District for 15 event days per year for the next three years.

Staff notes that 11-6-19 South Dakota Codified Law Reviews do not require direct notification of neighboring property owners. In addition, South Dakota Codified Law does not require that 11-6-19 South Dakota Codified Law Reviews be advertised in a local newspaper.