

STAFF REPORT

August 21, 2003

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**No. 03SR024 - 11-6-19 SDCL Review of a public utility in a public place**      **ITEM 11**

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GENERAL INFORMATION:

PETITIONER	South Dakota Department of Environment and Natural Resources for Black Hills Federal Credit Union
REQUEST	<b>No. 03SR024 - 11-6-19 SDCL Review of a public utility in a public place</b>
EXISTING LEGAL DESCRIPTION	Lot B of Lot 2 of Tract A, Owen Mann Subdivision, Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .172 acres
LOCATION	118 Kinney Avenue
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	Medium Density Residential District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	2/27/2003
REPORT BY	Jeff Marino

RECOMMENDATION:

Staff recommends that the 11-6-19 SDCL Review **be approved with the following stipulations.**

Building Inspection Division Recommendations:

- 1. Prior to the initiation of use at the site, a building permit shall be obtained for the proposed air monitoring unit;**
- 2. Prior to the initiation of use an electrical permit shall be obtained for the proposed air monitoring unit;**

Urban Planning Division Recommendations:

- 3. Two parking spaces shall be maintained for the site at all times with one parking space being van handicap accessible;**
- 4. Any noise associated with the proposed development shall be minimized to reduce any negative impacts on the surrounding land uses;**

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5. **Any lighting associated with the development shall be constructed in a way so as to minimize the impacts on the surrounding land uses; and**
6. **No signage shall be constructed at the site associated with the air monitoring unit.**

GENERAL COMMENTS: (Updates to the staff report are shown in bold.) This request was continued from the July 24, 2003 Planning Commission meeting to allow the applicant time to submit revised information. The applicant submitted a signed lease agreement between the property owner and the applicant verifying that the parking at the site will be able to function for the air monitoring unit as well as the bank.

As per a phone conversation with the applicant on July 30, 2003, the remaining unresolved issues regarding the proposed air monitoring unit are being reviewed, and the applicant has been working with the City Building Inspection Division, as well as the City Attorney's Office to resolve the remaining issues. The City Attorney's Office has been in contact with the Attorney General's Office regarding several legal questions. Staff is recommending that this request be continued to allow the legal issues to be resolved.

The applicant has indicated to Staff that legal issues concerning the proposed site are being resolved. The applicant has stated that once these issues are resolved, the applicant will be able to submit the required information to verify that the site will work for the proposed Air Monitoring unit. Staff is waiting for a signed copy of the lease agreement, to verify the lease will function properly and adequately with the surrounding land uses. As per a phone conversation with the applicant on July 1, 2003, the applicant is still trying to resolve legal issues with the proposed site for the air monitoring unit. The applicant has stated at the time these issues are resolved, this information will be submitted for review and approval.

As per a phone conversation with the applicant on May 22, 2003, the applicant has stated that there are issues that need to be mitigated with the lease agreement between the property owner and the lessee.

The applicant is proposing to set up and operate an air monitoring station at the proposed lot. The proposed air monitoring station will collect data on air pollution levels to determine if Rapid City is meeting the national ambient air standards. The air monitoring station will include a sampling shelter, scaffolding, a meteorological tower, and a security fence around the air monitoring equipment. Electrical power will be used to run the station, and a phone line will be added to the station to collect data from the equipment.

Currently, the site is unimproved. The proposed air monitoring unit will be 33 feet in height, and it will be surrounded by a six foot high chain link fence. In addition, there will be a shelter to the side to the tower with a scaffolding 16.5 feet high above the shelter.

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

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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 mechanism to be placed at the site is owned by a state agency. 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.

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

Parking: The submitted site plan does not show any parking spaces at the site. To be in compliance with city ordinance, staff recommends that prior to the issuance of a building permit, a revised site plan showing two off-street parking spaces with one parking space being handicap van accessible be submitted. Staff is recommending that these parking spaces be constructed in order to ensure that the maintenance crews at the site will have a safe place to park without creating tracking dust problems or other air quality problems. The applicant has stated that the Black Hills Federal Credit Union, which is leasing the land for the proposed development, will be able to supply the required parking for the proposed air monitoring unit. Prior to Planning Commission approval, the applicant must submit verification that two parking spaces are available. The applicant submitted an unsigned agreement between the property owner and the lessee on May 21, 2003. This lease agreement would potentially allow the applicant to use two of the spaces the property owner has to offer at the Federal Credit Union. Prior to Planning Commission approval, staff is recommending a lease agreement which is signed by both parties is submitted for review and approval. **The applicant submitted additional information showing the ability for the parking requirements to be met within 300 feet of the site. The applicant will be able to meet the parking requirements at the Black Hills Federal Credit Union parking lot. Based upon the square footage of the building and the number of parking spaces, the Black Hills Federal Credit Union has two additional parking spaces which will meet the minimum number of required spaces for the air monitoring unit.**

Building Codes: The applicant is requesting exemption from all Building Code requirements. These standards cannot be waived through the 11-6-19 SDCL Review process. The applicant should discuss these issues with the Building Inspection Division and the City Attorney's Office directly.

Staff is recommending that the proposed request be **approved with the stated stipulations**. 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.

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