

STAFF REPORT

November 6, 2003

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**No. 03SR028 - 11-6-19 SDCL Review of a public use in a public place**      **ITEM 7**

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GENERAL INFORMATION:

PETITIONER	City of Rapid City
REQUEST	<b>No. 03SR028 - 11-6-19 SDCL Review of a public use in a public place</b>
EXISTING LEGAL DESCRIPTION	Tract 28, Rapid City Greenway Tract, Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 6.9 Acres
LOCATION	South of Omaha Street between Brennan Avenue and Elm Avenue
EXISTING ZONING	Flood Hazard District
SURROUNDING ZONING	
North:	Flood Hazard District
South:	Flood Hazard District/Light Industrial District
East:	Flood Hazard District
West:	Light Industrial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	03/28/2003
REPORT BY	Jeff Marino/Vicki L. Fisher

RECOMMENDATION:

Staff recommends that the 11-6-19 SDCL Review of a public use in a public place be **denied without prejudice**.

GENERAL COMMENTS: (Updates to the Staff Report are shown in bold.) **This request was continued from the October 23, 2003 Planning Commission meeting.** As per conversations with the applicant on September 8, 2003, the neighboring property owner has not signed the lease agreement to verify the proposed farmers market will be able to meet the minimum parking requirements. **This Staff Report has been revised as of October 27, 2003. To date, the applicant has not signed the parking lease agreement. As such, staff is recommending that this item be denied without prejudice as it has been pending for over seven months. At such time that the applicant obtains a parking lease agreement, a subsequent SDCL 11-6-19 Review may be submitted for review and approval. Please note that no other part of this Staff Report has been altered.**

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---

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---

Currently, Staff is waiting for a copy of the signed parking lease agreement to be submitted to verify the use has sufficient parking. As per a conversation with the applicant on July 12, 2003, the property owner has not signed the lease agreement, and the applicant is in the process of obtaining this signature to make the lease agreement legally binding.

A lease agreement for the parking adjacent to the site was approved at the Legal and Finance Committee on June 11, 2003 (No. [LF061103-15](#)). The property owner has not yet signed the lease. Staff is waiting for the signed copy of the lease agreement to verify that the site will have sufficient parking prior to Planning Commission approval.

City Staff is waiting for additional information from the applicant concerning the availability of parking at the site. As per a conversation with the project engineer for the request on July 15, 2003, legal issues are being resolved regarding the lease agreement for availability of parking at the site.

As per a conversation with the applicant on May 19, 2003, the applicant is in the process of obtaining a lease agreement for off-street parking located on an adjacent parcel. Prior to Planning Commission approval, staff is recommending that the lease agreement is submitted for review and approval.

At the time of this writing, a signed lease agreement has not been submitted to the Planning Department for review and approval. In order for Staff to determine adequate parking at the site, staff will need to review the signed lease agreement to verify that the leased parking will fulfill the parking requirements for the proposed farmer's market.

This is a request by the City of Rapid City for authorization to use a public place for a Farmer's Market. The submitted site plan shows 50 booth areas to be used for local residents to sell their goods. The submitted site plan also shows re-striping of an existing parking lot to allow 161 parking spaces. There are also three portable toilets shown on the site.

The Farmer's Market site is located at the southeast corner of East Omaha Street and Elm Street on public park land. The applicant has identified the use of an existing off-street parking area located on an adjacent parcel owned by the State of South Dakota and currently leased to Bill Giekling. (Mr. Giekling is the owner of an adjacent property. This property was the former Harley Davidson.)

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

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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 major issues:

Parking: A portion of the site containing the parking is not owned by the applicant. Prior to approval by the Planning Commission, a signed agreement authorizing the use of the parking for the Farmer's Market and ensuring that the parking will be available whenever the Farmer's Market is in operation.

Portable Restrooms: A revised site plan stating that the port-potties will be locked on a nightly basis will need to be submitted prior to Planning Commission in order to prevent vandalism at the site. A revised site plan showing the portable restrooms secured as to prevent moving or relocating the portable restrooms shall be submitted.

Landscaping Islands: The submitted site plan does not appear to show any landscaping islands in compliance with Section 17.50.300 of the City of Rapid City Municipal Code. This portion of the code requires one landscaping island for every 50 parking spaces in the parking lot. Each landscaping island must be 100 square feet with one tree, two shrubs, and mulch and/or ground cover.

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.