

STAFF REPORT  
January 22, 2004

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**No. 03RZ050 - Rezoning from General Commercial District to Central Business District** **ITEM 31**

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GENERAL INFORMATION:

PETITIONER	Derby Enterprises for Phatty McGee's, Inc.
REQUEST	<b>No. 03RZ050 - Rezoning from General Commercial District to Central Business District</b>
EXISTING LEGAL DESCRIPTION	The south 50 feet of Lots 28 thru 32, Block 63, Original Town of Rapid City, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.14 acres
LOCATION	321 7th Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	11/20/2003
REPORT BY	Vicki L. Fisher

RECOMMENDATION:

Staff recommends that the Rezoning request from General Commercial District to Central Business District be **denied without prejudice**.

GENERAL COMMENTS:

**This item was continued at the December 18, 2003 Planning Commission meeting at the applicant's request. This Staff Report has been revised as of January 9, 2004. All revised and/or added text is shown in bold print.** The applicant has submitted a Rezoning request to change the zoning designation from General Commercial District to Central Business District on the above legally described property.

The property is located on the west side of Seventh Street, one block south of Omaha Street and north of the railroad tracks. A three story structure with 5,000 square feet of floor space per floor is located on the property. Currently, "Hooky Jacks", a sports bar, is located on the first floor and "Phatty McGee's, a nightclub, is located on the second floor. The third floor and the basement are used as storage. In December of 1999, the applicant obtained a

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Variance from the Zoning Board of Adjustment to reduce the required parking for the sports bar and nightclub from 104 to one space contingent that "the proposed business would utilize the public parking areas only after 5:00 p.m.". In November 2001, the Zoning Board of Adjustment denied a variance request to allow Hooky Jacks to be open at 11:00 a.m. in lieu of 5:00 p.m.

On July 25, 2003, the City Council tabled a rezoning request to change the zoning designation of the subject property from General Commercial District to Central Business District at the first reading of the rezone request. Subsequently, in June of 2003, the Zoning Board of Adjustment granted a variance to reduce the parking from 104 spaces to one space with the revised condition that Hooky Jacks and Phatty McGee's may be open at 11:00 a.m. in lieu of 5:00 p.m. on Saturday and Sunday.

**On December 15, 2003, the City Council denied without prejudice the Rezoning request. As such, staff is recommending that the Planning Commission also deny without prejudice the request. The applicant has the option of resubmitting another Rezoning request in the future if new issues are identified justifying the request. Since this item has been denied without prejudice, no application fee will be required.**

STAFF REVIEW:

Staff has evaluated the proposed rezoning as it relates to the four criteria for the review of the zoning map amendments. A summary of Staff findings is outlined below:

1. *The proposed amendments shall be necessary because of substantially changed or changing conditions of the area and district affected, or the City in general.*

Staff is unaware of any change in conditions that would justify the rezoning request. As previously indicated, a Variance has been granted to reduce the parking for the existing use within the structure from 104 parking spaces to one space. The lack of adequate parking in the area would be aggravated by the proposed change in the zoning. The proposed change appears to be an attempt to avoid the need to provide off-street parking to adequately support the existing business and/or expansions to the business.

2. *The proposed zoning is consistent with the intent and purposes of this ordinance.*

The purpose of the Central Business District as stated in the Zoning Ordinance is to form the metropolitan center for commercial, financial, professional, governmental and cultural activities. Currently, Rapid Street located south of the subject property is the dividing line between the Central Business District and the General Commercial District. As such, the subject property is located outside of the "metropolitan center" as previously defined by the City. The proposed zoning is not consistent with the intent and purposes of the Zoning Ordinance.

3. *The proposed amendment will not adversely affect any other part of the City, nor shall any direct or indirect adverse effects result from such amendment.*

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The Central Business District does not require that off-street parking be provided. As noted above, the applicant has obtained variance(s) from the Zoning Board of Adjustment to reduce the parking requirement for the bar and night club currently located on the property from 104 parking spaces to one space. Rezoning the property as proposed would exempt the applicant from providing parking for any existing and/or new use(s) that may be brought to the site. In particular, it will allow the applicant to use the third floor and the basement for a use other than storage and not provide off-street parking for the use. As previously indicated, lack of adequate parking within this area currently exists. As such, rezoning the property as proposed will adversely affect this area of the City.

- 4. The proposed amendments shall be consistent with and not in conflict with the development plan of Rapid City including any of its elements, major road plan, land use plan, community facilities plan, and others.*

The existing Future Land Use Plan identifies the appropriate land use as commercial. The existing General Commercial Zoning District is consistent with the land use plan.

**The sign as been posted on the property and the certified mailing receipts have been returned. Staff has received four telephone calls voicing opposition to the Rezoning request.**

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December 18, 2003

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