

STAFF REPORT

March 4, 2004

No. 04OA003 - Ordinance Amendment

ITEM 11

GENERAL INFORMATION:

PETITIONER	City of Rapid City
REQUEST	No. 04OA003 - Ordinance Amendment To consider adding Section 2.60.195 to the Rapid City Municipal Code pertaining to hearing notices for SDCL 11-6-19 Reviews
DATE OF APPLICATION	01/26/2004
REPORT BY	Karen Bulman

RECOMMENDATION: Staff recommends that the Ordinance Amendment to consider adding Section 2.60.195 to the Rapid City Municipal Code pertaining to hearing notices for South Dakota Codified Law 11-6-19 Reviews be **approved**.

GENERAL COMMENTS: **This item was continued at the February 19, 2004 Planning Commission meeting to allow time for the proposed ordinance revisions to be fully reviewed. This Staff Report has been revised as of February 25, 2004. All added and/or revised text is shown in bold print.** On January 19, 2004, the City Council requested that staff prepare an ordinance amendment to require public hearing notices and property owner notification within 250 feet of the subject property for SDCL 11-6-19 Reviews. Chapter 2.60 of the Rapid City Municipal Code addresses the Planning Commission and its authority, including the adoption of Comprehensive Plans.

STAFF REVIEW: South Dakota Codified Law does not require notification of SDCL 11-6-19 Reviews; however, the City Council believes that notification of 11-6-19 Reviews would be a benefit to the public and specifically the owners of properties surrounding any proposed use requiring an 11-6-19 Review. The notification would allow property owners to address questions and concerns about the proposed uses requiring an 11-6-19 Review.

The Growth Management Department staff is working with the City Attorney's staff to prepare an ordinance establishing an additional section under Chapter 2.60 requiring public notification of 11-6-19 Reviews and the notification by first class mail to surrounding properties within 250 feet of the subject property. To date, those provisions have not been completed as legal counsel is reviewing several issues related to this proposal. Staff is recommending that the public hearing on the Ordinance Amendment be continued to the March 4, 2004 Planning Commission meeting to allow time for the proposed ordinance revisions to be fully reviewed.

Legal counsel has reviewed the issues relating to notification of 11-6-19 Reviews. This ordinance has been written applying notification requirements similar to the notification requirements for a Conditional Use Permit, noting that an 11-6-19 Review

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is very similar to a Conditional Use Permit. The reimbursement costs for legal notification and for staff time was assessed and found to be similar to the reimbursement costs for a Conditional Use Permit application. This ordinance will establish an application fee of two hundred fifty (\$250) dollars. The petitioner will mail certified letters with return receipts to all property owners within two hundred fifty feet inclusive of the dedicated public right-of-way of the site, measured from the perimeter of the lot, lots or portions thereof which contain the area dedicated to the proposed use. The notice of public hearing will be published by the City ten days in advance of the hearing date. Posting a notification sign on the property has not been required; however, if the Planning Commission feels this is necessary, such a requirement could be added.

Staff recommends that the Ordinance Amendment to consider adding Section 2.60.195 to the Rapid City Municipal Code pertaining to hearing notices for South Dakota Codified Law 11-6-19 Reviews be approved.