

STAFF REPORT
April 22, 2004

No. 04SR019 - 11-6-19 SDCL Review to allow a structure in the right-of-way **ITEM 11**

GENERAL INFORMATION:

PETITIONER	Scott Kenner for the Historic Preservation Commission/South Dakota School of Mines
REQUEST	No. 04SR019 - 11-6-19 SDCL Review to allow a structure in the right-of-way
EXISTING LEGAL DESCRIPTION	In the right-of-way at the northwest corner of 7th Street and Main Street, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
LOCATION	The northwest corner of 7th Street and Main Street
EXISTING ZONING	Central Business District
SURROUNDING ZONING	
North:	Central Business District
South:	Central Business District
East:	Central Business District
West:	Central Business District
PUBLIC UTILITIES	To be extended
DATE OF APPLICATION	03/26/2004
REPORT BY	Karen Bulman

RECOMMENDATION:

Staff recommends that the 11-6-19 SDCL Review to allow a structure in the right-of-way be approved with the following stipulations:

1. The fountain dimensions will not extend beyond the fountain's base; and,
2. The Americans with Disabilities Act Standards shall be met on a continuing basis.

GENERAL COMMENTS: The applicant is proposing to place an historic fountain in the node located at the northwest corner of 7th Street and Main Street. In 1911, the two tiered lighted granite fountain was located in the center of the intersection of 7th Street and Main Street. It was a gift from Herman Lee Ensign, the founder of the National Humane Alliance. The fountain's upper tier was used to water horses after their ride to town. The lower tier of the fountain provided water for pets and smaller animals. As the town grew and traffic increased, the fountain became an obstruction. The fountain was then moved to several locations and has recently been located in the gardens adjacent to the Parks Department on Canyon Lake Drive. The Historic Preservation Commission expressed a desire to have the fountain restored. Students at the South Dakota School of Mines and Technology agreed to accept the fountain restoration as their project. The City Council gave approval for a

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structure in the right-of-way for the Fountain Project on July 14, 1999. The applicant obtained approval from the Historic Preservation Commission through an 11.1 Historic Review on December 3, 1999. Over the years, a decorative lion's head and name plate located on the fountain was lost. The lion's head has since been re-sculpted and will be replaced on the fountain along with the name plate. An unveiling of the lion's head will take place on April 18, 2004. The applicant indicates plans to place the historic fountain in the node on May 23, 2004. The historic fountain will be an operational fountain again with lights and running water.

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 use is a public structure and 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 as it relates to the applicable provisions of the Rapid City Municipal Code and has noted the following issues:

Site preparation and utility work will be completed prior to installation of the fountain. A permit to work in the right-of-way was obtained March 29, 2004. The plans submitted indicate that the location of the fountain will not be within the site triangle of the intersection.

A path for wheelchairs needs to be maintained and the fountain dimensions should not extend beyond the base of the fountain. Staff is recommending that the placement of the statue comply with the American with Disabilities Act as a stipulation of approval.

Staff is requesting that the 11-6-19 Review be approved with stipulations as previously stated.

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.