

STAFF REPORT  
August 10, 2006

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**No. 06RZ020 - Rezoning from Medium Density Residential District to Office Commercial District**      **ITEM 36**

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GENERAL INFORMATION:

PETITIONER	Barbara Fierro for WellSpring, Inc. and Calvary Lutheran Church
REQUEST	<b>No. 06RZ020 - Rezoning from Medium Density Residential District to Office Commercial District</b>
EXISTING LEGAL DESCRIPTION	Lots 2 thru 15, 18 thru 23, 24 thru 34, Block 9, The Cottonwoods Subdivision, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.79 acres
LOCATION	3402 Cottonwood Street
EXISTING ZONING	Medium Density Residential District
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	Medium Density Residential District
East:	Medium Density Residential District
West:	Medium Density Residential District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	6/27/2006
REVIEWED BY	Vicki L. Fisher / Todd Peckosh

RECOMMENDATION:

Staff recommends that the Rezoning from Medium Density Residential District to Office Commercial District be **continued to the August 24, 2006 Planning Commission meeting to allow the applicant to meet the legal notification requirement.**

GENERAL COMMENTS:

**(Update, August 2, 2006. All revised and/or added text is shown in bold print.) This item was continued at the July 27, 2006 Planning Commission meeting to be heard in conjunction with an associated Comprehensive Plan Amendment.**

The applicant has submitted a Rezoning request to change the zoning designation of the property from Medium Density Residential District to Office Commercial District. In addition, the applicant has submitted a Comprehensive Plan Amendment to the Long Range Comprehensive Plan to change the land use designation from residential to Office Commercial with a Planned Commercial Development. **On July 18, 2006, the applicant**

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submitted a Planned Development Designation for the subject property. (See companion item #06CA019 and 06PD054.)

In 1947, the subject property was annexed into the City limits of Rapid City. In 1949, a building permit was issued to allow the construction of a 30 foot by 60 foot church. In 1952, a building permit was issued to allow the construction of a detached garage and two Sunday school rooms onto the church. In 1955, a building permit was issued to allow the construction of two additions onto the church measuring 32 feet by 80 feet and 28 feet by 40 feet, respectively. In 1982, a building permit was issued to allow a multi-purpose room to be constructed onto the church. On March 4, 1985, the City Council approved a Use on Review to allow another addition onto the existing church and to add parking spaces. It was noted during the review that a Use on Review had not been obtained for the existing church use and as such, the Use on Review was being proposed to bring the church into compliance with the City Zoning Regulations and to authorize the 1985 addition as identified.

The property is located east of Evergreen Drive, north of Cottonwood Street, west of 9<sup>th</sup> Avenue and south of Dover Street. Currently, Calvary Lutheran Church is located on the property.

**STAFF REVIEW:**

The local newspaper failed to run the legal advertisement notification for the associated Comprehensive Plan Amendment ten days prior to the Planning Commission meeting. As such, staff is recommending that this item be continued to the August 10, 2006 Planning Commission meeting to be heard in conjunction with the associated Comprehensive Plan Amendment.

**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.***

This area was originally platted in February, 1946. As noted above, the property was annexed into the City limits of Rapid City in 1947. The subject property as well as all of the surrounding properties were subsequently zoned Medium Density Residential District. In 1998, a Rezoning application was submitted to rezone property located at the corner of 3<sup>rd</sup> Avenue and Jackson Boulevard from Medium Density Residential District to Office Commercial District. The Planning Commission denied the request noting that there was not a precedent for commercial development within the area and that commercial development would have significant impacts on the capacity and safety of both the local streets in the area and Jackson Boulevard. The City Council subsequently acknowledged the applicant's request to withdraw the Rezoning request. All of the properties within the area continue to be zoned Medium Density Residential District. The church currently utilizing the existing building is relocating.

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The vacant building will be a change; however, several use(s) in the Medium Density Residential District could provide a possible re-use of the building. Staff is unaware of any change in conditions that would justify the rezoning request.

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

The purpose of the Office Commercial District as stated in the Zoning Ordinance is to "...provide for those types of institutional and commercial activities that require separate buildings and building groups surrounded by landscaped yards and open areas. Land, space and aesthetic requirements of these uses make desirable either a central location or a suburban location near residential neighborhoods". The subject property is located in the center of an established residential neighborhood.

As noted above, all of the surrounding properties are currently zoned Medium Density Residential District. Rezoning the property as proposed will create a spot zoning within the neighborhood. In particular, spot zoning occurs when a small area of land or section in an existing neighborhood is singled out and treated differently from similarly situated property. Spot zoning can create incompatibility between land uses. 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.***

The proposed Office Commercial District allows all of the permitted uses and conditional uses allowed in the Medium Density Residential District. In addition, the Office Commercial District allows for commercial uses such as medical facilities, office buildings, museums, etc. (Please note that a complete list of all uses allowed in the Medium Density Residential District and the Office Commercial District is attached for your review.)

Staff reviewed the traffic impacts associated with the variety of uses allowed in both the Medium Density Residential and Office Commercial zoning districts. An apartment building with a maximum of 48 units could be located on the property creating approximately 336 average daily vehicle trips. Using the 20,790 square foot existing structure as an office building could create less traffic depending upon the number of employees (3.32 average daily trips per employee). As an example, 50 employees would generate 167.5 average daily trips to the site. The same two uses would require 72 on-site parking spaces for the 48 unit apartment building and 104 parking spaces for a 20,790 square foot office building. A library is a conditional use in the Medium Density Residential District generating 1,122.66 average daily vehicle trips and requiring 46 on-site parking spaces for the 20,790 square foot existing structure. Comparatively, a hospital is a conditional use in Office Commercial District generating 436.59 average daily vehicle trips and requiring two parking spaces per bed or approximately 104 on-site parking spaces for the same 20,790 square foot structure. (There appears to be approximately 100 parking spaces on the property;

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however, a current site plan has not been submitted for review and approval to insure that they meet all of the requirements of the Parking Regulations.)

It should be noted that the adjacent streets have been constructed as lane place streets and/or sub-collector streets with varying pavement widths from 20 feet to 30 feet to serve the neighborhood development. Typically, in a commercial area, parking is not allowed on the adjacent streets. Currently, the adjacent residential development surrounding the subject property utilizes the streets for parking which further limits access within the area.

Currently, sewer mains and water mains are located in the streets surrounding the subject property. The Public Works staff performed a water flow test at the site on August 2, 2006 at 8:00 a.m. and identified that 85 psi residual pressure and 103 psi static pressure were available. (Please note that this test does not indicate peak day hour usage.) It appears that there is sufficient water to serve the subject property for the uses allowed in both the Medium Density Residential District and the Office Commercial District.

As noted above, the applicant has submitted a Planned Development Designation application to serve as a tool to mitigate any noise, odor, vibration, light and land use nuisances that may be created with office commercial use(s). However, staff is concerned with the adequacy of street networking within the neighborhood and the introduction of commercial use(s) into an otherwise residential neighborhood. In particular, the current on-street parking for the existing residential development creates congestion along the streets limiting access to the area. Introducing a commercial use into the area may further aggravate the street congestion issue. In addition, pedestrians walk and children play along the streets in a residential neighborhood. The additional commercial traffic into the area may create safety issues for the pedestrians and residents. However it should be noted that some of the uses allowed in the Medium Density Residential District could actually have a more significant impact on the street network than uses allowed in the proposed Office Commercial zoning district. As such, rezoning the property as proposed may 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 for this area as residential. As noted above, the applicant has submitted a Comprehensive Plan Amendment to the Future Land Use Plan from residential to office commercial with a Planned Commercial Development. If the Comprehensive Plan Amendment is approved as proposed, the Rezoning request would be consistent with the plan. However, rezoning the subject property as proposed is not consistent with the adopted Future Land Use Plan.

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As noted above, a church has been located on the property since 1949. The existing church is relocating. It then becomes a challenge to find a reasonable re-use of a large existing structure in the midst of the existing residential neighborhood. It appears that the use proposed by the applicant may have less of a negative impact on the neighborhood than some of the conditional uses allowed in Medium Density Residential District such as a group home with overnight accommodations and counseling. However, rezoning the property as proposed will allow for any of the permitted and/or conditional uses identified in the Office Commercial District. Some of these uses may create traffic and other nuisances that are not appropriate adjacent to a residential neighborhood. The applicant has submitted a Planned Development Designation application to serve as a tool to mitigate nuisances but some of the use(s) allowed in the Office Commercial District may not be appropriate within a residential district with inadequate street networking. As such, staff can not support the proposed rezoning request.

**Notification Requirement:** As of August 4, 2006, the receipts from the certified mailings have not been returned. In addition, the sign has not been posted on the property. The Rapid City Municipal Code states that the sign must be posted at least seven calendar days before the Planning Commission meeting. The sign should have been posted on the property no later than August 2, 2006. As such, staff is recommending that this item be continued to the August 24, 2006 Planning Commission meeting to allow the applicant to meet the legal notification requirement.

Staff has received several calls and e-mails regarding this item. A majority of the people are opposed to the proposed rezoning request. The balance is either in support of the proposal or has questions regarding the proposal. Those opposing the request have noted concerns with allowing a commercial use within a residential area, the traffic generated by a commercial use on narrow streets, compromising the safety of those living within the area and the impact on home values with the proposed change in zoning. In addition, concern has been expressed that other properties will subsequently be rezoned to allow other commercial uses including night clubs and casinos. Those supporting the rezoning request have noted that use(s) within the Office Commercial District allow for a re-use of the existing church with minimal impact on the neighborhood. In particular, they are in support of the applicant, Wellspring, Inc., using the site for their offices and counseling.