

STAFF REPORT
November 22, 2006

No. 06RZ040 - Rezoning from Medium Density Residential District to General Commercial District **ITEM 32**

GENERAL INFORMATION:

PETITIONER	Sperlich Consulting, Inc. for B&T Investments
REQUEST	No. 06RZ040 - Rezoning from Medium Density Residential District to General Commercial District
EXISTING LEGAL DESCRIPTION	<p>A portion of the SE1/4 of the SE1/4, Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at the northeasterly corner of the dedicated right-of-way of Severson Street as shown in Plat Book 29 on Page 128, and the Point of Beginning; Thence, first course: easterly, along the prolongation of the northerly boundary of Lot 3 of Corral Drive Subdivision, a distance of 470.00± feet, to a point on the westerly edge of the right-of-way of Lot H1 of the SE1/4 SE1/4 of said Section 16 (westerly edge of Sheridan Lake Road Right-of-Way); Thence, second course: southerly, along the westerly edge of the right-of-way of said Lot H1 of the SE1/4 SE1/4 of said Section 16, a distance of 370.00± feet, to an angle point on the westerly edge of said Lot H1 of the SE1/4 of the SE1/4 of said Section 16; Thence, third course: southwesterly, along the westerly edge of the right-of-way of said Lot H1 SE1/4 SE1/4 of said Section 16, a distance of 78.65± feet to an angle point on the westerly edge of said Lot H1 of the SE1/4 SE1/4 of said Section 16; Thence, fourth course: southerly, along the westerly edge of the right-of-way of said Lot H1 of the SE1/4 SE1/4 of said Section 16, a distance of 84.65± feet to the southwesterly corner of the right-of-way of said Lot H1 SE1/4 SE1/4 of said Section 16, common to a point on the northerly boundary of Lot 1 of the SE1/4 SE1/4 of Section 16 (Corral Drive right-of-way); Thence, fifth course: westerly, along the northerly boundary of said Lot 1 of the SE1/4 SE1/4 of Section 16, a distance of 345.47± feet, to the southeasterly corner of the right-of-way of said Severson Street; Thence, sixth course: northerly, along the easterly edge of the right-of-way of said Severson Street, a distance of 89.41± feet, to a point of curve along the easterly edge of the right-of-way of said Severson Street; Thence, seventh course: northerly, along the easterly edge of the right-of-way of said Severson Street, curving to the left on a curve with a radius of 326.00 feet, a delta angle of 09 21'07", an arc</p>

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length of 44.72± feet, to a point of tangency along the easterly edge of the right-of-way of said Severson Street; Thence, eighth course: northerly, along the easterly edge of the right-of-way of said Severson Street, a distance of 366.70± feet, to the northeasterly corner of the dedicated right-of-way of said Severson Street, and the Point of Beginning

PARCEL ACREAGE	Approximately 4.810 acres
LOCATION	At the northwest corner of the intersection of Sheridan Lake Road and Corral Drive
EXISTING ZONING	Medium Density Residential District (Planned Unit Development)
SURROUNDING ZONING	
North:	General Agriculture District
South:	Low Density Residential District
East:	Low Density Residential District
West:	Public District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	9/28/2006
REVIEWED BY	Travis Tegethoff / Mary Bosworth

RECOMMENDATION:

Staff recommends that the Rezoning from Medium Density Residential District to General Commercial District be denied without prejudice at the applicant's request.

GENERAL COMMENTS: This staff report has been revised as of November 14, 2006. All revised and/or added text is shown in bold print. This item was continued to the November 9, 2006 Planning Commission meeting to allow the legal notification requirement to be met. The applicant is requesting a Rezone from Medium Density Residential to General Commercial on the subject property. In addition, the applicant has requested an Amendment to the Comprehensive Plan to change the land use designation from Residential to General Commercial with a Planned Commercial Development (06CA41) and a Major Amendment to a Planned Unit Development (06PD082).

The subject property is located north of Corral Drive and west of Sheridan Lake Road. Currently, the subject property is zoned Medium Density Residential and there is no structural development located on the property.

On October 20, 1997 City Council approved a Final Development Plan (#1624) with

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stipulations for the subject property.

STAFF REVIEW: The Rapid City Journal staff has notified City staff that the legal notification for the Comprehensive Plan Amendment was not published in the newspaper ten days prior to the Planning Commission meeting as required. As such, staff is recommending that this item be continued to the November 9, 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.*

On September 5, 1995 City Council approved rezoning the subject property from General Agriculture to Medium Density Residential (Ordinance #3224). However, a petition was filed by the neighboring landowners to overturn the rezoning pursuant to SDCL 11-4-5. On February 26, 1997 the South Dakota Supreme Court issued an opinion finding SDCL 11-4-5 unconstitutional. The rezoning became effective March 3, 1997. Staff is unaware of any change in conditions that would justify the Rezoning and/or Comprehensive Plan request.

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

According to the Zoning Ordinance, the General Commercial Zoning District is intended to provide for personal and business services and the general retail business of the City. The properties to the south and east are zoned Low Density Residential District, the property to the north is zoned General Agriculture and the property to the west is zoned Medium Density Residential with a Planned Unit Development. Rezoning the property and subsequently amending the comprehensive plan as proposed will result in spot zoning. 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 and, as such, land use planning maps are adopted to guide the orderly growth of the community. The City's Future Land Use Plan identifies the subject property and the surrounding neighborhood as residential. As such, 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 subject property is currently served with City sewer and water as well as private utilities in compliance with the community facilities plan. The Major Street Plan identifies Sheridan Lake Road as a principal arterial street, Corral Drive as a minor arterial street and Severson Street as a proposed collector street. As previously stated the properties to the south and east are zoned Low Density Residential District, the property to the north is zoned General Agriculture and the property to the west is zone Medium Density Residential with a Planned Unit Development. In addition Corral Drive Elementary School and Southwest Middle School is located approximately 1,000 feet to the west of the subject property. Introducing

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commercial uses as proposed may negatively affect traffic through this area of the City and may create safety issues for the pedestrians and residents.

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.*

As noted above, the applicant has submitted a Comprehensive Plan Amendment to change the land use designation of the subject property from Medium Density Residential to to General Commercial with a Planned Commercial Development. If the Comprehensive Plan Amendment is approved, the rezoning request will be consistent with the Land Use Plan. In addition, the proposed rezoning request does not conflict with the City's Major Street Plan or the community facilities plan. However, Public Works staff noted that a left turn lane on Sheridan Lake Road would be needed to accommodate the additional traffic and staff is concerned with the introduction of commercial use(s) into an otherwise residential neighborhood. In particular, 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. As such, rezoning the property as proposed may adversely affect this area of the City.

Notification Requirement: The sign has been posted on the property and the certified mailing receipts have been returned to the Growth Management Department.

This item was continued to the November 22, 2006 Planning Commission meeting at the applicant's request. On November 14, 2006 staff met with the applicant and at that time the applicant requested the Rezoning from Medium Density Residential District to General Commercial District be denied without prejudice.