

STAFF REPORT  
May 10, 2007

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**No. 07SR027 - SDCL 11-6-19 Review to allow a structure on public property**      **ITEM 12**

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GENERAL INFORMATION:

PETITIONER	City of Rapid City
REQUEST	<b>No. 07SR027 - SDCL 11-6-19 Review to allow a structure on public property</b>
EXISTING LEGAL DESCRIPTION	Tract D plus a portion of the Right-of-way of Braeburn Addition, Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .56 acres
LOCATION	Southeast of the intersection of Sylvan Lane and Jackson Boulevard
EXISTING ZONING	Flood Hazard District
SURROUNDING ZONING	
North:	Light Industrial District (Pennington County)
South:	Flood Hazard District
East:	Flood Hazard District
West:	Flood Hazard District
PUBLIC UTILITIES	Not applicable
DATE OF APPLICATION	3/28/2007
REVIEWED BY	Jonathan Smith / Mary Bosworth

RECOMMENDATION:

Staff recommends that the SDCL 11-6-19 Review to allow a structure on public property be approved with the following stipulation:

1. Prior to Planning Commission approval, the applicant is required to obtain a Flood Development Permit.

GENERAL COMMENTS:

The applicant has submitted a SDCL 11-6-19 review to allow construction of a four foot high chain link fence for a distance of 600 feet within the public right-of-way along the south side of Jackson Boulevard. The subject property is the location of the Braeburn Dog Park and is located south and west of the South Dakota State Fish Hatchery on Jackson Boulevard. The subject property is owned by the City of Rapid City, and the current use of the property is a park that allows unleashed pets. The purpose of the proposed fence is to keep unleashed pets away from traffic on Jackson Boulevard. The subject property is currently zoned Flood Hazard District, and is void of any structural development.

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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 utility extension is a public improvement and the property is identified as being located within the area covered by the Rapid City Comprehensive Plan requiring that the improvements be reviewed and approved by the Rapid City Planning Commission.

STAFF REVIEW:

Staff has reviewed the SDCL 11-6-19 and noted the following considerations:

Right-of-Way Permits:

Jackson Boulevard is part of the South Dakota State Highway system and is also known as South Dakota Highway 44. The applicant is required to obtain a permit to occupy the state right-of-way before constructing the proposed fence in the right-of-way. The applicant has submitted documentation verifying that a permit was reviewed and approved by the South Dakota Department of Transportation to allow for the construction of a fence in the right-of-way.

Air Quality Permit:

Staff has noted that an air quality permit is not required since less than one acre of land is being disturbed.

Flood Plain Permit:

Staff has noted that a portion of the proposed fence will be located within the 100-year federally designated flood plain. As such a Flood Plain Development permit must be obtained. For that reason staff is recommending that prior to approval of the SDCL 11-6-19 by the Rapid City Planning Commission, the applicant shall obtain a Flood Plain Development Permit.

Staff has noted that the majority of the proposed chain link fence will be located within the designated 500 year flood plain, a small segment will be located within the designated 100 year flood plain, and none of the proposed chain link fence will be located within the designated floodway. Staff feels that the fence is a service to the public because it not only protects pets, but it will also lower the risk of motor vehicle accidents that may occur on South Dakota Highway 44 as a result of unleashed pets entering the roadway. Staff recommends that the SDCL 11-6-19 review to allow a structure within a public right-of-way be approved with the stipulation that the applicant obtain a Flood Plain Development permit prior to Planning Commission approval.