

STAFF REPORT  
December 6, 2007

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**No. 07RZ065 - Rezoning from General Commercial District to Central Business District**      **ITEM 38**

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GENERAL INFORMATION:

APPLICANT/ AGENT	Bob Fuchs
PROPERTY OWNER	Bob Fuchs
REQUEST	<b>No. 07RZ065 - Rezoning from General Commercial District to Central Business District</b>
EXISTING LEGAL DESCRIPTION	The South 50 feet of Lots 28 thru 32 of the Original Town of Rapid City, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.14 acres
LOCATION	321 7th Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City Water and Sewer
DATE OF APPLICATION	8/28/2007
REVIEWED BY	Jonathan Smith / Mary Bosworth

RECOMMENDATION:

**Staff recommends that the Rezoning from General Commercial District to Central Business District be continued to the January 10, 2008 Planning Commission meeting at the applicant's request.**

GENERAL COMMENTS:

**(Update November 27, 2007. All revised text is shown in bold.) This item was continued at the applicant's request at the November 8, 2007 Planning Commission meeting. The public hearing on the applicant's variance request was considered by the Zoning Board of Adjustment on November 20, 2007. The Variance application requested that the minimum off-street parking for the use be reduced from 104 off-street parking spaces to one off-street parking space. That variance request was continued to the December 4, 2007 Zoning Board of Adjustment meeting. The applicant has requested that this**

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**rezoning request be continued to the January 10, 2008 Planning Commission meeting. Staff recommends that the rezoning request from General Commercial District to Central Business District be continued to the January 10, 2008 Planning Commission meeting at the applicant's request.**

(Update October 30, 2007. All revised text is shown in bold). The applicant has submitted a parking variance to allow one off-street parking space in lieu of the required 104 off-street parking spaces from the Zoning Board of Adjustment. As such staff is recommending that this item be denied without prejudice at the applicant's request.

The applicant has filed a request to rezone 0.14 acres from General Commercial District to Central Business District. The property is located at the northwest intersection of Apolda Street and 7<sup>th</sup> Street. A three story structure with 5,000 square feet of floor space per floor is located on the property. Staff has noted that the building was formerly used as a bar, restaurant, and a furniture store. No business is currently operating within the structure.

On December 21, 1999, the Zoning Board of Adjustment granted a variance to reduce the parking from 104 spaces to one space for the bar/tavern currently located on the property contingent upon the business being open after 5:00 p.m.

A Conditional Use Permit to allow on-sale liquor (#99UR042) on the property was approved with stipulations by City Council on January 7, 1999.

In December 2001, the Zoning Board of Adjustment denied a variance request to allow the first floor on-sale liquor establishment to be open at 11:00 a.m. in order to serve lunch due to complaints regarding the lack of adequate parking in the area from other business owners in the immediate area.

A request to rezone the property (#02RZ033) from General Commercial to Central Business District was tabled by the City Council on July 15, 2002. Planning Commission concurred with City Council and tabled this rezone request on July 25, 2002.

A Major Amendment to a Conditional Use Permit (#03UR006) to allow the first floor on-sale liquor use to be open starting at 11:00 a.m. Sunday was approved with stipulations on May 22, 2003 by the Planning Commission.

An additional request to rezone the property (#03RZ050) from General Commercial to Central Business District was denied without prejudice by City Council on December 15, 2003.

**STAFF REVIEW:**

Staff has reviewed this proposed rezoning for conformance with the four criteria for review of zoning map amendments established in Section 17.54.040(D)(1). A summary of Staff findings are outlined below:

1. *The proposed amendments shall be necessary because of substantially changed or changing conditions of the area and districts affected or in the City in general.*

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The property is currently zoned General Commercial District. All abutting property is also zoned General Commercial District. The character of commercial commerce has not changed within the vicinity of the property. The nearest Central Business Zoning District is located approximately 250 feet south of the property.

Rezoning of the property to Central Business District would occur it would result in "spot zoning" because there is no abutting Central Business District. Staff is unable to identify any change in condition that has occurred since the most recent denial of the request 3 ½ years ago.

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

As previously indicated, a Variance has been granted to reduce the parking for the existing use within the structure from 104 parking spaces to one space. The lack of adequate parking in the area would be aggravated by the proposed change in the zoning. The proposed change appears to be an attempt to avoid the requirement to provide off-street parking to adequately support the existing business and/or expansions to the business.

*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 an amendment.*

The Central Business District does not require that off-street parking be provided. As noted above, the applicant has obtained variance(s) from the Zoning Board of Adjustment to reduce the parking requirement for the bar and night club currently located on the property from 104 parking spaces to one space. Rezoning the property as proposed would exempt the applicant from providing parking for any existing and/or new use(s) that may be brought to the site. In particular, it will allow the applicant to use the third floor and the basement for a use other than storage and not provide off-street parking for the use. As previously indicated by testimony of adjacent property owners, a lack of adequate parking within this area currently exists. As such, rezoning the property as proposed will adversely affect this area of the City.

*4. The proposed amendments shall be consistent with and not conflict with the Development Plan of Rapid City including any of its elements, Major Street Plan, Land Use Plan, and Community Facilities Plan.*

The existing Future Land Use Plan identifies the appropriate land use as commercial. The existing General Commercial Zoning District is consistent with the land use plan.

**LEGAL NOTIFICATION:**

As of this writing, the required sign has been posted on the property but the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the October 4, 2007 Planning Commission meeting if this requirement has not been met. Staff has received no inquiries or objections regarding the proposed request at the time of this writing.