

STAFF REPORT
May 7, 2009

No. 09SR034 - SDCL 11-6-19 Review to allow a public use

ITEM 14

GENERAL INFORMATION:

APPLICANT	Pennington County
AGENT	Don Holloway
PROPERTY OWNER	DLORAH, Inc.
REQUEST	No. 09SR034 - SDCL 11-6-19 Review to allow a public use
EXISTING LEGAL DESCRIPTION	Lot 17 thru 22 of Block 108 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.48 acres
LOCATION	230 Quincy
EXISTING ZONING	High Density Residential District
SURROUNDING ZONING	
North:	General Commercial District (Planned Commercial Development)
South:	Office Commercial District
East:	High Density Residential District
West:	Central Business District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	4/8/2009
REVIEWED BY	Vicki L. Fisher / Ted Johnson

RECOMMENDATION:

Staff recommends that the SDCL 11-6-19 Review to allow a public use be denied.

GENERAL COMMENTS:

The applicant has submitted a SDCL 11-6-19 Review request to allow a breath and urinalysis testing site to be located within a portion of the existing building located on the property. The testing facility is known as the "24/7 Program" and is utilized to test individuals which are currently on bond and probation for driving while intoxicated and/or other offenses and are being tested as directed by the court.

The applicant has indicated that the tests are run twice day between 6:00 a.m. to 9:00 a.m. and from 5:00 p.m. to 9:00 p.m. The applicant has indicated that approximately 700 plus participants utilize the facility with approximately 468 participants reporting for the morning

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testing and approximately 490 participants reporting for the evening testing. In addition, approximately 100 participants are scheduled for a urinalysis test one to three times a week and 40 plus participants are scheduled to have their electronic monitoring bracelets checked. The applicant has also indicated that a maximum of four staff members operate the facility at any one time.

On December 21, 1998, the City Council approved a Planned Commercial Development to allow a college campus, National American University (NAU), to be located on approximately 5.3 acres. The approved college campus includes this property.

The property is located northeast of the intersection of Quincy Street and 3rd Street. Currently, an approximate 3,400 square foot building is located on the property. The applicant has indicated that the "24/7 Program" is being operated in the western portion of the building within a 1,000 square foot area. The balance of the structure is currently being used by National American University as a 1,000 square foot storage area and a 1,400 square foot education and dog exercise area. Please note that a building permit has not been obtained as required for the "24/7 Program" to be located on the property.

STAFF REVIEW:

Staff has reviewed the proposed SDCL 11-6-19 Review request and has noted the following issues:

Use: As previously indicated, the property is a part of the National American University campus. In addition, the eastern two-thirds of the building is currently used by National American University for education and for a dog exercising area in conjunction with the Veterinary Technician Program. The breath and urinalysis testing facility is an inconsistent use with the educational facility located on the property as well as the balance of the college campus.

The balance of the surrounding properties are currently zoned as follows: High Density Residential District to the east, Central Business District to the west and Office Commercial District to the south. Residential structures are located on each of these surrounding properties. It appears that most of these residential structures are occupied as single family residences. The City has received numerous complaints from area property owners regarding noise, traffic and the inappropriateness of the use within the existing residential neighborhood. In particular, the complainants cite issues with loud music, insufficient parking, traffic jams along the adjacent streets and overcrowding on the site as participants wait to enter the building. In addition, the complainants have noted concerns regarding the safety of children playing outside in the neighborhood due to the increase in traffic as a result of the testing facility, especially with schools letting out soon for summer vacation.

Dakota Middle School is located two blocks west and one block south of this site. It is anticipated that some children from this neighborhood walk along Quincy Street to the school. The lack of off-street parking on the site and the traffic congestion along Quincy Street as previously noted, create safety concerns for the children.

Locating a breath and urinalysis testing facility to test individuals which are currently on bond and probation for driving while intoxicated and/or other offenses on this site is not compatible with the middle school, the college campus and/or the residential uses currently

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located within this area. As such, staff recommends that the 11-6-19 Review request to allow the use on the property be denied.

Parking: The applicant's site plan identifies 31 parking spaces located on the property. However, as previously indicated, this property is a part of the National American University campus. During the review and approval of the Planned Commercial Development for the college, it was noted that 400 parking spaces are needed for the University assuming a maximum enrollment of 800 students. Approximately 200 parking spaces are currently located on the campus which include the 31 spaces located on this property. The Planned Commercial Development was approved for the college reducing the parking requirement from 400 spaces to 200 spaces and with the stipulation that a Major Amendment to the Planned Commercial Development be obtained prior to any future development of the property.

As previously noted, the applicant has indicated that approximately 700 plus participants utilize the testing facility with approximately 468 participants reporting for the morning testing and approximately 490 participants reporting for the evening testing. In addition, approximately 100 participants are scheduled for a urinalysis test one to three times a week and 40 plus participants are scheduled to have their electronic monitoring bracelets checked. The applicant has also indicated that a maximum of four staff members operate the facility at any one time. Based on these numbers, a maximum of 634 participants and staff members could be on the property at any one time. The applicant has indicated that some participants drive themselves to the site, others walk in and still others are "dropped off" at the site to be picked up later. However, the applicant's site plan does not identify a drop off area on the property. During a site inspection, staff noted that many of the participants are dropped off within the Quincy Street right-of-way located along the south lot line of the property. However, Quincy Street has not been constructed to provide a drop off zone. As such, the current practice of utilizing the Quincy Street right-of-way as a drop off zone creates traffic congestion within the street. In addition, cars are parallel parking, two deep, along 3rd Street resulting in additional traffic congestion adjacent to the property.

The applicant has indicated that National American University does not utilize the building during the hours of operation for the testing facility. In addition, the applicant is requesting that any additional parking requirements for this use be waived. However, this parking lot is a part of the 200 parking spaces previously required for the college campus. With the reduction in parking previously granted for the college from 400 parking spaces to 200 parking spaces and with the number of participants that could be on this property at any one time, or 634 participants, adequate parking for the two uses is not being provided as per the Parking Regulations. As such, staff recommends that the request to waive the requirement to provide additional parking for the use be denied. In addition, staff recommends that the SDCL 11-6-19 Review to allow the testing facility on the property be denied.

Participants: During a recent site inspection, staff noted that the participants line up along the front of the building as they wait their turn for testing. Several of the participants voiced concern with the visibility and indignity of waiting in line outside the building in such a highly visible location. In addition, several participants voiced concern that they have no protection from the elements during inclement weather. Many of the comments from the neighborhood residents also voice concern with the high visibility of the use due to the line of participants

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on the outside of the building. The applicant indicated that the testing facility within the building cannot hold all of the participants at one time which results in the line forming outside of the building.

As demonstrated by the current operation of the testing facility, the 1,000 square foot area within the building does not provide sufficient room to process the number of participants for the "24/7 Program" within the structure. As such, staff recommends that the SDCL 11-6-19 Review be denied.

Landscaping: A minimum of 17,530 landscape points are required on the property. The applicant has submitted a request to waive the requirement to provide any additional landscaping if it is determined that it is needed. However, a landscaping plan has not been submitted to determine if the existing landscaping is in compliance with the approved plan reviewed and approved as a part of the previously approved Planned Commercial Development. Until a landscaping plan is submitted, staff cannot evaluate or support the applicant's request to waive any additional landscaping.

Building Permit: As previously noted, a building permit has not been obtained for the existing testing facility located on the property as required by City Ordinance. The Fire Department has noted that the use and/or any alterations to the building may require the addition of fire sprinkler protection and fire alarm provisions as per the International Fire Code. The applicant should be aware that if the use is approved for this site, then a building permit must be obtained and all International Building Codes and International Fire Codes must be met.

The applicant has indicated that the "24/7 Program" allows participants to remain within the community in lieu of potentially being incarcerated. As a result of the program, the participants may remain with their families and continue to work while completing the court ordered program. Staff concurs that the program offers a service needed within our community. However, the location is inappropriate due to the incompatibility with the existing neighboring uses, lack of off street parking for this use as well as the previously approved college campus, the traffic congestion created along the adjacent streets by the use and that the 1,000 square foot area within the building does not provide sufficient room to process the number of participants for the "24/7 Program" within the structure. As such, staff recommends that the SDCL 11-6-19 Review to allow a testing facility on the property be denied.

Staff encourages the applicant to seek an alternate location for the testing facility that is compatible with the neighborhood, provides sufficient off-street parking and has a building sufficiently sized to accommodate the participants and the staff.