

STAFF REPORT  
November 19, 2009

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**No. 09SR103 - SDCL 11-6-19 Review to allow a structure on public property**      **ITEM 34**

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GENERAL INFORMATION:

APPLICANT/AGENT	City of Rapid City
PROPERTY OWNER	City of Rapid City
REQUEST	<b>No. 09SR103 - SDCL 11-6-19 Review to allow a structure on public property</b>
EXISTING LEGAL DESCRIPTION	The Fifth Street right-of-way adjacent to Tract B of Regional Hospital Addition, located in the SW1/4, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
LOCATION	At the northeast corner of the intersection of Fifth Street and Elk Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Low Density Residential District -
South:	Office Commercial District - General Commercial District - Low Density Residential District
East:	Office Commercial District - Low Density Residential District
West:	Office Commercial District - General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	10/15/2009
REVIEWED BY	Patsy Horton / Karley Halsted

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

GENERAL COMMENTS: The applicant has submitted an SDCL 11-6-19 Review to allow a structure on public property. The applicant provided structural elevations identifying that the bus shelter is approximately 5 foot by 10 foot in size and 7 feet in height and constructed with anodized dark bronze aluminum finish with polycarbonate glazing. The bus shelter will be secured on a new concrete foundation with ½" by 6" anchor bolts. A new 5 foot sidewalk will connect the sidewalk to the street along the west side of the bus shelter. The bus shelter will be located approximately 65 feet north of the intersection of Elk Street and Fifth Street.

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South Dakota Codified Law 11-6-19 states that “whenever any such municipal council shall have adopted the comprehensive plan of the municipality or any part thereof, then and thenceforth, 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 as defined in § 11-6-26, until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission”. The request to relocate a structure on public property is a public improvement. In addition, the property is identified 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 Review and has noted the following considerations:

**Section 12.20.030:** Section 12.20.030.C of the Rapid City Municipal Code states that bus stop benches and shelters may be installed in the public right-of-way by the City or by the person operating under contract with the Rapid City Rapid Transit System and in compliance with the following requirements:

1. Clear sight triangles: Bus stop benches and/or shelters may not be placed in a manner which obstructs the sight triangle as provided in Section 17.50.335 of the Rapid City Municipal Code. Shelters may be constructed within this zone if they are designed of clear plastic or glass and do not block the vision of motorists.
2. Maintenance: Bus stop benches and shelters must be placed upon a hard surface so as to prevent sinking and unsightliness. The owner/distributor of bus stop benches must maintain the benches in a safe, attractive and repaired condition. The area around the benches or shelters must be mowed and kept free of litter.
3. Advertising: Advertising may be placed on benches commissioned by the Rapid City Rapid Transit System in accordance with Chapter 15.28.020 of the Rapid City Municipal Code when the proposed benches are not in or immediately adjacent to a residential, central business, park forest or general agricultural zoning district.

The applicant has submitted information identifying that the transit shelter will be located approximately 65 feet north of the intersection of Elk Street and Fifth Street. Additionally, the applicant has indicated that the proposed shelter location does not impact the existing utilities located within the right-of-way. The applicant has indicated that the shelter will be located and maintained in compliance with Chapter 12.20.030. In addition, the applicant has indicated that no advertising will be placed on the transit shelter.

**Permits:** A Permit to Work in the Right-of-way must be obtained prior to the start of construction.

The location and extent of the proposed transit shelter appears to be consistent with the adopted Comprehensive Plan and the related regulations. As such, staff recommends that the SDCL 11-6-19 Review be approved.