

STAFF REPORT  
September 26, 2013

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**No. 13PD022 – Final Planned Development to Allow a Dog Kennel in the Light Industrial District**      **ITEM 6**

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GENERAL INFORMATION:

APPLICANT	SL Buildings, LLC
PROPERTY OWNER	SL Buildings, LLC
REQUEST	<b>No. 13PD022 -Final Planned Development to allow a dog kennel in the Light Industrial District</b>
EXISTING LEGAL DESCRIPTION	Lot 4 of Block 4 of Feigels Subdivision, located in Section 31, T2N, R8E, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.67 acres
LOCATION	North and east of the intersection of East Watertown Street and North Cherry Avenue
EXISTING ZONING	Light Industrial District
FUTURE LAND USE DESIGNATION	Industrial
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	General Commercial District
East:	Light Industrial District/Planned Development
West:	Light Industrial District
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	June 10, 2013
REVIEWED BY	Robert Laroco / Brandon Quiett

RECOMMENDATION:

Staff recommends that the Final Planned Development and the conditional use request to allow a dog kennel in the Light Industrial District be denied.

GENERAL COMMENTS: **(Update September 26, 2013. All revised and/or additional text has been included in bold print.)** The applicant has submitted a Final Planned Development application to allow a dog kennel as a conditional use on the above legally described property. The applicant has indicated that the dog kennel, known as the "Animal Psychology Center", is located in an 1,800 square foot suite within an existing industrial building located on the property.

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The dog kennel has been operating on the property since the spring of 2012 without the review and approval of a Conditional Use Permit as required by the Rapid City Municipal Code. In addition, the dog kennel is currently operating without an approved kennel license. City Code Enforcement Division and the City Attorney's Office have notified the kennel operator of the violations. The property owner has subsequently submitted this Final Planned Development application to allow a dog kennel as a conditional use on the property. In addition, the kennel operator has submitted an operational plan for the business. In particular, the kennel operator has indicated that in addition to the boarding services offered, the operational plan also includes day care, obedience training, socialization, grooming, animal massage, and animal sales. The operational plan also identifies that an average of eight dogs will be on the property at any one time consisting of three dogs as a part of the day care services, the overnight boarding of two dogs and three additional dogs that are being offered for sale. The hours of operation are identified as follows:

Monday through Friday from 7:00 a.m. to 7:00 p.m.  
Saturday from 8:00 a.m. to 2:00 p.m.  
Sunday from 10:00 a.m. to 2:00 p.m.

The operational plan also states that a supervised indoor play area is being provided. No outdoor kenneling is being proposed other than a small fenced in area immediately adjacent to the north side of the industrial building to be used as an area for dogs to relieve themselves. The kennel operator has indicated that a contract is in place with a private company for waste removal.

**On August 22, 2013, the Planning Commission continued the application to the September 26, 2013 Planning Commission meeting in order to allow the applicant to submit a revised operations plan which specifically and accurately identified how the dog kennel would be operated and to identify how all nuisances created by the use would be mitigated. The applicant submitted the revised operations plan on September 5, 2013. (A copy of the operations plan has been attached.) Some notable revisions in the operation plan submitted for the dog kennel include:**

- **The proposed number of dogs in the facility has been increased from 8 to 45;**
- **Sleeping accommodations are being provided for overnight staff;**
- **The fenced outdoor exercise area has been included in the operation of the facility;**
- **Excessively barking dogs will be re-programmed through verbal corrections and/or the proper use of a vibrating bark collar to redirect their attention;**
- **Beginning at 6:00 am, dogs will be allowed outside in groups of 10, for 40-60 minutes at a time in order to relieve themselves;**
- **Small dogs and puppies will relieve themselves on newspapers inside the facility;**
- **No dogs will be permitted outside after 9:00 pm;**
- **The property owner intends to construct a privacy fence in the back storage yard;**
- **Additional sound buffers as requested by the Planning Commission can be provided; and,**

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- The kennel operator will meet with City staff to discuss the illegal signs currently located on the property and the process of obtaining the required permits for all signage.

Staff has noted that if a maximum of 45 dogs were permitted outdoors in groups of 10, for 40-60 minutes at a time, two or three times a day, the rear dog run will be continually occupied by dogs between 6:00 am and 9:00 pm each day. Letters submitted by neighboring residents note opposition to the existing dog kennel due to the outdoor use creating a nuisance. Based on the number of dogs proposed for the facility, it does not appear that the revised operations plan submitted by the kennel operator will mitigate the nuisances currently being reported.

During two separate visits to the site, the Animal Control Officer noted that 43 animals, including cats, were located on the property during their first visit to the site, and 49 animals, including cats, were located on the property during their second visit to the site. On both visits to the site, animals were located outside in the covered dog run located to the rear of the structure. It should be noted that the kennel operator's original and/or revised operations plan does not include the boarding or sale of cats.

Photographs submitted to Community Planning and Development Services by the Animal Control Officer show that the existing sandwich board sign that was located on the sidewalk along the front of the property has been relocated to the rear storage yard. The applicant should be aware that the sign is not permitted on the exterior of the property and must be removed.

Since the August 22, 2013 Planning Commission meeting, a number of letters from residents of the neighboring mobile home park in opposition to the existing dog kennel have been received by Community Planning and Development Services. City staff has received a letter from the owners of the mobile home park located north of the property which noted that a number of residents of the mobile home park have complained about prolonged barking of dogs on the property throughout the night. The mobile home park owners also noted their intent to submit an application to improve the existing mobile home park and expand the park onto property adjacent to the rear storage yard on the subject property. The property owners indicated their opposition to the requested Final Planned Development, citing existing complaints from tenants. On September 13, 2013, an Initial Planned Development application (File #13PD037) was submitted for the proposed mobile home park expansion adjacent to the subject property. In addition, a Final Planned Development (File #13PD036) was submitted to improve and expand the existing mobile home park. The requests are currently under review and are tentatively scheduled to be considered at the October 10, 2013 Planning Commission meeting.

During the review of the revised operations plan, The Rapid City Fire Department noted that the existing residential accommodations require that the entire structure be protected with an approved fire sprinkler protection system. The property owner has been informed of the requirement for the sprinkler protection. To date, a plan demonstrating compliance with the fire sprinkler protection requirement has not been

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**submitted.**

The property is located north and east of the intersection of North Cherry Avenue and East Watertown Street. Currently, a 12,000 square foot industrial building is located along the south lot line of the property. In addition, two fenced in areas and outdoor storage are located north of the existing industrial building.

STAFF REVIEW: Staff has reviewed the request for an Initial Planned Development pursuant to the requirements of Chapter 17.50.050.F(5) of the Rapid City Municipal Code and has noted the following considerations:

*There are certain conditions pertaining to the particular piece of property in questions because of its size, shape, or topography;*

The property is comprised of approximately 1.67 acres of land and slopes north to south. The property is rectangular in shape with the exception of the East Madison Street right-of-way dedicated from the northwest corner of the lot. There are no conditions on the property due to size, shape, or topography that do not apply to the district in general.

*The application of these regulations to this particular piece of property would create a practical difficulty or undue hardship;*

The property is zoned Light Industrial District and is developed with a 12,000 square foot industrial building. In addition, the area north of the industrial building serves as a storage yard and includes two fenced areas. The application of these regulations would not prevent the property owner from using the property for any use-by-right in the Light Industrial District. The industrial building includes a number of businesses that have been operating for a number of years on the property. However, a dog kennel is a conditional use in the Light Industrial District. The property abuts a Medium Density Residential District along the north lot line. The Meadowlark Mobile Home Park is also located north of the property. Residents in the vicinity have contacted City staff and their City Council representative with concerns about animals being kenneled outdoors on the property as well as prolonged barking of dogs throughout the night. Based on the residential uses in proximity to the property, a dog kennel does not appear to be an appropriate use for the subject property.

*Exceptions to the underlying zoning district, if granted, would not cause undue hardship to the public good or impair the purposes and intent of these regulations;*

In 2005, the City Council approved a request by the property owner to pave a portion of the right-of-way located along the front of the existing industrial building and to use that area as parking. As a result, the existing parking along the front of the building is mostly located within the right-of-way and is considered legal non-conforming. As a part of this Final Planned Development to allow an animal kennel on the property, the applicant has requested an Exception to allow the legal non-conforming parking to continue in its current design. The applicant should be aware that the parking design remains legal non-conforming if this Planned Development request is denied.

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*A literal interpretation of this chapter would deprive the applicant of rights that others in the same district are allowed;*

The Light Industrial District is intended to provide areas in which operations are conducted so that noise, odor, dust, and glare are completely confined within an enclosed building. A dog kennel is a conditional use in the Light Industrial District in order to ensure that the use is being operated in compliance with the intent of the Zoning district. The operational plan submitted by the kennel operator does not identify outdoor kenneling as a part of the operation of the business. However, area residents have noted that dogs are being kenneled outside of the building and complained of prolonged barking throughout the night. Based on the actual operation of the kennel, the proposed use does not comply with the general description of uses appropriate in the Light Industrial District.

*Any adverse impacts will be reasonably mitigated;*

A dog kennel is a conditional use in the Light Industrial District, which serves as a tool to determine if any adverse impacts can be reasonably mitigated. As previously noted, a Conditional Use Permit was not obtained prior to operating the dog kennel on the property. However, since the dog kennel has been in operation since 2012, the neighborhood has had an opportunity to identify any adverse impacts that may be created by a dog kennel at this location prior to the Planning Commission's review of the use. As previously noted, the properties located north of the subject property are zoned Medium Density Residential District and are currently being used for outdoor storage and developed as an existing mobile home park. Area residents have voiced concern to City staff and to their City Council representative that the existing operation of the dog kennel creates a nuisance for the neighborhood. In particular, area residents have noted that dogs are being kenneled outside of the building and complained of prolonged barking throughout the night. Based on the location of the use within close proximity to the residential neighborhood and the existing operation of the kennel, the use creates an adverse impact on the neighborhood.

*The requested exception to the underlying zoning district standards is an alternative or innovative practice that reasonably achieves the objectives of the existing standard sought to be modified;*

No Exceptions to the underlying zoning district standards are being requested other than the Exception to allow the legal non-conforming parking to continue in its current design. As previously noted, the applicant should be aware that the parking design remains legal non-conforming if this Planned Development request is denied.

Criteria for Review: Rapid City Municipal Code Chapter 17.54.030.E sets the criteria required in reviewing a Conditional Use Permit. In reviewing applications for a Conditional Use Permit, due consideration shall be given to the following:

*1. The location, character, and natural features of the property:*

The property is located on East Watertown Street and is currently developed with an industrial building, an outdoor storage yard and two fenced areas located north of the

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building. Industrial uses exist east and west of the property with General Commercial uses located south of the property and residential uses located north of the property.

2. *The location, character, and design of adjacent buildings:*

Properties to the north of the subject property are zoned Medium Density Residential District and is developed with a storage yard and an existing mobile home park. Property to the east is zoned Light Industrial District in a Planned Development and is developed as ministorage. Property to the west is zoned Light Industrial District and is developed with a light industrial use with outdoor parking and storage. Property to the south is zoned General Commercial District and is developed as a fast food restaurant.

3. *Proposed fencing, screening, and landscaping:*

The submitted plans show a wood screening fence along a portion of the west and east lot lines and a barbed wire fence along the north lot line of the storage yard area. The storage yard is accessed via gates located on the western and eastern ends of the property. In addition, there are two separate chain-link fenced areas within the storage yard. In particular, one of the fenced areas is located adjacent to the north side of the industrial building. The operational plan identifies that this area is used to allow dogs to relieve themselves. The kennel operator has indicated that a second fenced area is used for the supervised exercise of dogs. However, this use is not included in the operational plan. The north lot line is immediately adjacent to properties zoned Medium Density Residential District. There is some vegetation located along the property lines abutting the storage yard area. However, no additional screening, fencing or landscaping is being proposed as a part of this Final Planned Development. Based on neighborhood complaints, the existing screening is not providing an adequate buffer to mitigate the noise nuisances created by the dog kennel.

4. *Proposed vegetation, topography, and natural drainage:*

All grading and drainage improvements have been installed. No additional grading, vegetation, or drainage improvements have been proposed for the property.

5. *Proposed pedestrian and vehicular access, circulation and parking, including that related to bicycles and other unpowered vehicles and provisions for handicapped persons:*

A total of 10 parking spaces are required for the existing and proposed uses on the property. The applicant's site plans shows 11 parking spaces being provided. In 2005, the City Council approved a request by the property owner to pave a portion of the right-of-way located along the front of the existing industrial building and to use that area as parking. As a result, the existing parking along the front of the building is mostly located within the right-of-way and is considered legal non-conforming.

6. *Existing traffic and traffic to be generated by the proposed use:*

East Watertown Street is classified as a commercial street as per the Infrastructure

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Design Criteria Manual. The Institute of Transportation Engineers Trip Generation Manual identifies that approximately 9 peak hour trips will be generated by a dog kennel of this size.

*7. Proposed signs and lighting:*

Wall signage and a sandwich board sign advertising the dog kennel are currently located on the property. The property owner was informed that the Rapid City Sign Code does not permit sandwich board signs outside of an approved sidewalk café. Subsequently, the sandwich board sign was removed from the property for a period of time. However, a site visit to the property on August 15, 2013 identified that the sandwich board sign has again been placed on the sidewalk in front of the business. The applicant's sign package identifies a 4 foot by 8 foot wall sign as the only proposed signage for the dog kennel. However, additional window signage also exists. Since more than 25% of the window area is being used for signage, a sign permit must be obtained. Please note that to date, sign permits have not been obtained for any of the existing dog kennel signage.

No additional lighting was been identified as a part of this Final Planned Development application.

*8. The availability of public utilities and services:*

The property is served by Rapid City water and sewer services. Public Works staff has noted that existing utilities appear sufficient to accommodate the proposed dog kennel with the condition that dog waste be disposed of properly.

*9. The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein:*

The Future Land Use designation for this property is Industrial. The property is zoned Light Industrial District. The Light Industrial District is intended to provide areas in which operations are conducted so that noise, odor, dust, and glare are completely confined within an enclosed building. A dog kennel is a conditional use in the Light Industrial District in order to ensure that the use is being operated in compliance with the intent of the Zoning district. The operational plan submitted by the kennel operator does not identify outdoor kenneling as a part of the operation of the business. However, area residents have noted that dogs are being kenneled outside of the building and complained of prolonged barking throughout the night. Based on the actual operation of the kennel, the proposed use does not comply with the general description of uses appropriate in the Light Industrial District and is not in compliance with the adopted comprehensive plan for the area.

*10. The overall density, yard, height and other requirements of the zone in which it is located:*

Submitted plans show that the property remains legal non-conforming with regard to the front yard setback. No expansions or alterations of the structure are being proposed

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and, as such, a review of landscaping is not required. The applicant should be aware that the property will remain legal non-conforming with regard to the front yard setback if this application is denied. The density, building height, side yard, and rear yard setbacks meet the requirements of the Light Industrial District.

11. *The effects of noise, odor, smoke, dust, air, and water pollution and the degree of control through the use of clarifiers, screening, setbacks, and orientations:*

As previously noted, the properties located north of the subject property are currently zoned Medium Density Residential District and are currently being used for outdoor storage and developed as an existing mobile home park. Area residents have voiced concern to City staff and to their City Council representative that the existing operation of the dog kennel creates a nuisance for the neighborhood. In particular, area residents have noted that dogs are being kenneled outside of the building and complained of prolonged barking throughout the night. No additional screening is being proposed to buffer the operation of the dog kennel from the residential neighborhood. It should be noted that the City Attorney's Office continues to investigate additional complaints regarding the operation of the dog kennel.

12. *The degree to which conditions imposed will mitigate any probable adverse impacts of the proposed use on existing adjacent uses:*

The requirements of the Light Industrial District are intended to ensure that operations do not create adverse impacts such as noise, odor, dust, and glare. The existing dog kennel is located within one suite of an industrial building located on the property. The operational plan submitted by the kennel operator does not identify outdoor kenneling as a part of the operation of the business. However, area residents have noted that dogs are being kenneled outside of the building and complained of prolonged barking throughout the night. Based on the location of the use within close proximity to the residential neighborhood, and the existing operation of the kennel, the use creates an adverse impact on the neighborhood.

**Summary:** As previously noted, Community Planning and Development Services has received a number of complaints from area residents who are opposed to the dog kennel. In addition, Community Planning and Development Services is currently reviewing plans for the improvement and expansion of the existing mobile home park which would result in residential uses located closer to the subject property. Based on the maximum number of dogs proposed as part of the operations plan, it appears that the number of dogs to be on the property at any one time will require that animals be kept outside in the covered dog run for most of the day. It does not appear that neighborhood complaints regarding the prolonged barking of dogs or the outdoor kenneling of animals are being adequately mitigated through the revised operations plan. In addition, to date, Community Planning has not received plans to provide the required fire sprinkler protection. Based on the submitted operations plan and the proximity of the dog kennel to neighboring residential uses which has resulted in several letters of opposition, this location does not appear to be appropriate for the proposed dog kennel. For these



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**reasons, staff recommends that the Final Planned Development to allow a dog kennel as a conditional use in the Light Industrial District be denied.**

Notification Requirements: The sign has been posted on the property. The proof of the required mailing has been returned to Community Planning and Development Services. Staff has received calls and **e-mails** expressing opposition to the animal kennel as an inappropriate use for the area.