

STAFF REPORT
November 21, 2013

No. 13RZ027 - Rezoning from Flood Hazard District to Low Density Residential District **ITEM 9**

GENERAL INFORMATION:

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| APPLICANT | Terry Batchelder |
| AGENT | Sperlich Consulting, Inc. |
| PROPERTY OWNER | Blake A and Terry Batchelder |
| REQUEST | No. 13RZ027 - Rezoning from Flood Hazard District to Low Density Residential District |
| EXISTING LEGAL DESCRIPTION | <p>A portion of Tract 4 of Lot Lb of Lot L of the NE1/4 of the SW1/4 of Section 5, T1N, R8E, B.H.M., Rapid City, Pennington County, South Dakota. More fully described as follows: Commencing at the southwesterly corner of Tract 4 of Lot Lb of Lot L of the NE1/4 of the SW1/4 of Section 5, T1N, R8E, B.H.M., common to the northwesterly corner of Tract 2 of Lot Lb of Lot L of the NE1/4 of the SW1/4 of Section 5, T1N, R8E, B.H.M., and common to a point on the easterly edge of the right-of-way of Creek Drive, and the Point of Beginning; Thence, first course: N25°25'48"E, along the westerly boundary of said Tract 4 of Lot Lb of Lot L, common to the easterly edge of the right-of-way of said Creek Drive, a distance of 54.50 feet, to an angle point on the westerly boundary of said Tract 4 of Lot Lb of Lot L, common to an angle point on the easterly edge of the right-of-way of said Creek Drive; Thence, second course: N03°05'38"E, along the westerly boundary of said Tract 4 of Lot Lb of Lot L, common to the easterly edge of the right-of-way of said Creek Drive, a distance of 62.99 feet, to the northwesterly corner of said Tract 4 of Lot Lb of Lot L, common to the southwesterly corner of Tract 3 of Lot Lb of Lot L of the NE1/4 of the SW1/4 of Section 5, T1N, R8E, B.H.M., and common to a point on the easterly edge of the right-of-way of said Creek Drive; Thence, third course: N 89°59'01"E, along the northerly boundary of said Tract 4 of Lot Lb of Lot L, common to the southerly boundary of said Tract 3 of Lot Lb of Lot L, a distance of 247.00 feet, to a point on the northerly boundary of said Tract 4 of Lot Lb of Lot L, common to a point on the southerly boundary of said Tract 3 of Lot Lb of Lot L; Thence, fourth course: S40°51'14"E, a distance of 44.16 feet, to an angle point; Thence, fifth course: S13°05'47"E, a distance of 80.80 feet, to a point on the southerly boundary of said Tract 4 of Lot Lb of Lot L,</p> |

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common to a point on the northerly boundary of said Tract 2 of Lot Lb of Lot L; Thence, sixth course: S89°59'01"W, along the southerly boundary of said Tract 4 of Lot Lb of Lot L, common to the northerly boundary of said Tract 2 of Lot Lb of Lot L, a distance of 321.00 feet, to the southwesterly corner of said Tract 4 of Lot Lb of Lot L, common to the northwesterly corner of said Tract 2 of Lot Lb of Lot L, and common to a point on the easterly edge of the right-of-way of said Creek Drive, and the Point of Beginning

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| PARCEL ACREAGE | Approximately 1.42 acres |
| LOCATION | North of the intersection of Creek Drive and East Saint Charles Street |
| EXISTING ZONING | Flood Hazard District |
| FUTURE LAND USE DESIGNATION | Flood Hazard/ Industrial |
| SURROUNDING ZONING | |
| North: | Flood Hazard District |
| South: | Low Density Residential District - Flood Hazard District |
| East: | Flood Hazard District |
| West: | Flood Hazard District |
| PUBLIC UTILITIES | Private well and septic system |
| DATE OF APPLICATION | October 17, 2013 |
| REVIEWED BY | Robert Laroco / Brandon Quiett |

RECOMMENDATION:

Staff recommends that the Rezoning from Flood Hazard District to Low Density Residential District be approved in conjunction with the associated Comprehensive Plan Amendment.

GENERAL COMMENTS:

The applicant has submitted a request to Rezone approximately 0.735 acres of property from Flood Hazard District to Low Density Residential District. The property is a portion of an existing lot currently developed with a single family residential use and zoned Flood Hazard District. The lot is located within the Federally Designated Flood Plain, with portions of the property located within the Hydraulic Floodway. The applicant is requesting that the portions of the property located outside of the Hydraulic Floodway be rezoned to Low Density Residential District. The applicant has also submitted an associated Comprehensive Plan Amendment (File #13CA015) to change the Future Land Use designation on the same portion of the property from Industrial to Residential.

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The property is located approximately 750 feet north of the intersection of Saint Charles Street and Creek Drive, on the east side of Creek Drive. The property is currently developed with a single family residence located on the westernmost portion of the property. The eastern portion of the property is void of structural development.

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.

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

As previously noted, the property is located within the Federally Designated 100 Year Flood Plain while portions of the property are located within the Hydraulic Floodway. Engineering data submitted by the applicant includes revised information which clarifies the boundary of the the Floodway and the Flood Plain. Western portions of the property are no longer located within the Floodway and are now located within the Federally Designated 100 Year Flood Plain. The applicant has requested that the portions of the property located outside the boundary of the Hydraulic Floodway be rezoned for residential use. The area is currently developing with a mix of residential, public, and industrial uses. The property and existing development was annexed into the City Limits in 1973 and was considered legally non-complying at that time. Since the annexation, Rapid City water and sanitary sewer services have been extended to serve the area, although the property is not currently serviced by Rapid City water and sewer. It is anticipated that development of the area will continue. The information submitted by the applicant distinguishing the boundary between the Floodway and the Flood Plain, as well the continued development of the area, represents changing conditions in the area. The applicant should be aware that future development on the property will require that a Flood Plain Development Permit be obtained. However, a Flood Plain Development Permit is not required as a part of the review of this application.

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

The Low Density Residential District is intended to be used for single-family residential development with low population densities. The proposed zoning is consistent with the intent and purpose of the ordinance.

The proposed amendment will not adversely affect any other part of the City, nor shall any direct or indirect adverse effects result from such amendment.

In the past, areas within Rapid City which are located within the Federally Designated Flood Plain have been zoned Flood Hazard District to ensure that development within the Hydraulic Floodway doesn't occur. The new information submitted by the applicant shows that the western portions of the property are not located within the Federally Designated Floodway as previously indicated. The applicant should be aware that a Flood Plain Development Permit will be required prior to issuance of a building permit. However, a Flood Plain Development Permit is not required as a part of the review of this request. In

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2006, a similar request to rezone adjacent properties to the south of the subject property from Flood Hazard District to Low Density Residential District was approved by the City Council (File #03RZ030). It does not appear that the proposed amendment will have a significant effect on any of the other surrounding uses or on the public infrastructure.

The proposed amendment shall be consistent with and not in conflict with the development plan of Rapid City including any of its elements, major road plan, land use plan, community facilities plan, and others.

The property is currently designated for Industrial use on the City's Future Land Use Plan. A single family residence has been located on the property since the annexation of the property into the City Limits in 1973. The applicant has submitted an associated request for a Comprehensive Plan Amendment to change the Future Land Use Designation from Industrial to Residential. The request to rezone the property is consistent with the Future Land Use Plan for the property if approved in conjunction with the submitted Comprehensive Plan Amendment.

Creek Drive, located adjacent to the west of the property, is identified as a Minor Arterial Street on the City's Major Street Plan, capable of accommodating the traffic associated with the mix of uses in the area. Public Works staff has noted that the property is served by a private well and septic sewer system. The extension of water and sewer services is anticipated to be extended in the future, although extension of these services is not required as a part of this request to rezone. The applicant should be aware that if the water or septic systems on the property should fail, they may be required to extend water and sewer services to serve the property.

The Rapid City Fire Department has not noted any concerns with the requested Rezone.

The request meets all the criteria for an amendment to the Zoning Ordinance. In addition, the data submitted by the applicant shows that the portions of the property requested to be rezoned are not located within the Hydraulic Floodway. The Flood Hazard District is intended for property located within the Floodway and, as such, does not appear to be the appropriate zoning district for the western portions of the property. The request is in compliance with the Future Land Use Plan if approved in conjunction with the associated Comprehensive Plan Amendment. For these reasons, staff recommends that the request to rezone the property from Flood Hazard District to Low Density Residential District be approved in conjunction with the associated Comprehensive Plan Amendment.

NOTIFICATION REQUIREMENTS: The notification letters have been returned to Community Planning and Development Services for mailing. The sign has been posted on the property. As of this writing, there have been no inquiries regarding this item.