

STAFF REPORT  
December 4, 2008

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**No. 08RZ041 - Rezoning from No Use District to General Agriculture District**      **ITEM 22**

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GENERAL INFORMATION:

APPLICANT/AGENT	City of Rapid City
PROPERTY OWNER	DTH, LLC
REQUEST	<b>No. 08RZ041 - Rezoning from No Use District to General Agriculture District</b>

EXISTING  
LEGAL DESCRIPTION

A portion of Section 21, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at section corner common to Sections 20, 21, 28, and 29 T2N, R8E, BHM, and the point of beginning. Thence, first course: N00°02'15"W, along the section line common to Sections 20 and 21, a distance of 2650.74 feet, to the Section ¼ Corner common to Sections 20 and 21; Thence second course: N00°00'41"W, along the section line common to Sections 20 and 21, a distance of 1325.18 feet, to the north Section 1/16 Corner common to Sections 20 and 21; Thence third course: N89°59'19"E, a distance of 33.10 feet, to the southwesterly corner of Lot 3 of Beard Subdivision; Thence fourth course: S89°56'52"E, along the southerly boundary of said Lot 3 of Beard Subdivision, a distance of 564.86 feet, to the southeasterly corner of said Lot 3 of Beard Subdivision, common to a southerly corner of Lot 2R of Beard Subdivision; Thence fifth course: S89°56'31"E, along the southerly boundary of said Lot 2R of Beard Subdivision, a distance of 727.10 feet, to the southeasterly corner of said Lot 2R of Beard Subdivision; Thence, sixth course: S74°37'29"E, a distance of 1202.78 feet; Thence, seventh course: S31°45'55"E, a distance of 1350.20 feet; Thence, eighth course: S70°52'51"E, a distance of 905.89 feet; Thence, ninth course: S20°31'58"E, a distance of 434.44 feet; Thence tenth course: N89°55'51"E, a distance of 1099.64 feet, to a point on the section line common to Sections 21, and 22; Thence eleventh course: S00°04'09"E, along the section line common to Sections 21 and 22, a distance of 418.04 feet; Thence, twelfth course: S89°55'51"W, a distance of 450.00 feet; Thence, thirteenth course: S00°07'41"E, a distance of 64.98 feet, to a point on the section 1/16 line; Thence, fourteenth course: N89°57'24"W, along the section 1/16 line a distance of 212.93 feet, to the section

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1/64 line; Thence, fifteenth course: S00°03'47"E, along the section 1/64 line, a distance of 1324.19 feet, to a point on the section line common to Sections 21 and 28, common to a point on the northerly boundary of Lot 2, Block 2 of I-90 Heartland Business Park; Thence, sixteenth course: N89°58'46"W, along the section line common to Sections 21 and 28, common to the northerly boundary of said Lot 2, Block 2, a distance of 63.55 feet, to the southeasterly corner of Lot 6, Block 2 of I-90 Heartland Business Park; Thence, seventeenth course: N55°40'20"W, along the northeasterly boundary of said Lot 6, a distance of 878.48 feet, to a corner on the northerly boundary of said Lot 6; Thence, eighteenth course: N72°39'36"W, along the northerly boundary of said Lot 6, a distance of 162.98 feet, to a corner on the northerly boundary of said Lot 6; Thence nineteenth course: N89°58'06"W, along the northerly boundary of said Lot 6, a distance of 148.07 feet, to the northwesterly corner of said Lot 6, common to the northeasterly corner of Lot 7, Block 2 of I-90 Business Park; Thence twentieth course: N89°58'06"W, along the northerly boundary of said Lot 7, a distance of 221.93 feet, to the northwesterly corner of said Lot 7; Thence twenty-first course: S26°44'43"W, along the westerly boundary of said Lot 7, a distance of 333.04 feet, to the southwesterly corner of said Lot 7, common to the northwesterly corner of Lot 8, Block 2 of I-90 Heartland Business Park; Thence twenty-second course: S26°44'43"W, along the westerly boundary of said Lot 8, a distance of 275.39 feet, to the southwesterly corner of said Lot 8, common to the northwesterly corner of Lot 1, Block 7 of I-90 Heartland Business Park, common to the northeasterly corner of Lot 2, Block 7 of I-90 Heartland Business Park, common to a point on the section line common to Sections 21 and 28; Thence twenty-third course: N89°58'00"W, along the northerly boundary of said Lot 2, Block 7, common to the section line common to Sections 21 and 28, a distance of 400.61 feet, to the northwesterly corner of said Lot 2, Block 7, common to the Section ¼ Corner common to Sections 21 and 28; Thence twenty-fourth course: N89°58'52"W, along the section line common to Sections 21 and 28, a distance of 2651.70 feet, to the section corner common to Sections 20, 21, 28, and 29 T2N, R8E, BHM, and the point of beginning; and a portion of the NE¼ SE¼, Section 21, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described

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as follows: Commencing at the Section Corner common to Sections 21, 22, 27 and 28, T2N, R8E, BHM, thence, N00°04'09"W, a distance of 1324.14 feet to the South 1/16 Corner common to Sections 21 and 22 and the point of beginning; Thence, first course: 89°57'24"W, a distance of 449.93 feet; Thence, second course: N00°07'41"W, a distance of 64.98 feet; Thence, third course: N89°55'51"E, a distance of 450.00 feet, to a point on the section line common to Sections 21 and 22; Thence fourth course: S00°04'09"E, along the section line common to Sections 21 and 22, a distance of 65.89 feet, to the south 1/16 corner common to Sections 21 and 22 and the point of beginning

PARCEL ACREAGE	Approximately 339.39 acres
LOCATION	North of U.S. I-90, west of Elk Vale Road and east of Dyess Avenue
EXISTING ZONING	No Use District
SURROUNDING ZONING	
North:	No Use District - General Commercial District (Pennington County) - Limited Agriculture District (Pennington County)
South:	General Agriculture District – Light Industrial District
East:	General Agriculture District - Flood Hazard District - Mobile Home District (Planned Residential Development) - No Use District
West:	General Agriculture District (Pennington County) - Light Industrial District
PUBLIC UTILITIES	City Sewer and water
DATE OF APPLICATION	10/10/2008
REVIEWED BY	Karen Bulman / Ted Johnson

**RECOMMENDATION:** Staff recommends that the Rezoning from No Use District to General Agriculture District be approved.

**GENERAL COMMENTS:** (Update, November 12, 2008. All revised and/or added text is shown in bold print.) This item was to be heard at the November 6, 2008 Planning Commission Meeting. However, due to inclement weather, the Planning Commission was unable to meet. Staff is recommending that this item be approved. This undeveloped property contains 339.39 acres and is located north of U.S. I-90, west of Elk

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Vale Road and east of Dyess Avenue. The majority of the property was annexed into the City limits (#08AN008) effective July 29, 2008. A minor portion of the property was annexed into the City limits (#08AN006) effective May 30, 2008. The property is currently zoned No Use District. Land located north of the property is zoned No Use District by Rapid City and Limited Agriculture District and General Commercial District by Pennington County. Land located south of the property is zoned General Agriculture District and Light Industrial District. Land located west of the property is zoned Light Industrial District by Rapid City and General Agriculture District by Pennington County. Land located east of the property is zoned General Agriculture District, Mobile Home District with a Planned Residential Development, Flood Hazard District and No Use District. In addition to this application for a Rezoning from No Use District to General Agriculture District, an associated rezoning application from No Use District to Light Industrial District (#08RZ040) has been submitted for adjacent property.

The property is identified on the Northeast Area Future Land Use Plan as appropriate for Light Industrial and Public land uses. Currently, the property is void of any 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:

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

Voluntary annexations of the subject property (#08AN006 and #08AN008) were effective May 30, 2008 and July 29, 2008 respectively. All annexed lands are temporarily designated as a No Use Zoning District. The annexation of the property constitutes the changing condition requiring rezoning of the property.

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

The purpose of the General Agriculture Zoning District as stated in the Zoning Ordinance is intended to provide for land situated on the fringe of the urban area that is used for agricultural purposes, but will be undergoing urbanization in the future. Most of these areas will be in close proximity to residential and commercial uses and therefore the agricultural activities conducted in this district should not be detrimental to urban land uses. The types of uses, area and intensity of use of land which is authorized in this district is designed to encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made.

This property is not ready for development and is currently used for agricultural purposes. A portion of the property is located in the floodway. A request for a Letter of Map Revision has been submitted to the Federal Emergency Management Agency. To date, the letter determining the accurate evaluation of the hydraulic floodway and any revisions to the floodplain has not been received. As such, until the Certified Letter of Map Revision has

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been submitted, rezoning this property from No Use District to General Agriculture District is appropriate as a holding zone until future development is warranted.

- 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 amendment.*

Agricultural land is located north, south, east and west of the property. Future expansions of industrial developments are proposed for the land south of the property. Elk Vale Road, a principal arterial on the City's Major Street Plan, is located adjacent to the property on the east. Future development of the property will require that adequate water and sewer be extended to the development. Staff is not aware of any significant adverse effects that will result from rezoning the property from No Use District to General Agriculture District.

- 4. The proposed amendments 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.*

As noted, the Major Street Plan identifies Elk Vale Road as a principal arterial road. The Northeast Area Future Land Use Plan identifies the property as appropriate for Light Industrial and Public land uses. This property is currently being used for agricultural purposes. Rezoning the property to General Agriculture for agriculture uses and as a holding zone would be consistent with the Comprehensive Plan.

As of this writing, the required sign has been posted on the property and the receipts from the certified mailing have been returned. Staff has received one inquiry but no objections regarding the proposed request at the time of this writing.

Staff recommends that the rezoning from No Use District to General Agriculture District be approved.

**Notification Requirement: City staff mailed new notification letters to the surrounding property owners as required notifying them of the change in hearing date and republished the public hearing notice. As of this writing, staff has not received any further calls of inquiry regarding this item.**