

STAFF REPORT
April 23, 2009

No. 09RZ022 - Rezoning from No Use District to Low Density Residential District **ITEM 31**

GENERAL INFORMATION:

APPLICANT/AGENT	City of Rapid City
PROPERTY OWNER	Royal and Merle Nielsen
REQUEST	No. 09RZ022 - Rezoning from No Use District to Low Density Residential District
EXISTING LEGAL DESCRIPTION	The north 350 feet of Lot 15 Revised of Hillsvievw Subdivision and the south 293 feet of Lot 6 of Marshall Subdivision, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 5.75 acres
LOCATION	West of Valley Drive and north of S.D. Highway 44
EXISTING ZONING	No Use District
SURROUNDING ZONING	
North:	No Use District
South:	No Use District
East:	No Use District
West:	No Use District
PUBLIC UTILITIES	Rapid Valley Sanitary District
DATE OF APPLICATION	3/27/2009
REVIEWED BY	Karen Bulman / Ted Johnson

RECOMMENDATION: Staff recommends that the Rezoning from No Use District to Low Density Residential District be approved.

GENERAL COMMENTS: This property contains 5.75 acres and is located west of Valley Drive and north of S.D. Highway 44. The property was annexed into the City limits (#08AN007) effective July 29, 2008 and subsequently zoned No Use District. Land located north, east, west and south of the property is zoned No Use District. The property was zoned Suburban Residential District and General Commercial District by Pennington County prior to annexation.

The Elk Vale Neighborhood Area Future Land Use Plan identifies the future use of the property as appropriate for Low Density Residential uses. Currently, a construction business with a storage yard and a single family residence are located on the property.

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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.*

A City initiated annexation of the property (#08AN007) was effective July 29, 2008. 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 Low Density Residential District as stated in the Zoning Ordinance is to be used for single-family residential development with low population densities. A single family residence is located on the property. A construction business with outdoor storage is also located on the property. The industrial use of the construction business does not meet the requirements of the Low Density Residential Zoning District. As such, the existing industrial use of this property will be considered a legal non-conforming use. Any future development of the property will require that it conform to the requirements of the Low Density Residential Zoning District. Access to the property is from S.D. Highway 44. The property is adjacent to residential land uses to the north, west and east. Due to the adjacent land uses, the rezoning of this property appears to be appropriate and consistent with the intent and purposes of this ordinance.

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.*

The property is located adjacent to residential land uses. Access to the property is from S.D. Highway 44, a principal arterial street on the City's Major Street Plan. The property is located within the Rapid Valley Sanitary District. Any further development of the property will require the extension of roads and infrastructure. Staff is not aware of any significant adverse effects that will result from rezoning the property from No Use District to Low Density Residential 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.*

The property has access to S.D. Highway 44, a principal arterial street on the City's Major Street Plan. The Adopted Elk Vale Neighborhood Future Land Use Plan indicates that this area is appropriate for Low Density Residential land uses. The Future Land Use Committee met March 19, 2009 to review the Adopted Elk Vale Neighborhood Land Use Plan and the land use for this property. The Committee re-confirmed that the appropriate land use for this property was Low Density Residential land uses. Rezoning the subject property from No

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Use District to Low Density Residential District is consistent with the adopted Comprehensive Plan.

As of this writing, the required sign has been posted on the property but the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the April 23, 2009 Planning Commission meeting if this requirement has not been met. Staff has received no inquiries or objections regarding the proposed request at the time of this writing.

The property owner has been contacted but does not concur with the Low Density Residential Zoning District designation of the property and has requested the zoning be General Commercial District or Light Industrial District. The current use of the property for the construction company with outdoor storage is an industrial use. In order to be in compliance with the use of the property, the zoning would need to be Light Industrial District. Contractor's equipment storage yards are a permitted use in Light Industrial Districts. Staff reviewed the property owner's concern with the Future Land Use Committee. The Committee re-confirmed the Low Density Residential use for the property indicating that the Light Industrial use is not compatible with the residential use adjacent to the property. To protect residential neighborhoods from industrial uses, less intense zoning or other buffers are needed. The existing use of the property may continue under the Low Density Residential Zoning designation, but any development of the property will require that it conform to the requirements of the Low Density Residential Zoning District. Staff recommends that the Elk Vale Neighborhood Future Land Use Plan be followed and the rezoning from No Use District to Low Density Residential District be approved.