

STAFF REPORT
July 23, 2009

No. 09RZ029 - Rezoning from No Use District to General Commercial District **ITEM 32**

GENERAL INFORMATION:

APPLICANT	City of Rapid City
PROPERTY OWNER	Royal and Merle Nielsen
REQUEST	No. 09RZ029 - Rezoning from No Use District to General Commercial District
EXISTING LEGAL DESCRIPTION	That portion of Lot 15 Revised of Hillsview Subdivision described as follows: Beginning at the southwest corner of Lot 15 Revised; thence N00°03'23"W 481.98 feet, more or less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 482.22 feet, more or less; thence S38°37'42"W 80.71 feet, more or less; thence N51°22'18"W 101.19 feet, more or less to the Point of Beginning; located in the NE¼ SE¼ of Section 5, and the 75 foot wide right of way located adjacent and south of the above described property, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.52 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:	Heavy Industrial District
East:	No Use District
West:	General Commercial District
PUBLIC UTILITIES	Rapid Valley Sanitary District
DATE OF APPLICATION	6/12/2009
REVIEWED BY	Karen Bulman / Ted Johnson

RECOMMENDATION: Staff recommends that the Rezoning from No Use District to General Commercial District be approved for the following legal description:

That portion of Lot 15 Revised of Hillsview Subdivision described as follows: Beginning at the southwest corner of Lot 15 Revised; thence N00°03'23"W 481.98 feet, more or less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 482.22

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feet, more or less; thence S38°37'42"W 80.71 feet, more or less; thence N51°22'18"W 101.19 feet, more or less to the Point of Beginning; located in the NE¼ SE¼ of Section 5, and the 75 foot wide right of way located adjacent and south of the above described property, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota less that portion of Lot 15 Revised of Hillsvievw Subdivision described as follows: Commencing at the southwest corner of Lot 15 Revised; thence N00°03'23"W 283.51 feet, more or less, to the Point of Beginning; thence N00°03'23"W 198.47 feet, more or less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 198.82 feet, more or less; thence N89°50'46"W 129.72 feet, more or less, to the Point of Beginning; located in the NE¼ SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota and;

Based on the Future Land Use Committee's recommendation on the related Comprehensive Plan Amendment, staff recommends that the Rezoning from No Use District to General Commercial District be denied for the following legal description:

That portion of Lot 15 Revised of Hillsvievw Subdivision described as follows: Commencing at the southwest corner of Lot 15 Revised; thence N00°03'23"W 283.51 feet, more or less, to the Point of Beginning; thence N00°03'23"W 198.47 feet, more or less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 198.82 feet, more or less; thence N89°50'46"W 129.72 feet, more or less, to the Point of Beginning; located in the NE¼ SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota.

GENERAL COMMENTS: This developed property contains approximately 1.52 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 and east of the property is zoned No Use District. Land located west of the property is zoned General Commercial District. Land located south of the property is zoned Heavy Industrial District.

The property was zoned General Commercial by Pennington County prior to annexation. However, Light Industrial and Heavy Industrial uses including construction equipment and outdoor storage and processing and storage of salvage material uses are currently located on the property. The Elk Vale Neighborhood Future Land Use Plan identifies the southern portion of the property as appropriate for General Commercial land uses and the northern portion of the property as appropriate for Low Density Residential land uses.

Following the annexation of this property, the City submitted two rezoning requests following the adopted Elk Vale Neighborhood Future Land Use Plan. The Rezoning request was submitted for the southern portion of this property from No Use District to General Commercial District and the Rezoning request was submitted for the northern portion of the property from No Use District to Low Density Residential District. The Council denied the applications and indicated that an application should be submitted to amend the Comprehensive Plan to change the land use designation on the northern portion of the property from Low Density Residential to General Commercial.

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A Comprehensive Plan Amendment to change the land use from Low Density Residential to General Commercial on the northern portion of the property (#09CA012) has been submitted in conjunction with this application. The Future Land Use Committee has recommended denial of the related Comprehensive Plan Amendment for the northern portion of the property. Based on that recommendation, staff recommends that the northern portion of the rezoning request from No Use District to General Commercial District be denied. As the rezoning request from No Use District to General Commercial District for the southern portion of the property is consistent with the adopted Elk Vale Neighborhood Future Land Use Plan, staff recommends approval.

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 amendment shall be necessary because of substantially changed or changing conditions of the area and districts affected or in the City in general.

The property has been annexed into the City limits (#08AN007) and temporarily placed in a No Use Zoning District. 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 General Commercial Zoning District is for personal and business services and the general retail business of the City. Prior to annexation, the property was zoned General Commercial District by Pennington County. However, Light Industrial and Heavy Industrial uses including construction equipment and outdoor storage and processing and storage of salvage material uses are currently located on the property. Access to the property is from S.D. Highway 44. Property used for General Commercial purposes is located west of the property. The properties north and east are zoned No Use Districts. Land located south of the property and separated by S.D. Highway 44 is zoned Heavy Industrial District. Due to the land uses and zoning of the adjacent properties and the Future Land Use Committee's recommendation for denial of the related Comprehensive Plan Amendment, the rezoning to General Commercial District for the entire property would not appear to be consistent with the intent and purposes of this ordinance. As such, staff is recommending that the northern portion of the rezoning request be denied and the southern portion of the rezoning request be approved.

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 an amendment.

Access to the property will be from S.D. Highway 44, a principal arterial street on the City's Major Street Plan. The property is located adjacent to General Commercial land uses and Low Density Residential land uses. The property is located within the Rapid Valley Sanitary

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District. The potential commercial uses that are allowed in the General Commercial District may have a negative impact to residential property located adjacent to the northern portion of the property. No significant adverse impacts that will result from the requested zoning have been identified for the southern portion of the property located adjacent to S.D. Highway 44.

4. The proposed amendment shall be consistent with and not conflict with the Development Plan of Rapid City including any of its elements, Major Street Plan, Land Use Plan, and Community Facilities Plan.

The property is located adjacent 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 the southern portion of this property is appropriate for General Commercial land uses. Rezoning that portion of the property from No Use District to General Commercial District is consistent with the adopted Comprehensive Plan. The Future Land Use Committee has recommended denial of the related Comprehensive Plan Amendment for the northern portion of the property. As such, rezoning the northern portion of the property is not 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 July 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.

Based on the Future Land Use recommendation to deny the Comprehensive Plan Amendment from Low Density Residential to General Commercial for the northern portion of the property, staff recommends that the rezoning of the northern portion of the property from No Use District to General Commercial District, with the revised legal description, be denied. Staff recommends that the rezoning of the southern portion of the property from No Use District to General Commercial District, with the revised legal description, be approved.