

STAFF REPORT

August 21, 2003

No. 03SR032 - SDCL 11-6-19 Review of a public utility in a public place **ITEM 13**

GENERAL INFORMATION:

PETITIONER	Ralph Wyngarden, Faulk & Foster for Western Wireless
REQUEST	No. 03SR032 - SDCL 11-6-19 Review of a public utility in a public place
EXISTING LEGAL DESCRIPTION	Lot 2, Owen Hibbard Subdivision, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 6.38 acres
LOCATION	1930 Promise Road
EXISTING ZONING	Public District
SURROUNDING ZONING	
North:	Neighborhood Commercial District
South:	Office Commercial w/Planned Development Designation
East:	General Commercial w/Planned Development Designation
West:	General Agriculture District
PUBLIC UTILITIES	To be extended
DATE OF APPLICATION	05/08/2003
REPORT BY	Jeff Marino

RECOMMENDATION:

Staff recommends that the SDCL 11-6-19 Review of a public utility in a public place be **denied without prejudice at the applicant's request.**

GENERAL COMMENTS: (Updates to the staff report are shown in bold.) This request was continued from the July 10, 2003 Planning Commission meeting to allow the applicant to address issues with a corresponding request at the same site. The applicant has stated that the request is no longer valid due to a change in plans at the site, and the original plan for the proposed generator and propane tank are no longer applicable. Due to these reasons, staff is recommending the request for the 11-6-19 SDCL Review of a public utility in a public place be denied without prejudice at the applicant's request.

Staff is recommending that this item be continued to allow all issues associated with the pending revocation action be addressed prior to action on this request. If these issues are

STAFF REPORT

August 21, 2003

No. 03SR032 - SDCL 11-6-19 Review of a public utility in a public place **ITEM 13**

not addressed, and the revocation is approved, then the action taken on this item will be meaningless. For these reasons staff is recommending that this item be continued to the August 21, 2003 Planning Commission.

The applicant is proposing to place a 50 Kilowatt emergency generator and 1000 gallon propane tank at the site. Currently, a 380 foot communications tower and a Fire Station are located on the property. The City of Rapid City owns the site, and leases land to the applicant for a communications tower.

On October 15, 2001, the City Council approved Conditional Use Permit (formerly known as Use on Review) #01UR042 to allow the location of a 380 foot communication tower and three 10 foot X 20 foot accessory buildings in the Public Zoning District. This Conditional Use Permit was approved with eleven stipulations. These stipulations of approval were:

1. Prior to issuance of a Building Permit, a detailed geotechnical study shall be submitted for review and approval;
2. A Building Permit shall be obtained prior to any construction;
3. Prior to issuance of a Building Permit, three sets of Architectural/Engineer stamped plans shall be provided for review and approval;
4. A Certificate of Completion shall be obtained prior to any use of the tower;
5. The tower shall be designed to allow for the co-location of a minimum of two additional antennas (for a total of three antennae) except where the additional antennas would interfere or impact the applicant's proposed antenna(s);
6. The tower shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority and that red strobe lighting will be utilized if lighting is required;
7. The tower shall remain unpainted allowing the galvanized steel color to show or painted white unless alternative colors are required by the Federal Aviation Administration or other federal or state authority;
8. Prior to issuance of a Building Permit, the section line highway right-of-way shall be vacated or the applicant shall obtain a variance to allow structures within the required side yard setback;
9. No commercial advertising signage shall be allowed on the tower;
10. That all requirements of the Off-Street Parking Ordinance shall be continually met; and,
11. The Use on Review shall expire if the use is not undertaken and completed within two years of the date of approval by the City Council or if the use as approved has ceased for a period of two years.

On January 4, 2002, the City issued a building permit to allow for the construction of the communication tower and three accessory structures on the property. Revocation of the Conditional Use Permit was initiated on October 10, 2002 as the applicant was not in compliance with stipulations of approval. The revocation is under review as a separate item on this agenda.

STAFF REPORT

August 21, 2003

No. 03SR032 - SDCL 11-6-19 Review of a public utility in a public place **ITEM 13**

STAFF REVIEW: Staff has reviewed the proposed 11-6-19 SDCL request and noted the following issues:

Utilities: The submitted site plan shows the proposed emergency generator located in a utility easement. Staff is recommending that a revised site plan be submitted showing the proposed generator located outside of the utility easement. Another option that could potentially be explored would be to vacate or relocate the utility easement. The applicant submitted a revised site plan, June 2, 2003 showing the relocation of the proposed emergency generator located outside of any easements on the site. The Engineering Department has had time to review this revised site plan, and there does not appear to be any issues with this proposed relocation.

Parking: The submitted site plan does not show any current parking at the site. A revised site plan shall be submitted verifying that adequate parking does exist for the use. A revised site plan shall be submitted showing two parking spaces, one of which is van handicap accessible, at the site to ensure safety is being maintained at the site. There appears to be parking located at the site; however, the revised site plan must be submitted identifying compliance with the parking provisions of the City of Rapid City Municipal Code. The applicant has submitted a revised site plan demonstrating three parking spaces, one being van handicap accessible, are servicing any parking needs for the communications tower at the site. These parking spaces appear to be in compliance with the City of Rapid City Municipal Code.

A revised site plan identifying compliance with the items identified previously must be submitted for review prior to approval. A revised site plan has been submitted; however, staff is recommending continuing the request to allow any outstanding issues related to the proposed corresponding revocation at the site to be addressed. In addition, staff is recommending that all issues associated with the pending revocation action be addressed prior to action on this request. **Staff is recommending the request be denied without prejudice at the applicant's request.**

Staff notes that 11-6-19 South Dakota Codified Law Reviews do not require direct notification of neighboring property owners. In addition, South Dakota Codified Law does not require that 11-6-19 South Dakota Codified Law Reviews be advertised in a local newspaper.