

STAFF REPORT

July 21, 2005

No. 05SR035 - 11-6-19 SDCL Review to allow the construction of an emergency generator for a public utility on private property **ITEM 43**

GENERAL INFORMATION:

PETITIONER	Buell Consulting for Cellular, Inc. Network Corporation d/b/a Verizon Wireless
REQUEST	No. 05SR035 - 11-6-19 SDCL Review to allow the construction of an emergency generator for a public utility on private property
EXISTING LEGAL DESCRIPTION	Lot D of Lot 1, NW1/4 SW1/4, Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .74 acres
LOCATION	North of East Boulevard North; and East of Cambell Street
EXISTING ZONING	General Agriculture District
SURROUNDING ZONING	
North:	General Agriculture District
South:	General Agriculture District
East:	General Agriculture District
West:	Medium Density Residential District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	6/10/2005
REVIEWED BY	Todd Tucker / Michelle Horkey

RECOMMENDATION:

Staff recommends that the 11-6-19 SDCL Review to allow the construction of an emergency generator for a public utility on private property be **approved with the following stipulations:**

- 1. Prior to any construction, a Building Permit shall be obtained;**
- 2. All structural setbacks for the generator shall comply with Section 17.18.050 of the Rapid City Municipal Code;**
- 3. Prior to Planning Commission approval, a revised site plan shall be submitted showing the access to the subject property from Cambell Street removed from the plan;**
- 4. Prior to Planning Commission approval, the applicant shall submit documentation of the "Day and Night Load" showing that the noise produced by the proposed generator will not exceed 65 DNL; and,**

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5. **Prior to Planning Commission approval, the applicant shall submit documentation showing that the DNL noise level does not exceed 65 DNL at the property lines of the adjacent residential properties.**

GENERAL COMMENTS: (This Staff Report was revised on July 13, 2005. All revised and/or added text is shown in bold text.) This item was continued at the July 7, 2005 Planning Commission meeting to allow time for the applicant to bring the property into compliance with the previously approved stipulations and to make the necessary revisions to the site plan.

The subject property is located on the east side of Cambell Street north of East North Street. There is an existing cellular communications tower and equipment shelter located on the subject property. A Conditional Use Permit (98UR013) allowing the cellular communications tower and equipment shelter was approved with 11 stipulations by the City Council on May 18, 1998. Those stipulations of approval are as follows:

1. Prior to issuance of a Building Permit, grading and drainage plans shall be submitted for review and approval;
2. Prior to issuance of a Building Permit, an erosion control plan shall be submitted for review and approval;
3. Cambell Street shall be constructed to where access is gained or surety shall be posted for any right-of-way improvements that have not been completed;
4. The tower shall be designed to allow for the co-location of a minimum of two additional antennas except where the additional antennas would interfere or impact the existing antennas located on the tower;
5. 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;
6. The tower shall be painted white unless alternative colors are required by the Federal Aviation Administration or other federal or state authority;
7. No signage shall be allowed on the tower other than warning or equipment information signs;
8. Prior to issuance of a Building Permit, a complete landscape plan shall be submitted for review and approval;
9. All circulation and parking shall be paved in accordance with the Parking Ordinance;
10. The Use On Review shall expire if the use is not undertaken and completed within two years of the date of approval by City Council or if the use as approved has ceased for a period of two years; and,
11. Approval of a Major Amendment to the Use On Review shall be required if the height of the tower exceeds 140 feet.

The applicant is now requesting approval of an SDCL 11-6-19 Review to allow the construction of a 30 kilowatt emergency liquid cooled diesel engine generator set on the subject property. The applicant has indicated that the proposed emergency generator will provide back up power to the existing cellular communications tower and equipment shelter. South Dakota Codified Law 11-6-19 states that "...whenever any such municipal council has

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adopted a comprehensive plan, then no street, park or other public way, ground, place, space, no public building or structure, no public utility, whether publicly or privately owned, if covered by the comprehensive plan or any adopted part thereof, shall be constructed or authorized in the municipality or within its subdivision jurisdiction until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". The proposed use is a public utility and incorporates structural improvements. In addition, the property is located within the area covered by the Rapid City Comprehensive Plan requiring that the proposed expansion be reviewed and approved by the Rapid City Planning Commission as a part of an 11-6-19 SDCL Review.

STAFF REVIEW: Staff has reviewed the proposed 11-6-19 SDCL Review as it relates to the applicable provisions of the Rapid City Municipal Code and has noted the following issues:

Building Permit: Staff noted that a Building Permit must be obtained prior to initiation of construction.

Design Features: The proposed emergency generator is approximately 22 square feet in size and is approximately four feet in height. The proposed emergency generator will be powered by a diesel engine and will not be enclosed within a structure.

Setbacks: The applicant's site plan shows the proposed generator to be located 54 feet from the section line between sections 31 and 32 along the west side of the subject property. Section 17.18.050 (D) of the Rapid City Municipal Code requires that principal and accessory structures be set back no less than 58 feet from any section line. The existing section line highway is 66 feet wide with 33 feet of right-of-way on either side of the section line. Staff also noted that Cambell Street as it abuts the subject property on the west is identified as a Minor Arterial Street on the Major Street Plan. Arterial Streets require a 100 foot wide right-of-way requiring that an additional 17 feet of right-of-way be obtained from the subject property for right-of-way purposes. As such, a revised site plan must be submitted showing the proposed generator located a minimum of 75 feet from the section line to accommodate for the future expansion of Cambell Street along the west lot line of the subject property to insure that a minimum 25 foot setback is maintained for the proposed generator.

On July 7, 2005, the applicant submitted a revised site plan showing the proposed generator located 75 feet from the section to the west of the subject property. The submitted site plan shows the proposed generator in a location that will not encroach into the front yard setback on the subject property.

Access: Stipulation number three from the previously approved Conditional Use Permit states that Cambell Street shall be constructed to where access is gained or surety shall be posted for any right-of-way improvements that have not been completed. Staff noted that this stipulation of approval has not been completed. Staff is recommending that outstanding zoning violations be corrected prior to Planning Commission approval. As such, staff recommends that all previously approved stipulations for the Conditional Use Permit be completed. Staff recommends that this item be continued to the August 4, 2005 Planning

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Commission meeting to allow time for all of the previously approved stipulations from the Conditional Use Permit to be completed curing the existing violations of City ordinance.

On July 6, 2005, the applicant submitted documentation of an easement providing access to the subject property from Century Road through the adjacent property to the east of the subject property. However, the site plan for the previously approved Conditional Use Permit shows that access to the subject property will be through the Cambell Street right-of-way. As such, a revised site plan must be submitted showing the access to the subject property removed from the plan. If the access to the subject property is not from the Cambell Street right-of-way, then the requirement to construct Cambell Street where access is gained or to have surety posted for the improvements can be removed.

Staff also noted that the subject property is currently being accessed from the adjacent property to the east. However, there is no recorded access easement allowing the access. As such, an access easement must be obtained or access to the subject property must be taken from the Cambell Street right-of-way.

Neighborhood Impact: Staff noted that the adjacent property to the west of the subject property is currently zoned Medium Density Residential. Due to the design of the proposed emergency generator, concerns have been raised about the possible negative impacts the noise produced by the proposed generator may have on the adjacent residential properties. As such, staff is recommending that a report indicating the noise levels produced by the proposed generator be submitted for review and approval, prior to Planning Commission approval.

On July 7, 2005, the applicant submitted documentation regarding the decibel levels produced by the proposed generator. The report indicates that the maximum noise level produced by the proposed generator is 72 decibels. The nearest residential structure to the proposed generator is approximately 200 feet away. The submitted report indicates that the proposed generator will produce noise at the level of "conversational speech-library" at a distance of 184 feet. Staff has concerns that the level of noise may have a negative impact on the adjacent residential properties. Staff also noted that the information provided only included decibel levels and does not include information regarding the day and night averages. As such, staff is recommending that prior to Planning Commission approval, the applicant submit documentation showing that the DNL noise level does not exceed 65 DNL at the property lines of the adjacent residential properties.

Landscaping: Stipulation number eight required that a complete landscape plan be submitted for review and approval prior to issuance of a Building Permit. Staff has reviewed the Conditional Use Permit file and the Building Permit file and did not find a landscaping plan. Staff is recommending that prior to Planning Commission approval, all previously approved stipulations for the Conditional Use Permit be completed. As such, staff is recommending that this item be continued to the August 4, 2005 Planning Commission meeting to allow time for the applicant to complete all of the previously approved stipulations for the

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Conditional Use Permit.

Staff noted that the developed portion of the lot requires that 3,723 landscaping points be provided. On July 7, 2005, the applicant submitted a landscaping plan showing that 12,000 landscaping points will be provided for the developed portion of the lot. As such, the submitted landscaping plan is in compliance with Section 17.50.300 of the Rapid City Municipal Code. However, the landscaping plan shows that an additional eight trees are located on the adjacent properties to the north and east. As such, a revised site plan must be submitted showing the eight trees planted off-site removed from the plan.

Staff is recommending that the SDCL 11-6-19 Review to allow the construction of an emergency generator for a public utility be **approved with the above stated stipulations.**