

STAFF REPORT
December 4, 2008

No. 08SR083 - SDCL 11-6-19 Review to allow the construction of a telecommunication tower **ITEM 41**

GENERAL INFORMATION:

APPLICANT	Mary Julius for Cellular Inc. Network Corporation
AGENT	John M. Rowe for Buell Consulting, Inc.
PROPERTY OWNER	GLMK, LLC
REQUEST	No. 08SR083 - SDCL 11-6-19 Review to allow a telecommunications tower
EXISTING LEGAL DESCRIPTION	Lot 1 of Block 10 of McMahon Industrial Park No. 2, located in the SW1/4 SE1/4, Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 3.0 acres
LOCATION	2870 Haines Avenue
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City Water and Sewer
DATE OF APPLICATION	9/26/2008
REVIEWED BY	Jared Ball / Karley Halsted

RECOMMENDATION:

Staff recommends that the SDCL 11-6-19 Review to allow a telecommunications tower be **denied**.

GENERAL COMMENTS: (Updated November 24, 2008. All revised and/or added text is shown in bold.) On November 24, 2008 the Planning Commission continued this item at the applicant's request. This item has been continued for several meetings to allow the applicant to explore the opportunity for co-location on the existing tower located approximately 475 feet to the north. The applicant has indicated that they will not pursue the co-location on the site to the north as the owner is requiring payment of a \$2,000 fee that has been paid by the other two cellular firms located on the site and seeking to locate on that site. The owner of the property to the north has

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indicated to staff that he is willing to allow the co-location on the existing tower and would support replacement of that tower with a taller flagpole. To staff's knowledge the applicant for this request has not explored that option any further. The construction of two cellular towers less than five-hundred feet apart is not consistent with the adopted city policies. City ordinance requires co-location on all towers to avoid this situation. The existing tower located at 3060 Haines Avenue has the capacity to house two additional co-locations. An application for one co-location on the existing tower is currently going through the SDCL 11-6-19 Review process, (File # 08SR063). Consistent with city policy and the adopted regulations, this service provider should co-locate on the existing tower or a replacement tower should be constructed to accommodate all the providers.

(November 7, 2008. All revised and/or added text is shown in bold.) This item was continued at the October 23, 2008 Planning Commission meeting to allow the applicant to continue exploring the opportunity for co-location on the existing tower located approximately 475 feet north of this property. Staff left a message for the owner of the property with the existing cell tower in order to discuss the possibilities of co-locating at that site. (The owner of that property is party to a similar 11-6-19 SDCL Review request that will also be considered at the November 20, 2008 Planning Commission meeting.)

The property is located at 2870 Haines Avenue north of Lodgepole Street and east of Haines Avenue. The property is currently zoned General Commercial District. The adjacent properties to the north, south, east, and west are all zoned General Commercial District. The applicant is proposing to construct a 100 foot flag pole communications tower in the north east corner of the property. The proposed tower will be constructed of galvanized steel and painted grey in color with a 12 foot by 18 foot United States flag at the top. The bottom of the tower will also include illuminated flag lighting fixtures. In addition, the applicant is proposing to construct an 11.5 foot by 30 foot equipment shelter that will be constructed of exposed aggregate concrete and painted brown in color. The proposed equipment shelter will be screened by a wood cedar fence that is eight feet in height.

South Dakota Codified Law 11-6-19 states that "whenever any such municipal council shall have adopted the comprehensive plan of the municipality or any part thereof, then and thenceforth, 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 as defined in SDCL 11- 6-26, until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". The proposed location for the telecommunications tower is located within the area covered by the Rapid City Comprehensive Plan requiring that the improvements be reviewed and approved by the Rapid City Planning Commission.

STAFF REVIEW: Staff has reviewed the SDCL 11-6-19 Review and has noted the following considerations:

Elevations: The applicant submitted elevations for this project indicating that the proposed

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communications tower will be 100 feet in height and constructed of galvanized steel that will be painted grey in color. The elevations that were submitted identify a 12 foot by 18 foot American Flag at the top of the tower. In addition, the elevations indicate that an 11.5 foot by 30 foot equipment shelter that will be constructed of exposed aggregate concrete and painted brown in color will be located at the bottom of the tower. The elevations also indicate that the proposed equipment shelter will be screened by a wood cedar fence that is eight feet in height.

Parking Plan: A complete parking plan was submitted with this application. The parking plan identifies the 44 parking places including one handicap accessible spaces as required per Section 17.50.270 of the Rapid City Municipal Code.

Landscaping Plan: On October 15, 1992 a building permit was issued for a 2,560 square foot building on the property. The plans that were approved as part of that building permit identify three buildings and a total of 110,461 landscaping points. After visiting the site, staff noted that the site does not appear to be in compliance with the approved landscaping for the property. The applicant is now proposing to construct a telecommunications tower and a 345 square foot equipment shelter. The addition of the communications tower and the proposed equipment shelter will require that the applicant submit a landscaping plan that identifies 108,394 landscaping points.

(Updated November 7, 2008) The property located at 2870 Haines Avenue is currently in violation of the Rapid City Municipal Code. A building permit was issued on October 15, 1992 for a 2,560 square foot building on the property. The plans that were approved as part of that building permit identify three buildings being located on the site and a total of 110,461 landscaping points being installed on the property. However, the landscaping installed on the site is not in compliance with the approved plan. This violation must be corrected prior to finding that the proposal is in compliance with all adopted plans and regulations.

(Updated November 24, 2008.) On November 19, 2008 the applicant submitted a complete landscaping plan identifying 108,510 landscaping points which is in excess of the minimum required 108,394 landscaping points. However, bond has not been posted to insure the current zoning violations are corrected.

Service Area Map: The plans that were submitted for this project included a Service Area Map showing the location of the proposed cellular tower. The applicant has also submitted a Service Area Map showing the service area for their facilities and demonstrating the need for this tower. A second Service Area Map has been submitted showing all other providers' cellular towers in the area, and the service boundary for each. After reviewing the submitted service area maps staff noted that the site just north of the proposed location at 3060 North Haines Avenue appears to be appropriate for co-location.

On July 26, 2001 The Rapid City Planning Commission approved a Conditional Use Permit (#01UR026) to allow a Communication Tower for 3060 Haines Avenue with stipulations. One of the stipulations of approval was that the tower shall be designed to allow for the co-location of a minimum of two additional antennas. Staff can not support the construction of a

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new tower in the same service area of an existing tower that will allow co-location.

(Updated November 7, 2008) Staff recommends that the request for the SDCL 11-6-19 review be continued to the December 4, 2008 Planning Commission meeting to allow the property owner to address the outstanding zoning violation.

(Updated November 24, 2008.) On November 18, 2008 the applicant submitted a revised service area map demonstrating that a tower located at 2870 Haines Avenue would provide better service than a co-location on the existing tower at 3060 Haines Avenue. The information that was submitted shows a ground elevation of 3,381 feet for the existing tower at 3060 Haines avenue and a ground elevation of 3,336 feet for the proposed tower at 2870 Haines Avenue. The applicant has indicated that the increased ground elevation of the proposed site along with being able to locate an antenna at the top of the new tower will allow them to obtain an expanded service area. However, a new tower could be constructed at 3060 Haines Avenue to better accommodate all tower service providers. Based on city policy and the adopted requirements for co-location, staff recommends that the SDCL 11-6-19 Review to allow the construction of a cellular tower be denied.