

RECEIVED

OCT 15 2008

Rapid City Growth
Management Department
Faulk & Foster

Via UPS Next Day Air

Rapid City Planning Commission
c/o Jared Ball
Growth Management Department
City of Rapid City
300 Sixth Street
Rapid City, SD 57701

605-394-4157

SDCL 11-6-19 Review Applicant: "WWC License LLC, a Delaware limited liability company, d/b/a Alltel", by Faulk & Foster

Rapid City Case No./Planner: No. 08SR042 (Jared Ball)

Alltel Site Name: SDRC_Maple Avenue

Project Description: Placement of antennas with stealth brick façade covering on building rooftop and placement of equipment within an interior room as shown in the drawings submitted

Location: 115 E. North St., Rapid City, SD (First National Pawn)

Legal Description: Lots 1-5 and Lots 19 and 20 in Block 15 of Schnasse Addition, Rapid City, Pennington County, SD

Land Owner: Barbara Forbes

Zoning: GC – General Commercial

Dear Members of the Planning Commission:

I am writing to present our view that this project should not trigger any landscaping review or requirements.

From examining your zoning ordinance it appears that the applicability of landscaping requirements to new or existing developments is governed by Section 17.50.300(F) which reads as follows:

1. *Applicability new development.* The requirements and standards for the installation and maintenance of landscape elements and site improvements as set forth herein shall apply to all developing commercial, industrial and multifamily areas within the city as per the zoning ordinance. All new development or construction **which involves the creation of a building or a parking area or the paving of a parking area** shall be in full compliance with the provisions of these regulations.

2. *Existing development areas– nonconformance–compliance required.* All property with existing development on the effective date of these regulations which is not in compliance with the provisions of these regulations shall be considered nonconforming and allowed to continue until such time as a building permit is granted to **enlarge by 20% or more a structure or parking lot on the property or increase the occupant load by 20% or more.** A plan showing existing and new development, and the existing and proposed landscaping shall be submitted in accordance with subsection G. of this section. (emphasis added)

Based on our understanding of these sections the landscaping regulations do not apply to this project because there is no "creation of a building or a parking area or the paving of a parking area" as described in Section 17.50.300(F)(1) and because the project does not "enlarge by 20% or more a structure or parking lot on the property or increase the occupant load by 20% or more". Consequently, consideration of landscaping requirements in relation to this project is not even necessary.

Even if landscaping requirements were considered, a waiver of the requirements in relation to this project is appropriate for the following reasons:

- This project can be distinguished from other projects on the basis of the criteria cited above.
- Landscaping would not act as a residential buffer and lack thereof would be in harmony with adjacent uses. The adjacent uses are a used car dealer/body shop on the east, a utility substation to the south, a "check into cash" payday advance place to the west, and busy North Street to the north (with Domino's Pizza across the street).
- All areas around the First National Pawn building are currently covered with concrete or asphalt except for a small gravel area immediately east of the building which has been used for non-customer parking of vehicles and semi-trailers and is adjacent to the garage door/loading area on that side of the building.
- Alltel's lease area is limited to space for its installation within and on the building together with a right of access. Alltel does not have any legal control over areas where landscaping could be placed.
- Requiring landscaping would be a mandate unrelated to the mitigation of any project impact. The only external visible change on the site will be the false chimneys and the air conditioning units on the roof and their visibility will be limited or completely blocked for a nearby viewer by the angle of view from the sidewalk. Landscaping on the ground would be completely unrelated to the rooftop installations.
- In a community concerned about the proliferation and appearance of towers, ordinance requirements should be interpreted and applied in a way that encourages innovative designs such as this stealth chimney installation which disguises the presence of a cell site or any antennas from passers by.
- This project is not simply to serve the parcel on which it is placed. It benefits the surrounding commercial and residential area. The provision of quality wireless service addresses wider community needs and enhances public safety.

In summary, this is not a situation where landscaping regulations should be applied and even if it were, a waiver is appropriate under these circumstances. On behalf of Alltel, thank very much for your consideration of this matter.

Sincerely,



Ralph Wyngarden, Director of Zoning
Faulk & Foster o/b/o Alltel Communications, Inc.
ralph.wyngarden@faulkandfoster.com
1-616-490-9804