

STAFF REPORT

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Commerce Park Subdivision, common to the northwesterly corner of Lot 3 of Block 2 of Commerce Park Subdivision, and common to a point on the southerly boundary of said Lot 4 of Tract 1 of S.G. Interstate Plaza Subdivision; Thence, fourth course: $S89^{\circ}52'34''E$, along the northerly boundary of said Lot 3 of Block 2 of Commerce Park Subdivision, common to the southerly boundary of said Lot 4 of Tract 1 of S.G. Interstate Plaza Subdivision, a distance of 23.44 feet, to the southeasterly corner of said Lot 4 of Tract 1 of S.G. Interstate Plaza Subdivision, common to the southwesterly corner of Lot 3 of Tract 1 of S.G. Interstate Plaza Subdivision, and common to a point on the northerly boundary of said Lot 3 of Block 2 of Commerce Park Subdivision; Thence, fifth course: $N89^{\circ}56'28''E$, along the northerly boundary of said Lot 3 of Block 2 of Commerce Park Subdivision, common to the southerly boundary of said Lot 3 of Tract 1 of S.G. Interstate Plaza Subdivision, a distance of 88.40 feet, to a point on the northerly boundary of said Lot 3 of Block 2 of Commerce Park Subdivision, common to a point on the southerly boundary of said Lot 3 of Tract 1 of S.G. Interstate Plaza Subdivision; Thence, sixth course: $S00^{\circ}12'57''W$, a distance of 305.19 feet to a point on the southerly boundary of said Lot 3 of Block 2 of Commerce Park Subdivision, common to a point on the northerly edge of the right-of-way of Sophia Court; Thence, seventh course: $N89^{\circ}46'34''W$, along the southerly boundary of said Lot 3 of Block 2 of Commerce Park Subdivision, common to the northerly edge of the right-of-way of said Sophia Court, a distance of 111.91 feet, to the southwesterly corner of said Lot 3 of Block 2 of Commerce Park Subdivision, common to the southeasterly corner of said Lot 2 of Block 2 of Commerce Park Subdivision, and common to a point on the northerly edge of the right-of-way of said Sophia Court; Thence, eighth course: $N89^{\circ}47'07''W$, along the southerly boundary of said Lot 2 of Block 2 of Commerce Park Subdivision, common to the northerly edge of the right-of-way of said Sophia Court, a distance of 143.30 feet, to the southwesterly corner of said Lot 2 of Block 2 of Commerce Park Subdivision, common to the southeasterly corner of said Lot 1 of Block 2 of Commerce Park Subdivision, and common to a point on the northerly edge of the right-of-way of said Sophia Court; Thence, ninth course: $N89^{\circ}44'27''W$, along the

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- construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned and signed and sealed final construction plans shall be submitted to the Growth Management Department;
3. Prior to issuance of a building permit, a Developmental Lot Agreement shall be secured and the existing 8 foot wide minor drainage and utility easements located along the common lot lines shall be vacated or a Final Plat shall be recorded;
 4. Prior to issuance of a building permit, the site plan shall be revised to show all fencing in compliance with Chapter 15.40 of the Rapid City Municipal Code or a Fence Height Exception shall be obtained;
 5. Prior to issuance of a building permit, an Erosion and Sediment Control Permit shall be obtained;
 6. Prior to issuance of a building permit, an Air Quality Construction Permit shall be obtained for construction activities disturbing one acre or more of surface area;
 7. Prior to issuance of a building permit, the landscape plan shall be revised to show the landscaping extending a distance of 75 feet into the property at the southeast corner of the property along Sophia Court and at the northwest corner of the property along Fountain Plaza Drive in order to meet the requirements of a non-irrigated lateral landscape design. In addition, all landscaping must be continually maintained in a live vegetative state and replaced in compliance with the City's adopted Landscape Ordinance;
 8. A Permit to Work in the Right-of-way shall be obtained prior to any construction within the right-of-way;
 9. The proposed structure shall conform architecturally to the plans and elevations and color palette reviewed and approved as part of this Conditional Use Permit. Revisions to the design of the structure that the Growth Management Director determines to be consistent with the original approved elevations, shall be allowed as a Minimal Amendment to the Conditional Use Permit;
 10. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. Lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign;
 11. A minimum of 35 parking spaces with two of the spaces being handicap accessible shall be provided. In addition, one of the handicap spaces shall be "van" accessible;
 12. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind;
 13. The currently adopted International Fire Code shall be continually met. In addition, the applicant shall coordinate any expansion or alterations of the project with the Fire Department;
 14. **The Conditional Use Permit shall allow for a United States Department of Homeland Security-Immigration and Customs Enforcement facility to be located on the property. The facility shall allow for the detainment of undocumented foreign nationals as well as accessory office and support space. A sally port shall be used**

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to load and unload the detainees. In addition, no detainees shall be held overnight. Immigration and Customs Enforcement and/or the property owner may not change the function or operation of the facility or transfer occupancy without the review and approval of a Major Amendment to the Conditional Use Permit. Any other use of the property shall also require a Major Amendment to the Conditional Use Permit;

15. The Conditional Use Permit may be reviewed upon a valid complaint;

16. All provisions of the Light Industrial District shall be met unless otherwise specifically authorized as a stipulation of this Conditional Use Permit or a subsequent Major Amendment to the Conditional Use Permit; and,

17. The Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years.

GENERAL COMMENTS:

(Update: June 2, 2011. All revised and/or added text is shown in bold print.) This item was continued at the May 26, 2011 Planning Commission meeting to allow a representative of the United States Department of Homeland Security-Immigration and Customs Enforcement Division to submit additional information clarifying the types of detainees and the operation of the proposed facility. Subsequently, on June 1, 2012, Michael Feinberg, Special Agent in Charge, Homeland Security Investigations, submitted a written statement to address these concerns. A copy of the letter is attached for review. The letter has also been forwarded to the members of the public that offered comment at the May 26, 2011 Planning Commission meeting.

Staff recommends that the Conditional Use Permit be approved with the revised stipulations of approval as identified above.

The applicant has submitted a Conditional Use Permit to allow the construction of a 28,900 square foot community corrections facility to house Immigration and Customs Enforcement (ICE) detainees for the United States Department of Homeland Security on the property. In addition, the applicant has submitted a Fence Height Exception (File #11FV004) to allow a 9.5 foot high fence in lieu of a maximum 8 foot high fence in the Light Industrial District and to allow a 9.5 foot high fence in lieu of a maximum 4' high fence in the 25 foot front yard setback. The proposed fence is shown to be located around the perimeter of the proposed community corrections facility.

The applicant has also submitted a Preliminary Plat (11PL026) to replat four lots into two lots. The lots are to be known as Lot 1R and Lot 4R of Block 2, Commerce Park Subdivision. The proposed community corrections facility is to be located on proposed Lot 1R.

The property is located in the northeast corner of Sophia Court and Fountain Plaza Drive. Currently, the property is void of any structural development.

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STAFF REVIEW:

Staff has reviewed the Conditional Use Permit and has noted the following considerations:

Community Corrections Facility: As previously indicated, the applicant is proposing to construct a 28,900 square foot community corrections facility to house Immigration and Customs Enforcement (ICE) detainees for the United States Department of Homeland Security on the property. The facility will include an **average** of 12 detainees and 23 employees on the property at any one time. A sally port will be used to load and unload the detainees. In addition, no detainees will be held overnight at the facility. The proposed building consists primarily of office space, support space, undocumented foreign nationals processing and 23 in-door vehicle parking spaces for employees.

Staff recommends that the Conditional Use Permit allow for a **United States Department of Homeland Security-Immigration and Customs Enforcement facility to be located on the property. The facility shall allow for the detainment of undocumented foreign nationals as well as accessory office and support space. A sally port shall be used to load and unload the detainees. In addition, no detainees shall be held overnight. Immigration and Customs Enforcement and/or the property owner may not change the function or operation of the facility or transfer occupancy without the review and approval of a Major Amendment to the Conditional Use Permit. Any other use of the property shall also require a Major Amendment to the Conditional Use Permit.**

Structural Design: The applicant has indicated that the structure will be a one story building with a flat roof. The structure will be constructed of brick, metal paneling, concrete masonite units and wainscot accents. In addition, the color of the structure will be shades of brown and tan.

Staff recommends that the proposed structure conform architecturally to the plans and elevations and color palette reviewed and approved as part of this Conditional Use Permit. Revisions to the design of the structure that the Growth Management Director determines to be consistent with the original approved elevations, may be allowed as a Minimal Amendment to the Conditional Use Permit.

Fencing: The applicant is proposing to construct a security fence around a perimeter of the community corrections facility. In particular, the applicant is proposing to construct an 8 foot high chain link fence with three strands of barb wire along the top of the chain link fence for a total height of 9.5 feet. Chapter 15.40 of the Rapid City Municipal Code states that a maximum fence height of 8 feet is allowed in the Light Industrial District. In addition, a fence may not exceed 4 feet in height when located in the front yard setback. The applicant has subsequently submitted a Fence Height Exception request to allow a 9.5 foot high fence in lieu of a maximum 8 foot high fence in the Light Industrial District and to allow a 9.5 foot high fence in lieu of a maximum 4' high fence in the 25 foot front yard setback.

Staff recommends that prior to issuance of a building permit, a Fence Height Exception be obtained to allow the proposed fence or the site plan must be revised to show all fencing in compliance with Chapter 15.40 of the Rapid City Municipal Code.

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Parking: The proposed use(s) require that a minimum of 35 parking spaces with two of the spaces being handicap accessible be provided. In addition, one of the handicap accessible spaces must be "van" accessible. The applicant has submitted a parking plan identifying that 50 parking spaces are being provided with two "van" handicap accessible space. The proposed parking plan meets the requirements of the City's Parking Regulations.

Landscaping: The applicant has submitted a landscape plan showing a non-irrigated lateral landscape design along Sophia Court and Fountain Plaza Drive. However, the Landscape Ordinance requires that the landscaping be extended a distance of 75 feet into the property from the adjacent right-of-way. As such, staff recommends that prior to issuance of a building permit, the landscape plan be revised to show the landscaping extended a distance of 75 feet into the property at the southeast corner of the property along Sophia Court and at the northwest corner of the property along Fountain Plaza Drive in order to meet the requirements of a non-irrigated lateral landscape design. In addition, all landscaping must be continually maintained in a live vegetative state and replaced in compliance with the City's adopted Landscape Ordinance.

Fire Code: Fire Department staff has indicated that the project appears to meet the requirements as established by the International Fire Code. The Fire Department staff has indicated that the applicant must continue to coordinate with the Fire Department if any alterations to the project occur.

Staff recommends that all currently adopted International Fire Codes be continually met. In addition, the applicant must coordinate any expansion or alterations of the project with the Fire Department.

Platting/Developmental Lot Agreement: As previously noted, the applicant is proposing to replat four lots into two lots. As a part of the plat, the applicant is also proposing to vacate existing 8 foot wide minor drainage and utility easement(s) located along the common lot lines of the four lots. The community corrections facility is proposed to be located on proposed Lot 1R which is currently Lots 1, 2 and a portion of Lot 3. Staff recommends that prior to issuance of a building permit, a Final Plat be recorded creating proposed Lot 1R and vacating the easement(s) as identified or a Developmental Lot Agreement must be secured for the existing lots and the 8 foot wide minor drainage and utility easements located along the common lot lines must be vacated.

Notification Requirement: The certified mailing receipts have been returned and the required sign has been posted on the property. Staff has received several calls of inquiry and/or concern regarding this application.

Staff recommends that the Conditional Use Permit be approved with the revised stipulations as outlined above.