

STAFF REPORT
February 7, 2013

No. 12PD044 - Initial and Final Planned Development to Allow for a Communications Facility in a General Commercial Zoning District **ITEM 7**

GENERAL INFORMATION:

APPLICANT	Janelle Finck - Fisk Land Surveying & Consulting Engineers
AGENT	Ted Ruffledt, Jr. - Pennington County
PROPERTY OWNER	G & G Investments LLP
REQUEST	No. 12PD044 - Initial and Final Planned Development to Allow for a Communications Facility in a General Commercial Zoning District

EXISTING
LEGAL DESCRIPTION

A parcel of land located in the Northwest One Quarter of the Southwest One-Quarter (NW ¼ SW ¼) of Section Thirty Four (34), Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian (BHM), Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at a point on the east line of Elk Vale Road right-of-way at which the south sixteenth line of said Section Thirty Four (34), Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian (BHM), Rapid City, Pennington County, South Dakota intersects with said east line of Elk Vale Road right-of-way, said point being marked by a South Dakota Department of Transportation right-of-way marker, and from whence another South Dakota Department of Transportation right-of-way marker bears South 00 degrees 00 minutes 39 seconds East on the east right-of-way line, a distance of 1,325.90 feet more or less, said point being located at the intersection of the right-of-way line and the south line of said Section Thirty-Four (34), thence, northerly on the east line of said Elk Vale Road right-of-way, North 00 degrees 01 minutes 00 seconds West a distance of 913.63 feet more or less, to the point of beginning, said point being marked with a rebar with survey cap "RW FISK LS 6565"; thence, continuing northerly on the east line of said Elk Vale Road right-of-way, North 00 degrees 01 minutes 00 seconds West, a distance of 303.83 feet more or less to a point marked by a South Dakota Department of Transportation right-of-way marker; thence, continuing and northerly on the east line of said Elk Vale Road right-of-way, North 00 degrees 00 minutes 43 seconds East a distance of 78.73 feet more or a less to a point marked by a rebar with survey cap "RW FISK LS 6565"; thence,

STAFF REPORT
February 7, 2013

No. 12PD044 - Initial and Final Planned Development to Allow for a Communications Facility in a General Commercial Zoning District **ITEM 7**

South 76 degrees 11 minutes 15 seconds East a distance of 144.96 feet more or less to a point marked by a rebar with survey cap "RW FISK LS 6565"; thence, South 64 degrees 16 minutes 17 seconds East a distance of 363.85 feet more or less to a point marked by a rebar with survey cap "RW FISK LS 6565"; thence, South 00 degrees 00 minutes 00 seconds East a distance of 190.00 feet more or less to a point marked by a rebar with survey cap "RW FISK LS 6565"; thence, South 90 degrees 00 minutes 00 seconds West a distance of 468.47 feet more or less to the point of beginning

PARCEL ACREAGE	Approximately 3.20 acres
LOCATION	On the east side of North Elk Vale Road south of the North Elk Vale Road and Eglin Street intersection
EXISTING ZONING	Low Density Residential District (Planned Development)
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District (Planned Development) - Low Density Residential District (Planned Development)
East:	General Agricultural District
West:	General Agricultural District
PUBLIC UTILITIES	Rapid City
DATE OF APPLICATION	December 20, 2012
REVIEWED BY	Fletcher Lacock / Brandon Quiett

RECOMMENDATION:

Staff recommends that the Initial and Final Planned Development to allow for a communications facility in a General Commercial Zoning District be approved with the following stipulations:

1. The communications tower shall be constructed as shown on the site plan with a 60.1 foot setback from the future proposed minor arterial street right-of-way and a 146 foot setback from the future proposed collector street right-of-way;
2. The applicant shall continually comply with all Federal Aviation Administration requirements and Aeronautical Study Number 2011-AGL-7057-OE;
3. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
4. Prior to issuance of a building permit, the plans shall be revised to show a maximum 8

STAFF REPORT
February 7, 2013

No. 12PD044 - Initial and Final Planned Development to Allow for a Communications Facility in a General Commercial Zoning District **ITEM 7**

- foot high fence or the applicant shall obtain a Fence Height Exception;
5. Upon submittal of a building permit, the site plan shall show the proposed access road is a minimum 12 feet wide and all-weather surfaced;
 6. Upon submittal of a building permit, plans shall be prepared and stamped by a licensed Architect or Professional Engineer as per SDCL 36-18A;
 7. Temporary or permanent site stabilization shall be achieved prior to issuance of a Certificate of Occupancy;
 8. A minimum of two parking spaces shall be provided. One of the parking spaces shall be handicap "van accessible". All provisions of the Off-Street Parking Ordinance shall be continually met;
 9. A minimum of 139,331 landscaping points shall be provided. All provisions of Section 17.50.300, the Landscape Regulations of the Rapid City Municipal Code shall be continually met. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
 10. Future signage in conformance with the Sign Code shall be allowed as a Minimal Amendment. All signage not in conformance with the Sign Code or any new electronic reader board signs shall require the review and approval of a Major Amendment to the Planned Development. 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 the proposed signs;
 11. 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;
 12. All provisions of the General Commercial District shall be met unless otherwise specifically authorized as a stipulation of this Initial and Final Planned Development Overlay or a subsequent Major Amendment;
 13. All applicable provisions of the adopted International Fire Code shall continually be met; and,
 14. The Initial and Final Planned Development Overlay shall allow for a 189 foot high communications tower. Any change in use that is a permitted use in the General Commercial District shall require the review and approval of a Minimal Amendment. Any change in use that is a Conditional Use in the General Commercial District shall require the review and approval of a Major Amendment to the Planned Development.

GENERAL COMMENTS:

The applicant has submitted an Initial and Final Planned Development Overlay to allow a communications tower. In particular, the applicant is proposing to construct a 189 foot high communications tower and a shelter surrounded by an opaque 9 foot high chain link fence with barbed wire. The proposed tower will serve to improve local public safety radio coverage in the Rapid City area. The applicant has stated that a fence fabric will be used to provide screening on all sides.

On January 17, 2012, the City Council approved a Rezoning request (File #11RZ026) to change the zoning designation from Office Commercial District to General Commercial District for the above legally described property.

The property is located on the east side of North Elk Vale Road, north of East Anamosa

STAFF REPORT
February 7, 2013

No. 12PD044 - Initial and Final Planned Development to Allow for a Communications Facility in a General Commercial Zoning District **ITEM 7**

Street and south of Eglin Street. The property is currently undeveloped.

STAFF REVIEW:

Staff has reviewed the Final Planned Development Overlay with respect to Chapter 17.50.050(F)5 and has noted the following considerations:

1. *There are certain conditions pertaining to the particular piece of property in question because of its size, shape, or topography:*

The site was chosen for a communication tower due to its higher elevation in relation to the surrounding topography. As a result, the communication tower will be used to improve local public safety radio coverage in the Rapid City area.

2. *The application of these regulations to this particular piece of property would create a practical difficulty or undue hardship:*

The applicant is not requesting any exceptions from the Zoning Ordinance. Currently, the above legally described property is unplatted. The City's Major Street Plan identifies a future minor arterial street along the north of the proposed development and a future collector street in the location of the existing driveway. The applicant should be aware that future platting of the property will require that the rights-of-way be dedicated and designed as per the Infrastructure Design Criteria Manual. It appears that the applicant is proposing to secure a 66 foot wide access easement in the location of the proposed collector street. The applicant should be aware that the minimum right-of-way width for a collector street is 68 feet. In addition, the site plan identifies that a 60.1 foot setback will be maintained from the future minor arterial street to the north and a 146 foot setback will be maintained from the future collector street to the east. As such, staff recommends that the communications tower be constructed as shown on the site plan with a 60.1 foot setback from the future proposed minor arterial street right-of-way and a 146 foot setback from the future proposed collector street right-of-way.

3. *Exceptions to the underlying zoning district, if granted, would not cause undue hardship to the public good or impair the purposes and intent of these regulations:*

The applicant has obtained permission from the Federal Aviation Administration (FAA) for the proposed 189 foot communication tower. The FAA has issued a determination of no hazard to air navigation. However, based on the Rapid City Regional Airport Compatible Land Use Study, a 189 foot high structure will penetrate the Rapid City Regional Airport's navigable airspace. To date, the City has not adopted an Ordinance to enforce the recommendations of the study. As such, the height of the communication tower is in compliance with current City adopted regulations. The Director of the Rapid City Regional Airport has indicated that if the Planning Commission is in support of the proposed development, that the applicant continually adhere to the requirements as set by the FAA. As such, staff recommends that the applicant continually comply with all Federal Aviation Administration requirements and the approved Aeronautical Study Number 2011-AGL-7057-OE.

STAFF REPORT
February 7, 2013

No. 12PD044 - Initial and Final Planned Development to Allow for a Communications Facility in a General Commercial Zoning District **ITEM 7**

4. *A literal interpretation of this chapter would deprive the applicant of rights that others in the same district are allowed:*

The literal interpretation of the Zoning Ordinance would not deprive the applicant of rights that others in the same district are allowed.

5. *Any adverse impacts will be reasonably mitigated:*

Chapter 17.18.080 of the Rapid City Municipal Code requires that a 5 foot high, opaque screening fence be provided when a commercial district is adjacent to a residential district. The applicant is proposing to construct a 9 foot high chain link fence around the proposed communications tower and shelter. The applicant has indicated that a fabric screening material will be placed on all four sides of the fence. However, a maximum eight foot fence is allowed in the General Commercial District. As such, prior to issuance of a building permit, the plans must be revised to show a maximum 8 foot high fence or the applicant must obtain a Fence Height Exception.

6. *The requested exception to the underlying zoning district standards is an alternative or innovative practice that reasonably achieves the objective of the existing standard sought to be modified:*

The applicant is not requesting any Exceptions to the underlying zoning district. However, the City's Major Street Plan identifies a proposed collector street in the location of the existing gravel drive. In addition, along the north side of the proposed development, the City's Major Street Plan identifies the location for a minor arterial street. The applicant has shown that minimum setbacks will be met when the right-of-way is dedicated in the future. As such, staff recommends that the communications tower be constructed as shown on the site plan with a 60.1 foot setback from the future proposed minor arterial street right-of-way and a 146 foot setback from the future proposed collector street right-of-way.

Staff has reviewed the proposed use with respect to Chapter 17.54.030(E) and has noted the following issues:

1. *The location, character and natural features of the property:*

The property is located on the east side of North Elk Vale Road, north of East Anamosa Street and south of Eglin Street. The property is currently undeveloped.

2. *The location, character and design of adjacent buildings:*

The properties located to the north and east are zoned Low Density Residential District. The property to the west is zoned General Agriculture District. The property to the south is zoned General Commercial District. Located east of the proposed development is the City's Elk Vale Low Level Reservoir. The applicant should be aware that Rapid City has plans for a two million gallon water tower/reservoir to the north of the proposed communication tower.

STAFF REPORT
February 7, 2013

No. 12PD044 - Initial and Final Planned Development to Allow for a Communications Facility in a General Commercial Zoning District **ITEM 7**

3. *Proposed fencing, screening and landscaping:*

The applicant is proposing a 9 foot high chain link fence with barbed wire around the proposed tower and equipment shelter. An 8 foot high fence is the maximum allowed in the General Commercial District. As such, prior to issuance of a building permit, the applicant must submit revised plans showing an 8 foot fence or obtain a Fence Height Exception.

The applicant has submitted a landscaping plan that shows a total of 148,330 landscaping points to be provided. A minimum of 139,331 landscaping points must be provided for the proposed development. The proposed landscaping is in compliance with Chapter 17.50.300 of the Rapid City Municipal Code. All landscaping must be continually maintained in a live vegetative state and replaced as necessary.

4. *Proposed vegetation, topography and natural drainage:*

There will be no significant changes in impervious surfaces, topography or drainage. Public Works staff has indicated that the proposed development does not trigger a stormwater design report.

5. *Proposed pedestrian and vehicular access, circulation and parking, including that related to bicycles and other unpowered vehicles and provisions for handicapped persons:*

The property is accessed from a driveway that extends from North Elk Vale Road. The applicant has submitted an access easement to secure the driveway as access. Upon submittal of a building permit, the site plan shall show that the proposed driveway will be constructed with a minimum 12 foot wide all-weather surface. The applicant should be aware that the South Dakota Department of Transportation has indicated that no further access approaches will be allowed from North Elk Vale Road. In addition, Public Works staff has indicated that the proposed development does not trigger that sidewalk be constructed along North Elk Vale Road.

A minimum of two parking spaces must be provided. One of the parking spaces must be handicap "van accessible". The applicant has submitted a parking plan showing a total of two parking stalls with one of the spaces being "van accessible". The parking plan is in compliance with Chapter 17.50.270 of the Rapid City Municipal Code. All provisions of the Off-Street Parking Ordinance must be continually met.

6. *Existing traffic and traffic to be generated by the proposed use:*

The City's Major Street Plan identifies the existing gravel road that will provide access to site as a future collector street. In addition, a future minor arterial street is identified across the north side of the proposed development. The applicant should be aware that future platting of the property will require that the rights-of-way be dedicated and designed as per the Infrastructure Design Criteria Manual. It appears that the applicant is proposing to secure a 66 foot wide access easement in the location of the proposed

STAFF REPORT
February 7, 2013

No. 12PD044 - Initial and Final Planned Development to Allow for a Communications Facility in a General Commercial Zoning District **ITEM 7**

collector street. The applicant should be aware that the minimum right-of-way width for a collector street is 68 feet.

7. *Proposed signs and lighting:*

The applicant is not proposing any signage. However, future signage in conformance with the Sign Code will be allowed as a Minimal Amendment. All signage not in conformance with the Sign Code or any new electronic reader board signs will require the review and approval of a Major Amendment to the Planned Development. Lighting for the signs must be designed to preclude shining on the adjacent properties and/or street(s). A sign permit must also be obtained for all signs.

Any proposed outdoor lighting must 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.

8. *The availability of public utilities and services:*

The property is currently served by public utilities including Rapid City sewer and water.

9. *The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein:*

The Zoning Ordinance is the tool that implements the Comprehensive Plan. A communication tower is a Conditional Use in the General Commercial District. The Initial and Final Planned Development Overlay will allow for the construction of a 189 foot communications tower.

10. *The overall density, yard, height and other requirements of the zone in which it is located:*

The proposed development is in compliance with Chapter 17.18 of the Rapid City Municipal Code. All provisions of the General Commercial District must be met unless otherwise specifically authorized as a stipulation of this Initial and Final Planned Development Overlay or a subsequent Major Amendment. The Initial and Final Planned Development Overlay will allow for a 189 foot high communication tower. Any change in use that is a permitted use in the General Commercial District will require the review and approval of a Minimal Amendment. Any change in use that is a Conditional Use in the General Commercial District will require the review and approval of a Major Amendment to the Planned Development.

11. *The effects of noise, odor, smoke, dust, air, and water pollution and the degree of control through the use of clarifiers, screening, setbacks and orientation:*

It does not appear that the proposed communication tower will have a negative effect on the surrounding area by causing noise, odor, smoke, dust, air or water pollution.

STAFF REPORT
February 7, 2013

No. 12PD044 - Initial and Final Planned Development to Allow for a Communications Facility in a General Commercial Zoning District **ITEM 7**

12. The degree to which conditions imposed will mitigate any probable adverse impacts of the proposed use on existing adjacent uses:

The stipulations of approval are included to serve as a tool to ensure that any probable negative impacts are mitigated. In addition, the stipulations of approval will ensure compliance with the Zoning Ordinance and the International Fire Code.

Building Permit: A building permit must be obtained prior to any construction and a Certificate of Occupancy must be obtained prior to occupancy. Upon submittal of a building permit, plans must be prepared and stamped by a licensed Architect or Professional Engineer as per SDCL 36-18A. Temporary or permanent site stabilization must be achieved prior to issuance of a Certificate of Occupancy.

Fire Department: All applicable provisions of the adopted International Fire Code must continually be met.

Notification: As of this writing, the white slips and green cards from the certified mailing have not been returned and the required sign has not been posted on the property. Staff will notify the Planning Commission at the February 7, 2013 Planning Commission meeting if these requirements have not been met.