

STAFF REPORT
March 1, 2011

No. 11FV002 - Fence Height Exception to allow a 9 foot high fence and/or wall in lieu of a maximum 4 foot high fence and/or wall in the front yard and to allow a 9 foot high fence and/or wall in lieu of a maximum 8 foot high fence and/or wall in a side or rear yard in the General Commercial District

GENERAL INFORMATION:

APPLICANT	Steven Dunn - Black Hills Power
PROPERTY OWNER	Golden Good Foods, LTD.
REQUEST	No. 11FV002 - Fence Height Exception to allow a 9 foot high fence and/or wall in lieu of a maximum 4 foot high fence and/or wall in the front yard and to allow a 9 foot high fence and/or wall in lieu of a maximum 8 foot high fence and/or wall in a side or rear yard in the General Commercial District
EXISTING LEGAL DESCRIPTION	Lot C of Lots 11-16 of Block 35 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .63 acres
LOCATION	At the southwest corner of the intersection of Cleveland Street and Tower Road
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	2/14/2011
REVIEWED BY	Marcia Elkins / Ted Johnson

RECOMMENDATION:

Staff recommends that the Fence Height Exception to allow a 9 foot high fence and/or wall in lieu of a maximum 4 foot high fence and/or wall in the front yard and to allow a 9 foot high fence and/or wall in lieu of a maximum 8 foot high fence and/or wall in a side or rear yard in the General Commercial District be approved with the following stipulations:

1. A building permit shall be obtained prior to initiation of construction of the fence (gate) and wall. As part of the building permit application, the applicant shall provide a grading and drainage plan verifying that the proposed solid wall will not adversely impact local

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- site drainage. In addition, sealed and signed plans for the wall construction shall be submitted in conjunction with the building permit application;
2. The proposed concrete wall will be a natural stone design and natural colors of a Ledge stone design and Pueblo coloring or equivalent; however, other similar colors and designs of a similar natural color and/or design may be approved by the Growth Management Director. The fence (gate) section shall be constructed of either a black or brown coated fence material;
 3. The landscaping plan as submitted with this request shall be installed in conjunction with the construction of the fence and wall, and shall be continually maintained in a live vegetative state; and,
 4. Prior to submission of a building permit application for the fence (gate) and wall, the applicant shall either modify the location of the driveway approach to meet all applicable separation requirements, or the applicant shall obtain an exception. Modifications in the location of the gate shall be allowed to accommodate any approved change in the driveway approach location.

GENERAL COMMENTS: The applicant has submitted this request for an exception to the fence height requirement to allow a 9 foot high wall and a 20 foot wide two panel galvanized chain link fence gate with three strands of barbed wire on top in the General Commercial Zoning District. A three foot wide personal gate will be installed within one of the 10 foot wide gate panels. The wall section will be constructed out of pre-manufactured concrete panels assembled with posts installed on a typical five foot center. The fence and wall are proposed to be constructed in conjunction with a utility substation proposed for construction on the property located east of Mount Rushmore Road, south of Cleveland Street and west of Tower Road. The purpose of the 9 foot wall and chain link fence gate with barbed wire atop is to provide the security necessary for the substation as required by the National Electric Code as well as provide screening of the use from Mount Rushmore Road, Cleveland Street, Tower Road and the adjoining land uses. A significant landscape buffer is proposed for location between the right-of-way and abutting property, and the proposed wall.

The 9 foot wall and chain link fence gate with barbed wire will be located approximately 10 feet back from the east property line along Tower Road at the nearest location and within the front yard setback. The wall and gate will extend 88.25 feet parallel to Tower Road. The 9 foot wall will be located 9.5 feet back from the north property line along Cleveland Street and within the front yard setback. The wall will extend 135 feet parallel to Cleveland Street. The balance of the 9 foot wall will be located outside of the front yard setbacks, in rear and side yards. The wall will be located on piers and will be constructed so as to be stepped up and down to accommodate the changes in grade.

STAFF REVIEW: The property in question is located in a General Commercial Zoning District. As such, Section 15.40.030 of the Rapid City Municipal Code allows fences and walls in front yards with a maximum height of four feet. Fences and walls located along side or rear yards shall not exceed a height of 8 feet. However, the National Electric Code

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requires that enclosures for electrical installations have a height of not less than seven feet or combination of six feet or more of fence fabric and one foot or more of extension consisting of a minimum three strands of barbed wire. The proposed fence appears to meet all applicable requirements of the National Electric Code; however, it is not in compliance with the provisions of Section 15.40.030 of the Rapid City Municipal Code. Thus, the applicant has submitted this request for an exception to the maximum fence height allowed as part of the Rapid City Municipal Code.

Fence Height Exception Criteria. Section 15.40.050 of the Rapid City Municipal Code provides that the City Council may approve exceptions to the height requirements for fences if it is determined that the exception is not contrary to the public interest and the exception will not be injurious to the surrounding neighborhood. In accordance with Section 15.40.050, the design and materials of the fences and walls for which an exception is requested, are subject to prior approval by the City Council.

Staff has reviewed the request and noted that the increase in the height of the fence (gate) and wall is required to meet the National Electric Code, a code specifically adopted to protect the public health and safety. The height exception is necessitated by the need to provide security for a high voltage facility. As noted by the Public Works Department staff, the proposed wall and fence are not located within the sight triangles for the existing street and right-of-way. Staff recommends that the City Council find that the exception is not contrary to the public interest and in fact accomplishes significant public safety goals.

Further, staff recommends that the City Council find that the exception as requested will not be injurious to the surrounding neighborhood. The requested increase in the maximum height of the fence (gate) and wall will result in significantly increased screening of the substation facility. The wall, in conjunction with the landscaping that has been proposed will provide some screening of the utility facility from Mount Rushmore Road, a major entryway into the community as well as to the businesses and surrounding land uses.

Section 15.40.050 of the Rapid City Municipal Code requires that the design and materials of the fences and wall for which an exception is requested be subject to prior approval by the City Council. The application materials indicate that the fence will be constructed of galvanized metal and barbed wire and that the wall will be constructed of pre-cast concrete panels and posts. The applicant has indicated that the wall and posts will be a natural stone design and natural colors of a Ledge stone design and Pueblo coloring or equivalent. Staff is recommending that the fence comply with the design and coloring proposed; however, other similar colors and designs of a similar natural color and/or design may be approved by the Growth Management Director. Further staff is recommending that the fence (gate) section shall be constructed of either black or brown coated material. The applicant has concurred with that recommendation.

Building Permit. The applicant should be aware that a building permit is required prior to the construction of any wall or fence in excess of six feet in height. Sealed and signed plans for the proposed wall construction will be required to be submitted as a part of the building

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permit application. In addition, the applicant will need to submit a grading and drainage plan verifying that the proposed solid wall will not adversely impact the local site drainage.

Driveway Location. The Public Works Department staff has noted that the location of the proposed driveway and related gate does not comply with the minimum separation requirement from the intersection. Also, the driveway approach does not appear to line up with the driveway across the street. The Public Works Department staff has indicated that the applicant may need to revise the driveway location to comply with the applicable separation requirements or obtain an exception. Staff is recommending that the location of the driveway and related gate relative to the separation requirements be resolved prior to issuance of a building permit.

Staff has reviewed the request for an exception to allow a 9 foot tall fence (gate) and wall in the front, side and rear yards. Staff recommends a finding that the fence height exception is not contrary to the public interest and will not be injurious to the neighborhood if approved in conjunction with the recommended stipulations of approval. As such, staff recommends approval of the request with the stipulations outlined above.