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BOARD OF ADJUSTMENT STAFF REPORT CONDITIONAL USE PERMIT

Staff Report

Date: April 6, 2026
To: Board of Adjustment
From: Kevin Kuchenbecker
Planning, Zoning & Historic Preservation Officer
RE: Conditional Use Permit – Wireless Communications Facility

APPLICANT(S): New Cingular Wireless PCS, LLC (AT&T)

PURPOSE: Application for CUP – Wireless Communications Facility

ADDRESS: McGovern Hill

LEGAL DESCRIPTION: Tract A; Tract B; Tract B-1; Tract C; Tract D and Lot H1
all in McGovern Hill Addition to the City of Deadwood.

FILE STATUS: All legal obligations have been completed.

ZONE: PF – Park Forest

STAFF FINDINGS:

Surrounding Zoning:

North: PF – Park Forest

South: PF – Park Forest

East: PF – Park Forest

West: C1 - Commercial

Surrounding Land Uses:

Highway Right-of-Way

Open Space

Open Space

Businesses

SUMMARY OF REQUEST

The applicants have submitted a request for a Conditional Use Permit to operate a Wireless Communications Facility located on McGovern Hill. The facility will

be unmanned and will consist of a ninety-five-foot (95') stealth monopole near the Deadwood water tanks. The facility will provide cellular service to the region.

FACTUAL INFORMATION

1. The property is currently zoned PF – Park Forest.
2. The subject property has access from McGovern Hill Road.
3. The subject property is located within a PF – Park Forest zoning location on 3 sides, and a C1 – Commercial zoning on the west side.
4. The property is not located within a flood zone.
5. The area is characterized by open space and hiking trails.

STAFF DISCUSSION

The applicants have submitted a request for a Conditional Use Permit for a Wireless Communications Facility and city regulations permit utilities in PF – Park Forest zoning districts with an approved Conditional Use Permit. The purpose of the facility is to provide regional cellular service via a ninety-five-foot (95') stealth monopole.

COMPLIANCE:

1. The Zoning Office provided notice identifying the applicant, describing the project and its location, and giving the scheduled date of the public hearing in accordance with Section 11-4-4.
2. A sign was posted on the property for which the requests were filed.
3. Notice of the time and place was published in the designated newspaper of the City of Deadwood.

GENERAL USE STANDARDS FOR CONDITIONAL USE PERMITS:

In reviewing any application under the authority of this chapter and as a further guide to its decision upon the facts of the case, the Commission(s) shall consider, among other things, the following facts:

- A. The proposed use shall be in harmony with the general purposes, goals, objectives, and standards to the City Policy Plan, the ordinance, the district in which it is located, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice by the City of Deadwood.

The City Comprehensive Plan encourages the upgrade of essential infrastructure to meet current and future demands. The increase of cellular coverage enhances community livability.

- B. Whether or not a community need exists for the proposed use at the proposed location in light of existing and proposed uses of a similar nature in the area and of the need to provide or maintain a proper mix of uses both within the city and also within the immediate area of the proposed use: (a) the proposed use in the proposed location shall not result in either a detrimental over concentration of a particular use from previously permitted uses within the city or within the immediate area of the proposed use.

The subject area is zoned PF – Park Forest and is intended to provide areas in forested sections of the city to be used for low-density single-family residential development while minimizing potential adverse effects on the surrounding environment. The proposed use will not result in a detrimental overconcentration of Wireless Communications Facilities.

- C. The proposed use at this location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvement, public sites, or rights-of-way.

The proposed use at this location has been reviewed by the Historic Preservation Commission and it was found it would not result in an adverse effect on adjacent property or the character of the neighborhood. The remote location will have little to no effect on traffic conditions or parking.

- D. Whether or not the proposed use increases the proliferation of non-conforming uses as well as previously approved Conditional Use Permits which are still in use, when influenced by matters pertaining to the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of the Policy Plan, this ordinance, or any other plan, program, map or ordinance adopted, or under consideration pursuant to official notice, by the city or other governmental agency having jurisdiction to guide growth and development.

For any conditional use, lot and performance standards shall be the same as similar types of uses located in specific districts. The character and use of buildings and structures adjoining or near the property mentioned in the application shall be considered in their entirety.

The proposed use would not increase the proliferation of non-conforming uses. The appearance of the structure has been approved by the Historic Preservation Commission; therefore, the character and use of the buildings and structures adjoining the subject property will not be adversely affected.

- E. Whether or not the proposed use in the proposed area will be adequately served by and will not impose an undue burden on any of the improvements, facilities, utilities, and services specified in this section.

The proposed use will not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or other services.

CONDITIONS GOVERNING APPLICATIONS AND PROVISIONS:

- A. Following the issuance of a Conditional Use Permit pursuant to the provisions of this ordinance, such permit may be amended, varied, or altered only pursuant to the standards and procedures established by this section for its original approval.
- B. The Board of Adjustments can revoke Conditional Use Permits, once granted, for cause after a hearing is held before them. Complaints seeking the revocation of such permit shall be filed with the Zoning Administrator and may be initiated by the Planning and Zoning Commission OR any three (3) residents within three hundred (300) feet of the property lines of which the application has been filed. All such revocation hearings shall be conducted in the same manner as for the Conditional Use Permit application hearings.
- C. The Planning and Zoning Commission shall have the authority to review Conditional Use Permits at any time and/or on an annual basis and place additional stipulations to mitigate a problem.
- D. If the use permitted under the terms of a Conditional Use Permit has not been started within six (6) months of the date of issuance thereof, said permit shall expire and be canceled by the City Planning Department. Written notice thereof, shall be given to the person(s) affected, together with notice that further use or work as described in the canceled permit shall not proceed, unless and until a new Conditional Use Permit has been obtained.
- E. If the use permitted under the terms of a Conditional Use Permit ceases, for whatever reason, for a period of twelve (12) months, said permit shall expire and be canceled by the City Planning Department. Written notice thereof, shall be given to the person(s) affected, together with notice that further use or work as described in the canceled permit shall not proceed, unless and until a new conditional use permit has been obtained.

If approved, staff recommendations for stipulation(s):

- 1. The Conditional Use Permit runs with the applicant and not the land; therefore, should the property be sold, the Conditional Use Permit is null and void.

ACTION REQUIRED:

- 1. Approval/Denial by Deadwood Board of Adjustment (approved by Planning and Zoning Commission March 4, 2026)