

STAFF REPORT
November 19, 2009

No. 09PL069 - Layout Plat

ITEM 45

GENERAL INFORMATION:

APPLICANT/AGENT	Frontera Chicos, LLC
PROPERTY OWNER	Frontera Chicos, LLC
REQUEST	No. 09PL069 - Layout Plat
EXISTING LEGAL DESCRIPTION	Lot 2 of Huffman Subdivision, located in the N1/2 of the SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PROPOSED LEGAL DESCRIPTION	Lots A thru C of Lot 2 of Huffman Subdivision, located in the N1/2 of the SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 4.72 acres
LOCATION	Southeast of the intersection of East North Street and North Cambell Street
EXISTING ZONING	General Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District - Light Industrial District
East:	General Commercial District
West:	General Commercial District - Light Industrial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	10/23/2009
REVIEWED BY	Vicki L. Fisher / Ted Johnson

RECOMMENDATION:

Staff recommends that the Layout Plat be approved with the following stipulations:

1. Prior to Layout Plat approval by the Planning Commission, the expired Air Quality Permit shall be renewed or a new permit shall be obtained;
2. Upon submittal of a Preliminary Plat application, a Master Utility Plan showing private and public utilities shall be submitted for review and approval. In addition, the plat document shall be revised to show utility easements as needed;
3. Upon submittal of a Preliminary Plat application, a drainage plan addressing the existing stormwater flows that currently drain along internal pathways within the parcel shall be

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- submitted for review and approval. In addition, the plat document shall be revised to secure the existing drainage within defined and dedicated drainage easements;
4. Upon submittal of a Preliminary Plat application, a geotechnical report including pavement design shall be submitted for review and approval;
 5. Upon submittal of a Preliminary Plat application, the plat document shall be revised to show access to proposed Lots B and C. In addition, construction plans for the access street shall be submitted for review and approval. In particular, the construction plans shall show the street located within a minimum 59 foot wide right-of-way or easement and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
 6. Upon submittal of a Preliminary Plat application, the plat document shall be revised to show the existing access aisles that provide circulation between the three proposed lots located within access easement(s). In addition, construction plans for the access easement(s) shall be submitted for review and approval. In particular, the access easements shall be located within a minimum 59 foot wide easement and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
 7. Upon submittal of a Preliminary Plat application, construction plans for the 33 foot wide dedicated access easement shall be submitted for review and approval. In particular, the construction plans shall show the easement with a minimum 59 foot width and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
 8. Upon submittal of a Preliminary Plat application, construction plans for the 20 foot wide shared access easement shall be submitted for review and approval. In particular, the construction plans shall show the easement with a minimum 59 foot width and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
 9. Upon submittal of a Preliminary Plat application, construction plans for the service road located within the E. North Street right-of-way shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
 10. Upon submittal of a Preliminary Plat application, construction plans for E. North Street shall be submitted for review and approval. In particular, the construction plans shall show a sidewalk along both sides of the street or a Variance to the Subdivision Regulations shall be obtained;
 11. Upon submittal of a Preliminary Plat application, the plat document shall be revised to secure the truck turnaround located on Lots B and C within a shared access easement. In addition, construction plans for the shared access easement shall be submitted for review and approval showing the easement with a minimum 59 foot width and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
 12. Upon submittal of a Preliminary Plat application, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines

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- showing the sewer system in compliance with the City's design standards for location and accessibility shall be submitted for review and approval or an Exception shall be obtained to allow the existing sewer system to cross over adjacent properties. If an Exception is obtained, then the applicant shall submit a copy of a recorded covenant agreement securing perpetual maintenance of the private sewer system. In addition, the plat document shall be revised to provide a minimum 25 foot wide sewer main easements as needed;
13. Upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the water system in compliance with the City's design standards for location and accessibility shall be submitted for review and approval or an Exception shall be obtained to allow the existing water system to cross over adjacent properties. If an Exception is obtained, then the applicant shall submit a copy of a recorded covenant agreement securing perpetual maintenance of the private water system. Accurate as-built drawings must also be submitted for review and approval. In addition, the plat document shall be revised to provide a minimum 20 foot wide water main easement as needed;
 14. Upon submittal of a Preliminary Plat application, a cost estimate of the required subdivision improvements shall be submitted for review and approval;
 15. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid;
 16. Prior to submittal of a Preliminary Plat application, the plat document shall be revised to secure the existing sidewalks within pedestrian access easements;
 17. Prior to submittal of a Preliminary Plat application, an Exception shall be obtained to allow the existing sign advertising "On the Border" as an off-premise sign as per Section 15.28.050.Q or the plat document shall be revised to show the sign on the same lot as the use or the sign shall be removed;
 18. Prior to submittal of a Final Plat application, the applicant shall submit a copy of a recorded Covenant Agreement establishing a shared parking agreement between the three lots if the existing parking lot is to be used as shared parking for all three lots;
 19. Prior to submittal of a Final Plat application, the plat title shall be revised to show the proposed legal as "Lots 2A, 2B and 2C of Huffman Subdivision";
 20. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and,
 21. The approved Layout Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired. However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council.

GENERAL COMMENTS:

The applicant has submitted a Layout Plat to subdivide one lot into three lots. The lots are sized 1.635 acres, 1.436 acres and 1.647 acres, respectively. The applicant has indicated that the subdivision is to be known as "Lot A thru C of Lot 2 of Huffman Subdivision".

On July 24, 2008, the Planning Commission approved a Conditional Use Permit (File #07UR015) to allow an on-sale liquor establishment and denied without prejudice the future phase(s) of the development.

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On August 21, 2008 the Planning Commission approved an Initial and Final Commercial Development Plan (File #08PD041) for Phase One to allow an on-sale liquor establishment in conjunction with a full service restaurant on the property replacing the previously approved Conditional Use Permit. The restaurant was identified as "On the Border", a Mexican food restaurant. A Major Amendment to the Planned Commercial Development must be obtained prior to a building permit being issued for Phase Two and/or Phase Three of the development.

On May 4, 2009, the City Council approved a Major Amendment to the Planned Commercial Development (File #09PL011) revising the sign package to allow a 41 foot high by 31.5 foot wide monument sign with a 64.22 square foot LED electronic reader board extending the width of the sign. The sign has subsequently been constructed in the northwest corner of the property.

The property is located approximately 500 feet east of the intersection of E. North Street and N. Cambell Street on the south side of E. North Street. Currently, the restaurant, "On the Border", is located on proposed Lot B. One contiguous parking lot has been constructed across all three lots to serve the existing restaurant and future use(s) on proposed Lots A and C.

The Layout Plat is an informal preliminary review of a proposed subdivision to identify any major issues prior to platting. It is intended to provide the subdivider with an informal process where major issues may be identified and general agreements may be reached with Rapid City as to the form of the plat. Comments regarding the Layout Plat are based on the level of detail provided. All specific details of the subdivision may not be addressed as part of the Layout Plat approval but the major concerns and issues are identified based on the information provided. All applicable Subdivision Regulations, Zoning Regulations, Street Design Criteria Manual, and any other applicable regulations will need to be met as part of the Preliminary and Final Plat. Any waiver from the Rapid City Municipal Code or the Street Design Criteria Manual will require a formal variance request or a special exception whichever is applicable.

STAFF REVIEW:

The current improvements on the property were designed exclusively as private driveways and private utilities to serve three restaurant facilities on one platted lot. Subdividing the property as proposed creates several design concerns. Staff has reviewed the Layout Plat and has noted the following considerations:

Air Quality Permit: The previously issued Air Quality Permit has expired. However, all areas of the property have not been stabilized. As such, staff recommends that prior to Layout Plat approval by the Planning Commission, the Air Quality Permit must be renewed or a new permit must be obtained to bring the property into compliance with the adopted City codes.

Land Use: As previously indicated, the property is zoned General Commercial with a Planned Commercial Development. Currently, "On the Border", a Mexican food restaurant, is located on proposed Lot B. One contiguous parking lot has been constructed across all three lots to serve the existing restaurant and to serve two future additional restaurants to be located on proposed Lots A and C.

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The applicant has submitted a site plan showing that the minimum parking and landscaping requirements are being provided on proposed Lot B for the existing restaurant currently located on the lot. However, the parking lot has been designed to allow for internal circulation between the three lots. As such, upon submittal of a Preliminary Plat application, the plat document must be revised to show the existing access aisles located within an access easement. In addition, construction plans for the access easement(s) must be submitted for review and approval. In particular, the access easements must be located within a minimum 59 foot wide easement and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations must be obtained.

If the applicant proposes to secure the existing parking lot as shared parking for all three lots, then prior to submittal of a Final Plat application, the applicant must submit a copy of a recorded Covenant Agreement establishing shared parking between the properties.

Sidewalks: Currently, sidewalks exist within the parking lot. Subdividing the property as proposed will result in portions of the sidewalk(s) located on all three lots. In order to secure pedestrian access between the three lots, staff recommends that prior to submittal of a Preliminary Plat application, the plat document be revised to secure the sidewalks within pedestrian access easements.

Sign: As previously indicated, on May 4, 2009, the City Council approved a Major Amendment to the Planned Commercial Development (File #09PL011) revising the sign package to allow a 41 foot high by 31.5 foot wide monument sign with a 64.22 square foot LED electronic reader board extending the width of the sign. The sign has subsequently been constructed in the northwest corner of the property. Currently, the sign is classified as an on-premise sign advertising the existing restaurant, "On the Border" which is located on the existing lot. The sign also includes two blank panels for future advertisement of the two additional restaurants proposed to be located on the property. As a result of the plat, the existing sign will be located on proposed Lot A. Subsequently, any advertisement on the sign for uses existing or proposed on proposed Lot B or Lot C will result in off-premise signage.

On December 3, 2007, the City Council approved Ordinance No. 5348 to allow for the conversion of an on-premise sign to an off-premise sign as the result of the subdivision of an existing platted parcel of land, contingent upon compliance with Chapter 15.28.050.Q of the Rapid City Municipal Code. In particular, the following criteria must be satisfied:

- 1) The sign that is being converted must be a legal, pre-existing, on-premises sign;
- 2) The conversion of the sign from an on-premises sign to an off-premises must be the result of the subdivision of an existing platted parcel of land;
- 3) The Rapid City Common Council determines, based on the totality of the circumstances taking into consideration the size, location, height and design of the current sign, and the location and topography of the parcel being served by the sign, that allowing the existing sign to remain will not be contrary to the public interest and will be in the best interests of justice;
- 4) The process for getting approval to convert a legal on-premises sign to an off-premises sign under this exception is as follows:

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- a. Application to convert the sign from an on-premises sign to an off-premises sign must be submitted to the Sign Code Board of Appeals who shall review the application for compliance with the mandatory criteria and after having reviewed the application shall forward a recommendation for approval or denial to the Rapid City Common Council;
 - b. The Rapid City Common Council shall review the application, along with the recommendation of the Sign Code Board of Appeals, and must determine that all the mandatory criteria are met prior to granting its approval for the conversion of the sign from on-premises to off-premises;
 - c. The decision to allow the conversion of an on-premises sign to an off-premises sign is within the sole discretion of the Common Council and its decision on the issue is final.
- 5) Additional regulations that apply to converted signs:
- a. At the time the application for conversion of the existing sign is submitted, the applicant must designate a specific parcel which the sign will serve. The converted sign will be treated as an on-premises sign for the business located on the designated parcel;
 - b. The converted off-premises sign may not be expanded or structurally altered in any way except that advertising copy may be altered;
 - c. The converted off-premises sign shall not ever be eligible for off-premises sign credits; and
 - d. At such time as the use of the property being served by the converted off-premises sign changes, the converted off-premises sign must be removed.

Pursuant to the above listed criteria, the existing sign for "On the Border" could be allowed as an off-premise sign if an Exception is obtained as per Section 15.28.050.Q of the Rapid City Municipal Code. Since the existing sign is located on proposed Lot A, advertisement for future uses on proposed Lot A would be classified as on-premise signage and could be located on the sign without obtaining an Exception. However, the sign could not be used to advertise any future uses on proposed Lot C since the advertisement is not pre-existing at the time of platting the property.

Staff recommends that prior to submittal of a Preliminary Plat application, an Exception be obtained to allow the existing sign advertising "On the Border" as an off-premise sign as per Section 15.28.050.Q or the plat document must be revised to show the sign on the same lot as the use or the sign must be removed.

Access to Lots B and C: The Layout Plat identifies an existing 33 foot wide access easement extending from the service road located in the E. North Street right-of-way along a portion of the east lot line of proposed Lot A. However, the easement does not extend to Lots B and C. Subsequently, plat document does not identify access to proposed Lots B and C. As such, staff recommends that upon submittal of a Preliminary Plat application, the plat document be revised to show access to proposed Lots B and C. In addition, construction plans for the access street must be submitted for review and approval. In particular, the construction plans must show the street located within a minimum 59 foot wide right-of-way

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or easement and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations must be obtained.

33 foot wide Access Easement: As previously indicated, the Layout Plat identifies a 33 foot wide access easement extending from the service road located in the E. North Street right-of-way along a portion of the east lot line of proposed Lot A. The 33 foot wide access easement is classified as a commercial street requiring that it be located within a minimum 59 foot wide easement and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Staff recommends that upon submittal of a Preliminary plat application, construction plans be submitted for review and approval as identified or a Variance to the Subdivision Regulations must be obtained.

20 foot wide Shared Access Easement: The Layout Plat identifies a 20 foot wide shared access easement located along the common lot line between proposed Lots B and C. The easement is classified as a commercial street requiring that it be located within a minimum 59 foot wide easement and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Staff recommends that upon submittal of a Preliminary plat application, construction plans be submitted for review and approval as identified or a Variance to the Subdivision Regulations must be obtained.

Service Road: A service road is currently located along the north lot line of the property within the E. North Street right-of-way. The service road is classified as a commercial street requiring that it be constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Staff recommends that upon submittal of a Preliminary plat application, construction plans be submitted for review and approval as identified or a Variance to the Subdivision Regulations must be obtained.

E. North Street: East North Street is classified as a principal arterial street requiring that it be located within a minimum 100 foot wide right-of-way and constructed with a minimum 36 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. East North Street is located within a 260 foot wide right-of-way and is currently constructed to City Street Design standards with the exception of a sidewalk along both sides of the street. As such, staff recommends that upon submittal of a Preliminary Plat application, construction plans for E. North Street be submitted for review and approval showing a sidewalk along both sides of the street or a Variance to the Subdivision Regulations must be obtained.

Water: A private water main has been extended south from E. North Street within the eastern portion of the property. The existing water main was designed and constructed to City design standards but does not meet City requirements for location and accessibility as a result of the plat. In particular, the private water main will now extend across all three lots in lieu of being located on one lot. The City's design standards do not allow a private water main to cross over adjacent properties. As such, staff recommends that upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the private water system in compliance with the City's design standards for location and accessibility be submitted for review and approval or an Exception must be obtained to allow the existing water system to cross over adjacent properties. If an Exception is obtained, then the applicant must submit a copy of a recorded covenant agreement securing

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perpetual maintenance of the private water system. In addition, the plat document must be revised to provide a minimum 20 foot wide water main easements as needed.

Fire Department staff has indicated that the submitted water information does not appear to be accurate since the domestic and fire service line is separated prior to the post indicator valve. As such, accurate as-built drawings are needed upon submittal of a Preliminary Plat application.

Sewer: A 6 inch sanitary sewer main has been extended south from E. North Street within the western portion of the property. The existing sewer main does not meet minimum size requirements for a public main nor does it meet City requirements for location and accessibility as a result of the plat. In particular, the private sanitary sewer main will extend across all three lots in lieu of being located on one lot. The City's design standards do not allow a sanitary sewer system to cross over adjacent properties. As such, staff recommends that sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines showing the private sewer system in compliance with the City's design standards for location and accessibility be submitted for review and approval or an Exception must be obtained to allow the existing sewer system to cross over adjacent properties. If an Exception is obtained, then the applicant must submit a copy of a recorded covenant agreement securing perpetual maintenance of the private sewer system. In addition, the plat document must be revised to provide a minimum 25 foot wide sewer main easements as needed.

Drainage: A majority of the drainage improvements are located on the north and northwest portion of the property. Stormwater flows appear to drain along internal pathways on the parcel with no defined or dedicated drainage easements. As such, staff recommends that upon submittal of a Preliminary Plat application, a drainage plan addressing the existing stormwater flows be submitted for review and approval. In addition, the plat document must be revised to secure the existing drainage within defined and dedicated drainage easements.

Register of Deed's Office: The Register of Deed's Office has indicated that the plat title must be revised to show the proposed legal description as Lots 2A, 2B and 2C of Huffman Subdivision. Staff recommends that prior to submittal of a Final Plat application, the plat title be revised as identified.

Inspection Fees and Surety: Chapter 16.20.080 of the Rapid City Municipal Code states that before any Final Plat is approved, an additional fee must be paid to the City to cover the costs of inspection of the subdivision improvements required by the Ordinance. In addition, surety for any required subdivision improvements that have not been completed must be posted. As such, staff is recommending that upon submittal of a Final Plat application, surety be posted and subdivision inspection fees be paid as required.

Warranty Surety: On June 19, 2006, the City Council adopted a resolution establishing a formal warranty process for subdivision improvements. In particular, the resolution requires that the developer provide an acceptable Warranty Surety for the required public improvements. In particular, the Warranty Surety must be in force for a period of two years after the required final inspection and the City has accepted the improvements. As such, staff is

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recommending that prior to the City's acceptance of any public improvements, a Warranty Surety be submitted for review and approval if subdivision improvements are required.

The proposed plat generally complies with all applicable Zoning and Subdivision Regulations assuming compliance with the stated stipulations.