

STAFF REPORT  
July 22, 2010

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**No. 10PD048 - Major Amendment to a Planned Commercial Development** **ITEM 11**

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GENERAL INFORMATION:

APPLICANT	Walgreen Co.
AGENT	Michael M. Hickey
PROPERTY OWNER	Waltrust Properties, Inc.
REQUEST	<b>No. 10PD048 - Major Amendment to a Planned Commercial Development</b>
EXISTING LEGAL DESCRIPTION	The north 318.90 feet of Lot 16 of the replat of Block 31 of Nowlin and Wood Addition excepting therefrom Lots H1 and H2 and shown on the plat recorded in Book 7 of Highway Plats on page 53 and also excepting therefrom Lot H3 and shown on the plat recorded in Book 10 of Highway Plats on page 110 in the Office of the Register of Deeds, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.25 acres
LOCATION	1125 North La Crosse Street
EXISTING ZONING	General Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	General Commercial District
South:	Medium Density Residential District
East:	General Commercial District
West:	Low Density Residential District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	6/28/2010
REVIEWED BY	Vicki L. Fisher / Karley Halsted

RECOMMENDATION:

Staff recommends that the Major Amendment to a Planned Commercial Development be approved with the following stipulations:

1. The uses allowed within the Planned Commercial Development shall be limited to a retail store and off-premise wine and malt beverage sales with no on-premise liquor

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- consumption allowed;
2. A building permit shall be obtained for any construction;
  4. The proposed structure shall continually conform architecturally to the approved plans and elevations;
  5. A minimum front yard and side yard setback of 25 feet shall be provided. In addition, a minimum 30 foot rear yard setback along the west lot line shall be provided;
  6. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved Parking Plan. In particular, a minimum of 61 parking spaces with two handicap accessible spaces shall be provided. One of the handicap spaces shall be "van" accessible. In addition, three stacking spaces per drive up window shall be provided;
  7. The landscaping plan shall continually comply with all requirements of the Zoning Ordinance and the approved Landscaping Plan. In particular, a minimum of 40,500 landscape points shall be provided;
  8. The driveway located on the east side of North LaCrosse Street shall be allowed as per the previously approved Exception request;
  9. The lighting shall be designed to be reflected within the property boundaries so as not to 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;
  10. All signage shall conform to the design, color and location as shown in the previously approved sign package. Changes to the sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Planned Commercial Development. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The 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 maximum four foot high screening fence shall continually be provided within the 25 foot front yard setback as per the previously approved Exception request;
  12. All applicable provisions of the currently adopted International Fire Code shall be continually met; and,
  13. The Planned Commercial Development 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:

The applicant has submitted a Major Amendment to a Commercial Development Plan to allow for off-premise wine and malt beverage sales. On August 5, 2001, the Planning Commission approved an Initial Planned Commercial Development application (File #04PD039) to allow Walgreens, a retail store, to be constructed on the property. On March 10, 2005, the Planning Commission approved a Final Planned Commercial Development application (File #04PD082) to allow the construction of Walgreens on the property.

The property is located in the southwest corner of Anamosa Street and LaCrosse Street. A Walgreens store has been constructed on the property. Pursuant to State law, the applicant has submitted a Major Amendment to the previously approved Commercial Development

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Plan to allow for off-premise wine and malt beverage sales as a part of the retail store located on the property.

STAFF REVIEW:

Upon further review, staff has noted that the proposed use is regulated as “an on-sale establishment” pursuant to Chapter 17.18.030.17 of the Rapid City Municipal Code. Subsequently, staff has reviewed this request with respect to the four criteria established for on-sale liquor establishments identified in Section 17.50.185 of the Rapid City Municipal Code:

1. *The request will not “adversely affect” the use of any place used for religious worship, school, park, playground, or similar use within a five hundred foot radius.*

There are no places of religious worship, schools or parks located within a 500 foot radius of the subject property. In addition, the proposed use is for off-premise wine and malt beverage sales with no on-premise consumption.

2. *The requested use is “sufficiently buffered” with respect to residential areas so as not to “adversely affect” such areas.*

The properties located north and east of this property are zoned General Commercial District and are the current location of a strip mall and a convenience store, respectively. The property to the south is zoned Medium Density Residential District and is the current location of an apartment complex. The properties to the west are zoned Low Density Residential District and are developed with a single family residence on each lot. Currently, a five foot high screening fence is located along the south and west lot line, with the exception of the first 25 feet as it extends south from Anamosa Street which has a 4 foot high screening fence. The fence was required as a stipulation of the original Initial and Final Planned Commercial Development to provide a buffer between the retail store and the residential development. The use of this property will continue to be a retail store and expanded to include off-premise wine and malt beverage sales with no on-premise consumption.

3. *The proposed use will not create an undue concentration of similar uses, so as to cause “blight, deterioration, or substantially diminish or impair property values.”*

The convenience store located east of the property has an off-sale malt beverage liquor license. There are no existing on-sale liquor establishments located within 500 feet of the property. The proposed use is for off-premise wine and malt beverage sales with no on-premise consumption. As such, the use would not appear to create an undue concentration causing blight or deterioration or diminish land values in the surrounding area.

4. *The proposed use has been reviewed under Chapter 17.54.030 (E) Criteria for Review.*

Staff previously reviewed the use pursuant to Chapter 17.54.030.E) of the Rapid City Municipal Code and noted the following considerations:

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Use: ~~State law requires that a Conditional Use Permit be obtained to allow the sale of wine for off-premise consumption when a physical barrier is not being provided within the store. The applicant has submitted a floor plan identifying that a physical barrier is not being provided.~~ The Rapid City Municipal Code does not require that off-sale wine and malt beverages be screened from the rest of the establishment.

Staff recommends that the uses allowed within the Planned Commercial Development be limited to a retail store and off-premise wine and malt beverage sales with no on-premise liquor consumption allowed.

Parking: The applicant has submitted a site plan identifying that 61 parking spaces with three handicap spaces, one being "van" accessible, is being provided as per the previously approved Parking Plan. In addition, three stacking spaces are being provided per drive up window. Allowing off-premise wine and malt beverage sales within the existing retail area of the store does not require that any additional parking be provided.

Staff recommends that the parking plan continually comply with all requirements of the previously approved Parking Plan and the Zoning Ordinance.

Landscaping: The applicant has submitted a site plan identifying that 40,500 landscape points are being provided as per the previously approved Landscape Plan. Staff recommends that the Landscape Plan continually comply with all requirements of the approved Landscape Plan and the Zoning Ordinance.

Exceptions: As a part of the previously approved Final Planned Commercial Development, the Planning Commission approved an Exception request to allow a four foot high screening fence in lieu of a minimum five foot high screening fence in the front yard. In addition, an Exception was granted to allow the driveway located on the east side of North LaCrosse Street. The applicant is not proposing to revise the fence or to relocate the driveway as a part of this application. As such, staff recommends that the existing fence and driveway be allowed as per the previously approved Exception requests.

Notification Requirement: As of this writing, the receipts from the certified mailing have not been returned nor has the sign been posted on the property. Staff will notify the Planning Commission at the July 22, 2010 Planning Commission meeting if these requirements have not been met.