

STAFF REPORT
September 4, 2014

No. 14PD024 - Major Amendment to the Planned Development to allow a Statue of Liberty structure **ITEM 5**

GENERAL INFORMATION:

APPLICANT	Robert W. Akers
AGENT	Renee Catron - Renner & Associates, LLC
PROPERTY OWNER	Rippin Rapids Resort, LLC
REQUEST	No. 14PD024 - Major Amendment to the Planned Development to allow a Statue of Liberty structure
EXISTING LEGAL DESCRIPTION	Lot 2R3 of Block 1 of East Mall Drive Business Center Subdivision, located in Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 8.56 acres
LOCATION	620 East Mall Drive
EXISTING ZONING	General Commercial District (Planned Development)
FUTURE LAND USE DESIGNATION	Mixed Use Commercial
SURROUNDING ZONING	
North:	General Commercial District (Planned Development)
South:	General Commercial District (Planned Development)
East:	General Commercial District (Planned Development)
West:	General Commercial District (Planned Development)
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	August 8, 2014
REVIEWED BY	Robert Laroco / Bob Reiss

RECOMMENDATION:

If the Planning Commission determines that the proposed sculpture is in character with the development of the property and appropriate for the neighborhood, then staff recommends that the Major Amendment to the Planned Development to allow a Statue of Liberty structure be approved with the following stipulations:

1. A building permit shall be obtained prior to construction;
2. Prior to issuance of a building permit, final construction plans signed and sealed by a registered professional pursuant to SDCL 36-18A shall be submitted. In addition, a letter signed by the engineer of record for this sculpture shall be submitted to Building Services confirming that the installation of the sculpture meets the design standards;

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3. No additional signage or banners other than the dedication of the sculpture shall be permitted;
4. Any changes to the design or location of the sculpture shall require a Major Amendment to the Planned Development;
5. All requirements of the International Fire Code shall be continually maintained;
6. All requirements of the General Commercial District shall be continually maintained unless specifically authorized as a stipulation of the Final Planned Development or a subsequent Major Amendment to the Planned Development, and;
7. This Major Amendment to the Planned Development shall allow for a Statue of Liberty structure to be included as a part of the Rippin' Rapids waterpark. The previous stipulations of approval for the Rippin' Rapids waterpark as per File #13PD034 and File #13PD034A shall be continually maintained. Any change or expansion in the use shall comply with Chapter 17.50.050.G of the Rapid City Municipal Code.

GENERAL COMMENTS: The applicant has requested a Major Amendment to the Planned Development to allow the placement of a replica of the Statue of Liberty to be located on property currently developing as the Rippin' Rapids waterpark. The proposed statue measures a total of 45 feet tall and will be ground-illuminated and will include a non-illuminated torch.

On October 7, 2013 the City Council approved a Final Planned Development (File #13PD034) for the Rippin' Rapids waterpark and resort. The Final Planned Development was comprised of an existing hotel, a proposed hotel, a 54,000 square foot waterpark, a mix of commercial retail and services, and an existing Boston's restaurant. On July 14, 2014, staff approved a Minimal Amendment to the Planned Development (File #13PD034A) to alter the site layout and parking plan for the property and allow the proposed statue to be located in front of the existing Boston's restaurant. The Minimal Amendment to alter the site layout and parking plan was approved. However, the Minimal Amendment to allow the placement of the 45 foot tall statue was determined to require a Major Amendment to the Planned Development. No other changes or alterations to the site are being proposed as a part of this Major Amendment.

The property is located at 620 East Mall Drive and is currently developed with a Boston's restaurant.

STAFF REVIEW: Staff has reviewed the request for an Initial Planned Development pursuant to the requirements of Chapter 17.50.050.F(5) of the Rapid City Municipal Code and has noted the following considerations:

There are certain conditions pertaining to the particular piece of property in questions because of its size, shape, or topography;

The property is comprised of approximately 8.56 acres of land zoned General Commercial District with a Planned Development. The surrounding properties are zoned General Commercial District and General Commercial District with a Planned Development and are located in an area of the City currently undergoing development with a variety of commercial retail and services. The property is sloped downhill from south to north, with significant

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grading and site development in progress. The waterpark and resort complex are currently under construction, while the Boston's and the Hilton Garden Inn are currently located on the properties. There are no special conditions pertaining to this property due to its size, shape, or topography.

The application of these regulations to this particular piece of property would create a practical difficulty or undue hardship;

The approved Final Planned Development and subsequent Minimal Amendment were to allow an on-sale liquor establishment as a part of this hotel and resort complex. The Final Planned Development included an Exception to allow a maximum building height of 76 feet for the proposed 100 room hotel. However, the subsequent Minimal Amendment reduced the overall height of the hotel below 76 feet in height. No other Exceptions to the land area regulations were approved as a part of previous amendments. It should be noted that the proposed statue will be 45 feet tall as shown on the submitted plans. The application of these regulations to the property does not create a practical difficulty or undue hardship. However, based on the character of the proposed development and the surrounding commercial uses, the proposed statue may conflict with the design and character of adjacent uses.

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;

No Exceptions to the underlying zoning districts are being proposed as a part of this Major Amendment. The stipulations of the previously approved Final Planned Development continue to be recognized as a part of this Major Amendment. The proposed structure will meet the height and setback requirements of the General Commercial District. Plans show that the proposed statue will be ground-illuminated and the torch will not be illuminated independently of the rest of the statue. All lighting must be designed to preclude shining on adjacent properties or rights-of-way or constitute a nuisance to neighboring properties or rights-of-way of any kind.

The applicant's submitted operations plan notes that the base of the statue will include a dedication from the applicant to the residents and visitors of the Black Hills. The applicant should note that if the Planning Commission should determine that this statue is an appropriate use for the neighborhood, then final construction plans signed and sealed by a registered professional must be provided prior to issuance of a building permit. Building Services staff has also noted that prior to issuance of a building permit for the structure the engineer of record must provide a letter stating that the installation of the statue meets the original design standards.

No parking is being affected by the requested statue. All landscaping displaced by the proposed statue is being relocated elsewhere in the development. All parking and landscaping must continue to comply with the requirements of the Rapid City Municipal Code and the approved site plan. If the Planning Commission should determine that the proposed statue is appropriate for the neighborhood, no banners or signage should be permitted on the statue other than the dedication of the statue previously noted.

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The Rapid City Fire Department has not noted any concerns with the proposed development. All requirements of the International Fire Code must be continually maintained.

The property is located southeast of the intersection of East Mall Drive and North La Crosse Street. Both East Mall Drive and North La Crosse Street are designated as principal arterial streets on the City's Major Street Plan. Transportation Planning staff has noted that the proposed statue will not have an impact on the Major Street Plan or the Bicycle/Pedestrian Master Plan. No update to the submitted Traffic Impact Study is required.

A literal interpretation of this chapter would deprive the applicant of rights that others in the same district are allowed;

The General Commercial District is intended for the personal and business services and general retail business of the City. Based on the size of the proposed statue and the character of development in the area, the proposed statue may have an adverse impact

Any adverse impacts will be reasonably mitigated;

Based on the height of the proposed statue and the character of the neighborhood, the Planning Commission may find that the proposed structure will have an adverse impact on the neighborhood and is not appropriate for the area. However, if the Planning Commission should determine that the proposed sculpture is appropriate for the neighborhood, then the stipulations of approval will serve as the tool to ensure that the inclusion of this structure on the property will meet the design standards of the General Commercial District and the approved Final Planned Development. Any changes to the design or layout of the proposed statue will require a Major Amendment to the Planned Development.

The requested exception to the underlying zoning district standards is an alternative or innovative practice that reasonably achieves the objectives of the existing standard sought to be modified;

No Exceptions are being requested or approved as a part of this Major Amendment to the Planned Development. The addition of the statue meets all the parking, landscaping, and land area regulations of the General Commercial District and the Final Planned Development. The Future Land Use designation for the property is Mixed Use Commercial. The request to place the statue on the property may be considered an alternative or innovative practice. However, based on the size of the proposed sculpture and the characteristics of the neighborhood, the sculpture may have an adverse impact on the area. If the Planning Commission should determine that the proposed statue is appropriate for the character of the neighborhood, then staff recommends that the application be approved with the stipulations noted above.

Notification Requirements: The letters of notification have been returned to Community Planning and Development Services for mailing. The sign has been picked up. However, as of this writing staff has not confirmed that the sign has been posted on the property. Staff

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will inform the Planning Commission at the September 4, 2014 Planning Commission meeting if this requirement has not been met. As of this writing, there have been no inquiries into the proposed Major Amendment to the Planned Development.