

STAFF REPORT
September 6, 2007

No. 07PD028 - Major Amendment to a Planned Commercial Development **ITEM 46**

GENERAL INFORMATION:

PETITIONER	CSU Properties, LLC
REQUEST	No. 07PD028 - Major Amendment to a Planned Commercial Development
EXISTING LEGAL DESCRIPTION	Lot 1 of Professional Plaza Subdivision, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1 acre
LOCATION	550 North Fifth Street
EXISTING ZONING	Office Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	Low Density Residential District
East:	Office Commercial District (Planned Commercial Development)
West:	Public District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	4/3/2007
REVIEWED BY	Karen Bulman / Todd Peckosh

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

1. All provisions of Section 17.50.300, the Landscaping Regulations of the Rapid City Municipal Code shall be continually met and all required landscaping shall be maintained in a live vegetative state;
2. An exception is hereby granted to the Landscaping Regulations to allow an adjacent landscape area on the northwest corner of the parking lot to be used in place of a landscape island;
3. Prior to Planning Commission approval, a landscape plan shall be submitted for review and approval for the landscape island located on the eastern boundary of the parking lot;
4. Prior to Planning Commission approval, the irrigation plan shall be submitted for review and approval for the south and east boundaries of the property to include the landscaping island;

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5. All provisions of Section 17.50.270, the minimum Off-Street Parking Requirements of the Rapid City Municipal Code shall be continually met;
6. The required off-street parking spaces shall be reduced to 59 off-street parking spaces;
7. The parking lot light shall be relocated from the public right-of-way to the parking lot as per the revised site plan;
8. All requirements of the International Fire Code shall be continually met;
9. All stipulations of the Planned Commercial Development (#05PD091) shall be continually met to include:
 1. In addition to the office uses allowed with the Planned Commercial Development, the uses allowed within the Major Amendment to a Planned Commercial Development shall be the addition of a waterfall feature, the relocation of the dumpster, and wall signs as per the site plans submitted;
 2. Any additional signage on the property will require a Major Amendment to the Planned Commercial Development;
 3. All access, turnarounds and parking areas shall comply with all requirements of the International Fire Code and the Rapid City Street Design Criteria Manual;
 4. A building permit shall be obtained prior to any construction and a certificate of occupancy shall be obtained prior to occupancy;
 5. The use of the structures shall be limited to those uses permitted in the Office Commercial District. Additional uses such as those allowed as a Use on Review in the Office Commercial Zoning District may be allowed with the approval of a Major Amendment to this Planned Commercial Development;
 6. All signs shall conform to the design and location as shown in the sign package submitted as part of the Planned Commercial Development. A minimal amendment may be reviewed and approved by the Planning Director for any changes to the sign package that are deemed insignificant and continue to comply with all requirements of the Sign Code;
 7. All lighting, excluding street lighting, shall be directed to reflect away from the adjacent residential development, and shall be situated to not reflect directly onto any public rights-of-way creating a traffic hazard;
 8. The proposed structures shall conform architecturally to the plans and elevations submitted as part of this Planned Commercial Development; and,
10. The Major Amendment to a 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: **This staff report has been revised as of August 27, 2007. All revised and/or added text is shown in bold print. This application was continued at the August 23, 2007 Planning Commission meeting to allow the applicant to submit an irrigation plan.** This staff report has been revised as of August 14, 2007. All revised and/or added text is shown in bold print. This staff report has been revised as of June 8, 2007. All revised and/or added text is shown in bold print. This application was continued at the May 10, 2007 Planning Commission meeting to allow the application to be legally advertised. This application was continued at the June 7, 2007 Planning Commission meeting to allow the application to be heard in conjunction with an 11-6-19 Review and to allow the City Council to hear the request to allow a structure in the right-of-way (Revised 6-

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8-07). A Planned Commercial Development - Initial and Final Development Plan (#02PD025) to construct a 12,276 square foot office building on the subject property was approved by the Planning Commission on March 27, 2003 with 18 stipulations. Those stipulations were:

Engineering Division Recommendations:

1. Prior to issuance of a Building Permit, the applicant shall provide construction plans for the installation of required barriers or guardrails for any pedestrian walkways adjacent to walls and grade changes of more than 30 inches;
2. Prior to issuance of a Certificate of Occupancy, the applicant shall complete and file any additional utility easements necessary for constructing, accessing and maintaining public infrastructure;

Fire Department Recommendations:

3. All Uniform Fire Codes must be continually met;
4. Prior to issuance of a Certificate of Occupancy, the facility(s) addresses shall be posted. Said numbers shall be a minimum of twelve inches in height and displayed on a contrasting background;
5. All access, turnarounds and parking areas shall comply with all requirements of the Uniform Fire Code and the Rapid City Street Design Criteria Manual;
6. Prior to issuance of a Building Permit for the proposed parking area, the Fire Department shall have reviewed and approved plans to ensure that adequate emergency vehicle access and circulation is being provided;
7. Prior to issuance of a Building Permit, the applicant shall submit building plans showing the provision of a fire sprinkler system throughout the proposed structure;

Building Inspection Division Recommendations:

8. A building permit shall be obtained prior to any construction and a certificate of occupancy shall be obtained prior to occupancy;

Urban Planning Division Recommendations:

9. All provisions of Section 17.50.270, the Minimum Off-Street Parking Requirements of the Rapid City Municipal Code shall be continually met;
10. All provisions of Section 17.50.300, the Landscaping Regulations of the Rapid City Municipal Code shall be continually met;
11. The use of the structures shall be limited to those uses permitted in the Office Commercial District. Additional uses such as those allowed as a Use on Review in the Office Commercial Zoning District may be allowed with the approval of a Major Amendment to this Planned Commercial Development;
12. All signs shall conform to the design and location as shown in the sign package submitted as part of the Planned Commercial Development. A minimal amendment may be reviewed and approved by the Planning Director for any changes to the sign package that are deemed insignificant and continue to comply with all requirements of the Sign Code;
13. All provisions of the Sign Code shall be continually met;
14. The Planned Commercial Development shall expire if the use is not undertaken and

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- 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;
15. All lighting, excluding street lighting, shall be directed to reflect away from the adjacent residential development, and shall be situated to not reflect directly onto any public rights-of-way creating a traffic hazard;
 16. The proposed structures shall conform architecturally to the plans and elevations submitted as part of this Planned Commercial Development;
 17. Prior to Planning Commission approval of the Initial and Final Development Plan, the applicant shall provide written documentation from the affected utility companies identifying that they have reviewed and approved the miscellaneous document dedicating the utility easement(s) necessary for the relocation of existing utilities and installation of future utilities; and,
 18. Prior to Planning Commission approval of the Initial and Final Development Plan, the applicant shall file a miscellaneous document with the Pennington County Register of Deeds dedicating utility easement(s) necessary for the relocation of existing utilities and installation of future utilities. In addition, the miscellaneous document shall include temporary utility easement(s) for the existing utilities until the necessary utility relocations have been completed. The applicant shall provide a copy of the filed document to the Rapid City Planning Department.

A Major Amendment to a Planned Commercial Development (#05PD091) was approved on February 9, 2006 with eight stipulations. Those stipulations were:

1. In addition to the office uses allowed with the Planned Commercial Development, the uses allowed within the Major Amendment to a Planned Commercial Development shall be the addition of a waterfall feature, the relocation of the dumpster, and wall signs as per the site plans submitted;
2. A sign permit shall be obtained prior to installation of the wall signs and the provisions of the Sign Code shall be continually met. Any additional signage on the property will require a Major Amendment to the Planned Commercial Development;
3. All provisions of Section 17.50.300, the Landscaping Regulations of the Rapid City Municipal Code shall be continually met and all required landscaping shall be maintained in a live vegetative state;
4. All provisions of Section 17.50.270, the minimum Off-Street Parking Requirements of the Rapid City Municipal Code shall be continually met;
5. All requirements of the 2003 International Fire Code shall be continually met;
6. The structure screening the dumpster shall be constructed as per the submitted site plan;
7. All stipulations of the Planned Commercial Development (#02PD025) shall be continually met to include:
 1. All access, turnarounds and parking areas shall comply with all requirements of the Uniform Fire Code and the Rapid City Street Design Criteria Manual;
 2. A building permit shall be obtained prior to any construction and a certificate of occupancy shall be obtained prior to occupancy;
 3. The use of the structures shall be limited to those uses permitted in the Office Commercial District. Additional uses such as those allowed as a Use on Review in

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- the Office Commercial Zoning District may be allowed with the approval of a Major Amendment to this Planned Commercial Development;
4. All signs shall conform to the design and location as shown in the sign package submitted as part of the Planned Commercial Development. A minimal amendment may be reviewed and approved by the Planning Director for any changes to the sign package that are deemed insignificant and continue to comply with all requirements of the Sign Code;
 5. All lighting, excluding street lighting, shall be directed to reflect away from the adjacent residential development, and shall be situated to not reflect directly onto any public rights-of-way creating a traffic hazard;
 6. The proposed structures shall conform architecturally to the plans and elevations submitted as part of this Planned Commercial Development; and,
8. The Major Amendment to a 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.

A Major Amendment to a Planned Commercial Development (#06PD085) to eliminate the required landscaping islands in the parking lot was submitted October 5, 2006 and was denied without prejudice by the Planning Commission on November 22, 2006 and by the City Council on December 18, 2006. The applicant has now resubmitted the same request to eliminate the required landscaping islands in the parking lot. The developed property is located at 550 North Fifth Street, the southeast corner of the intersection of Fifth Street and North Street.

STAFF REVIEW: Staff has reviewed the Major Amendment to a Planned Commercial Development and noted the following considerations:

Landscaping: The Landscaping Ordinance requires that fifty percent of the required landscaping must be located within twenty feet of the parking area, that landscaping islands must be provided at a ratio of one island for every fifty parking spaces and that landscaping must be provided along the north, south and east sides of the property to provide a buffer to the adjacent residential properties. A landscaping plan was submitted as part of the approved Major Amendment to a Planned Commercial Development indicating that all the requirements of the Landscaping Ordinance were met. Two 100 square foot landscaping planting areas were approved to be located at the entrance to the parking lot; however, they have not been installed.

The Major Amendment to a Planned Commercial Development submitted in 2006 proposed to eliminate the two landscaping islands. That application was subsequently denied without prejudice by the Planning Commission and the City Council. The site plan submitted with this current application for a Major Amendment again proposes the removal of the landscaping islands. There has been no additional information submitted with this current application that differs from the previous request.

The number of landscaping points required to meet the Landscaping Ordinance for this property is 30,000 points. The landscaping regulations indicate that planter islands within

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the parking lot must be provided at a ratio of one such area for every fifty parking spaces, contain a minimum of 100 square feet and provide for one tree with shrubs, groundcover and/or mulch covering at the base. Planter islands provide aesthetic and environmental benefits. In addition, the planter islands reduce the heat and noise of the parking lot, and reduce the glare of sunlight from parking lot pavements. Two 100 square foot landscaping islands, as required for the sixty parking stalls indicated on the site plan within the Planned Commercial Development to meet the Landscaping Code, have been approved. The applicant submitted a landscaping plan, indicating that the landscaping points will exceed the required number of points. However, the landscaping islands are planned to be removed and not replaced. The applicant has requested that the landscaping in an area adjacent to the parking lot will be used to fulfill the requirement for the landscaping islands. As the landscaping requirement for planter islands have not been met, staff does not support the Major Amendment to a Planned Commercial Development to eliminate the two required landscaping islands in the parking lot. In addition, the required landscaping must be maintained in a live and healthy state.

Staff met with the property owners regarding their request to remove the two landscaping islands within the parking lot. As such, a revised site plan has been submitted indicating the removal of the two landscape islands adjacent to the entrance to the parking lot, the addition of a landscaping island at the east boundary of the parking lot, and the relocation of the light pole from the right-of-way into the parking lot. In addition, a request has been made for an exception to waive the requirement for a second landscaping island requirement based on the provision of an existing landscaping area located adjacent to the northwest boundary of the parking lot. The previous landscaping plan indicated that the landscaping points will exceed 100,000 points and are substantially over the 30,000 required points. In addition, the request to use an area adjacent to the parking lot as an exception appears to be a suitable compromise. As such, staff is in support of the new landscaping site plan submitted. However, a landscaping plan for the new landscaping island on the east boundary of the parking lot must be submitted for review and approval prior to Planning Commission approval. Due to the location of the landscaping island and the need to have the balance of the plant materials kept in a live and vegetative state on the south and east boundaries of the property, the applicant indicated that a plan is being drafted for an irrigation system to be connected to the current irrigation system on the west and north side of the property. As such, an irrigation plan for the south and east boundaries, to include the new landscaping island, must be submitted for review and approval prior to Planning Commission approval. (Revised 8-14-07)

Parking Lot: The parking plan submitted indicates that 60 parking spaces will be provided to include three handicapped spaces, one being van accessible. The Parking Ordinance requirements have been met. One of the parking lot lights within the parking lot is located three feet into one of the parking spaces. As such, the parking light must be relocated or a Major Amendment to a Planned Commercial Development shall be submitted to reduce the required parking spaces from 60 spaces to 59 spaces. This request to reduce the required parking spaces was not part of this current application for a Major Amendment to a Planned Commercial Development. The applicant has revised the application for a Major Amendment to a Planned Commercial Development to include the reduction of off-street parking spaces

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from 60 spaces to 59 spaces. The revised site plan indicates the addition of the landscaping island within the previous parking space. (Revised 8-14-07)

In addition, previous approval of the Initial and Final Planned Commercial Development in 2003 indicated that the Parking Ordinance, Section 17.50.270, must be continually met. The parking requirements state that every parking area that abuts a public or private sidewalk, public right-of-way, or building entrance or exit shall be provided with a wheel guard or curbs not less than six inches in height which shall be securely installed and maintained. The parking spaces along the sidewalk on the north side of the parking lot must have wheel stops or a curb in place to meet the requirements of the approved Final Planned Commercial Development.

Right-of-way: The approved site plan submitted by the applicant for the Final Planned Commercial Development indicates that a parking lot light would be located on the north boundary of the property adjacent to the entrance to the parking lot. It appears that this parking lot light is located within the public right-of-way. To meet the requirements of the approved Final Planned Commercial Development, the parking lot light must be re-located or the applicant must obtain approval from the City Council to locate a structure in the public right-of-way. A revised site plan has been submitted indicating the relocation of the parking lot light from the public right-of-way to the parking lot at a location south of the sidewalk. (Revised 8-14-07)

Permits: Staff has indicated that the applicant has not obtained a Certificate of Occupancy. The landscaping requirement must be completed or a surety posted for the balance of the requirements not completed and an Occupancy Permit obtained.

As of this writing, the required sign has been posted on the property but the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the May 10, 2007 Planning Commission meeting if these requirements have not been met. With the previous application for a Major Amendment to a Planned Commercial Development to remove the planting islands, Staff received objections from adjoining property owners regarding incomplete landscaping, construction debris, and blowing dust and dirt. To date, Staff has not received any comments on the current request.

Staff is recommending that the Major Amendment to a Planned Commercial Development be denied as the landscaping requirements as required by the Rapid City Municipal Code, have not been met. In addition, the following outstanding violations must be addressed:

1. The approved landscaping improvements shown in the approved Planned Development must be completed.
2. The slopes must be hydro seeded.
3. Rocks and debris in the alley must be removed.
4. Debris from the adjacent land must be removed.
5. The silt fences along the southern boundary must be repaired or replaced.
6. The current air quality permit must be amended to include the property adjoining your office building.

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Since the submittal of the application, the applicant has made improvements to the property. The slopes were hydro seeded, debris removed and the air quality permit amended. However, the silt fence on the southern boundary of the property must be moved and repaired or removed if no longer necessary. In addition, prior to obtaining the Occupancy Permit, the stipulations of the Major Amendment to a Planned Commercial Development must be completed and all outstanding issues as required by the Building Official completed or surety posted. (Revised 8-14-07)

Due to an error by the Rapid City Journal, the legal advertising was not completed. Staff is requesting that this application be continued to the May 24, 2007 Planning Commission meeting to allow the application to be legally advertised. The advertising has been completed. The applicant has requested that this application be continued to the June 21, 2007 Planning Commission meeting to allow the issue of the structure in the right-of-way to be heard by the City Council and to be heard in conjunction with an 11-6-19 Review to build a structure in the right-of-way. (Revised 5-25-07) The City Council continued the issue of the structure in the right-of-way to the July 2, 2007 City Council meeting. As such, the applicant has requested that this application be continued to the July 19, 2007 Planning Commission meeting to allow the issue of the structure in the right-of-way to be heard by the City Council and to allow this application to be heard in conjunction with an 11-6-19 Review to build a structure in the right-of-way. (Revised 6-8-07) On July 2, 2007, the City Council denied the request to allow a structure in the right-of-way. The applicant has indicated that a new site plan will be submitted to remove the structure in the right-of-way and relocate the parking lot light within the parking lot. However, to date a revised site plan has not been submitted. Staff recommends that this application be continued to the August 23, 2007 Planning Commission to allow the applicant additional time to submit revised plans. (Revised 7-17-07) The applicant has submitted revised plans indicating the relocation of the parking lot light from the public right-of-way to the parking lot. The revised site plan indicates that both landscape islands adjacent to the entrance of the parking lot will be removed, a new landscape island will be located on the eastern boundary of the property, and a request for an exception to the second required landscaping island within a parking lot be allowed on the northwest boundary of the parking lot. In addition, the applicant requests a reduction in the required off-street parking spaces from 60 spaces to 59 spaces. Staff recommends that the Major Amendment to a Planned Commercial Development be approved with the previously stated stipulations. (Revised 8-14-07) **This application was continued at the August 23, 2007 Planning Commission meeting to allow the applicant to submit an irrigation plan. Prior to Planning Commission approval, an irrigation plan for the south and east boundaries of the property must be submitted for review and approval. Staff recommends that the Major Amendment to a Planned Commercial Development be approved with the previously stated stipulations.** (Revised 8-27-07)