

STAFF REPORT  
November 20, 2008

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**No. 08PD056 - Major Amendment to a Planned Commercial Development      ITEM 58**

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GENERAL INFORMATION:

APPLICANT/AGENT	Michael Derby
PROPERTY OWNER	Derby Advertising, Inc.
REQUEST	<b>No. 08PD056 - Major Amendment to a Planned Commercial Development</b>
EXISTING LEGAL DESCRIPTION	Lots B, C, H, J, K, L, M & W of Kashmir Subdivision, located in the NE1/4 SE1/4, Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.42 acres
LOCATION	2720 Chapel Lane
EXISTING ZONING	General Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	Flood Hazard District
South:	General Commercial District
East:	Flood Hazard District
West:	General Commercial District - Flood Hazard District
PUBLIC UTILITIES	City water and Rapid Canyon Sanitary District
DATE OF APPLICATION	10/16/2008
REVIEWED BY	Karen Bulman / Mary Bosworth

RECOMMENDATION:

If the Planning Commission is in agreement with the extension of the Letter of Credit to November 15, 2009, then the Major Amendment to a Planned Commercial Development should be approved with the following stipulations:

1. A Certificate of Occupancy shall be obtained prior to occupancy of the structures;
2. All paving requirements shall be completed no later than May 15, 2009 with the Letter of Credit to extend to November 15, 2009;
3. The uses allowed within the Planned Commercial Development shall be limited to the current uses allowed for a specialty resort, a motel, laundromat, storage, and restaurant with on-sale liquor to include outdoor seating;
4. All requirements of the International Fire Code must be continually met and the structures intended for alcohol use, specialty resort or motel use shall be sprinklered.

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- The specialty resort shall be sprinklered no later than May 30, 2009;
5. All paving requirements shall be completed no later than May 15, 2009 with the Letter of Credit to extend to November 15, 2009;
  6. Any additional signage on the property will require a Major Amendment to the Planned Commercial Development;
  7. 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;
  8. All provisions of Section 17.50.270, the minimum Off-Street Parking Requirements of the Rapid City Municipal Code shall be continually met. The parking lots shall be paved, striped and wheel guards placed in areas that abut a public or private sidewalk, public right-of-way, building entrance or exit or plant material located within a parking lot. All access to parking lots shall be paved;
  9. All applicable life, safety, building and fire codes shall be met;
  10. Any future development modification to the restaurant or motel complex would require a Major Amendment of the Planned Commercial Development;
  11. All development on the site shall be done in compliance with the Rapid City Floodplain Ordinance requirements;
  12. The use of the property shall continue as shown on the approved site plan or a Major Amendment to the Planned Commercial Development shall be obtained; and,
  13. 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: (Update, November 10, 2008. All revised and/or added text is shown in bold print.) This item was to be heard at the November 6, 2008 Planning Commission Meeting. However, due to inclement weather, the Planning Commission was unable to meet. If the Planning Commission is in agreement with the extension of the Letter of Credit to November 15, 2009, then the Major Amendment to a Planned Commercial Development should be approved with the stipulations as noted above.**

The subject property is located south of Shore Drive and east of Chapel Lane at 2720 Chapel Lane. The subject property is currently zoned General Commercial District with a Planned Commercial Development. On May 16, 1994 the City Council approved a Planned Commercial Development (#1296) for a restaurant on the subject property. On August 18, 1997, the City Council approved a Major Amendment to a Planned Commercial Development (#1609) to allow an 11,000 square foot restaurant and an on-sale liquor establishment on the subject property. On April 4, 2002, the Planning Commission approved a Major Amendment to the Planned Commercial Development (#02PD010) to allow the expansion for outdoor seating. On April 4, 2002, the Planning Commission approved a Conditional Use Permit (#02UR007) for the subject property to allow a temporary structure in the Flood Hazard Zoning District for 15 event days per year. On February 9, 2006, the Planning Commission approved a Major Amendment to the Planned Commercial Development (#05PD088) to allow utilizing a house and motel on the property for catering private functions and overnight accommodations, convert a storage area into a micro winery and remodel the existing garage into a jacuzzi suite. On October 6, 2006, the Planning Commission approved a Major Amendment to the Planned Commercial Development

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(#06PD069) to extend the paving deadline to June 15, 2007. On September 6, 2007, Planning Commission approved a Major Amendment to the Planned Commercial Development (#07PD035) to extend the paving deadline to June 15, 2008 and extending the Letter of Credit to November 15, 2008.

Chapter 17.50.27.G.9 of the Rapid City Municipal Code states that if the off-street parking area cannot be paved prior to the issuance of an occupancy permit, surety must be posted to secure the completion of paving through one paving season.

The applicant is now requesting a time extension until May 15, 2009 to pave the street and parking lots on the subject property as required by the Major Amendment to the Planned Commercial Development (#05PD088) approved on February 9, 2006. In addition, the applicant requests that the sprinkler requirement be extended to May 30, 2009. The applicant has submitted an extension of the Letter of Credit to November 15, 2009.

**STAFF REVIEW:** The Major Amendment to a Planned Commercial Development that was approved on September 6, 2007 included 13 stipulations:

1. A Certificate of Occupancy shall be obtained prior to occupancy of the structures;
2. The uses allowed within the Planned Commercial Development shall be limited to the specialty resort in addition to the current uses allowed for a motel, laundromat, storage, and restaurant with on-sale liquor to include outdoor seating;
3. All requirements of the International Fire Code must be continually met and the structures intended for alcohol use, specialty resort or motel use shall be sprinklered. The specialty resort shall be sprinklered no later than November 30, 2007;
4. All paving requirements shall be completed no later than May 15, 2008 with the Letter of Credit to extend to November 15, 2008;
5. Any additional signage on the property will require a Major Amendment to the Planned Commercial Development;
6. 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;
7. All provisions of Section 17.50.270, the minimum Off-Street Parking Requirements of the Rapid City Municipal Code shall be continually met. The parking lots shall be paved, striped and wheel guards placed in areas that abut a public or private sidewalk, public right-of-way, building entrance or exit or plant material located within a parking lot. All access to parking lots shall be paved;
8. Prior to Planning Commission approval, a revised site plan for a minimum of 46 parking spaces shall be submitted in compliance with the Off-Street Parking Requirements of the Rapid City Municipal Code;
9. All applicable life, safety, building and fire codes shall be met;
10. Any future development modification to the restaurant or motel complex would require a Major Amendment of the Planned Commercial Development;
11. All development on the site shall be done in compliance with the Rapid City Floodplain Ordinance requirements;
12. That the use of the property continues as shown on the approved site plan or a Major

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Amendment to the Planned Commercial Development shall be obtained; and,

13. 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.

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

Land Uses: The applicant has indicated that the land uses remain the same and will include the specialty resort, motel, laundromat, and storage areas in addition to a restaurant with on-sale liquor to include outdoor seating identified on adjacent property.

Occupancy Permit: Staff noted that a Certificate of Occupancy must be obtained prior to occupying any building. As the specialty resort in the approved Planned Development is primarily transient in nature, it is classified with an RI rating for Motel/Hotel uses. As such, the Fire Department has indicated that the structure used for the specialty resort is required to be sprinklered. All International Building Codes and related codes shall continually be met. The Fire Department had previously indicated that the requirement to sprinkle the specialty resort structure must be completed no later than November 30, 2007. The Fire Department has agreed to extend that requirement to sprinkle the specialty resort structure to be completed no later than May 30, 2009.

Parking Plan: The Rapid City Municipal Code requires that all off-street parking spaces must be paved and marked with striping paint. Wheel guards or curbs shall be provided for every parking area that abuts a public or private sidewalk, public right-of-way, building entrance or exit or plant material located within a parking lot. Access to all parking facilities shall be paved. The applicant provided a site plan indicating that 46 off-street parking stalls will be provided for the motel, a private reception area, winery, laundromat, and storage areas to include two handicapped parking spaces. In addition, 106 off-street parking spaces are provided for the restaurant uses adjacent to the subject property. A letter of credit was submitted for the paving and striping with a completion date of October 15, 2006 and subsequently extended to June 15, 2007 and further extended to June 15, 2008 as required by the Rapid City Municipal Code. The property owners have identified that the paving will not be completed by this time. A Revised Letter of Credit has been submitted and accepted by the City Attorney to extend the paving to May 15, 2009 and the Letter of Credit extended to November 15, 2009.

Notification: As of this writing the required sign has been posted on the property and the receipts from the required notification of surrounding property owners have been returned. **City staff is mailing new legal notification letters to the surrounding property owners as required notifying them of the change in hearing date. As of this writing, staff has not received any calls of inquiry regarding this item. (Update 11-10-08)**

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If the Planning Commission is in agreement with the extension of the Letter of Credit to November 15, 2009, then the Major Amendment to a Planned Commercial Development should be approved with the previously stated stipulations.