

STAFF REPORT  
March 26, 2009

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**No. 09PD004 - Planned Commercial Development - Initial and Final Development Plan**

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**ITEM 31**

GENERAL INFORMATION:

APPLICANT/AGENT	Dream Design International, Inc.
PROPERTY OWNER	Midland Rushmore, LLC
REQUEST	<b>No. 09PD004 - Planned Commercial Development - Initial and Final Development Plan</b>

EXISTING  
LEGAL DESCRIPTION

A parcel of land more fully described as follows: Commencing at the southwesterly corner of Tract A of Block 2 of Rushmore Crossing common to the northwesterly corner of Tract C of Rushmore Center, common to a point on the easterly right-of-way of Luna Avenue and the point of beginning; Thence, first course: curving to the left, along the westerly boundary of said Tract A, common to the easterly edge of Luna Avenue right-of-way, on a curve with a radius of 536.00 feet, a delta angle of 40°47'54", a length of 381.67 feet, a chord bearing of N28°49'17"W, and chord distance of 373.65 feet; Thence, second course: N06°44'37"W, along the westerly boundary of said Tract A, common to the easterly boundary of said Luna Avenue, a distance of 36.68 feet, to a point on the southerly edge of Eglin Street right-of-way; Thence, third course: curving to the left, along the northerly boundary of said Tract A, common to the southerly edge of said Eglin Avenue right-of-way, on a curve with a radius of 650.00 feet, a delta angle of 02°45'41", a length of 31.33 feet, a chord bearing of N33°30'56"E, and chord distance of 31.32 feet; Thence, fourth course: N32°15'00"E, along the northerly boundary of said Tract A, common to the southerly boundary of said Luna Avenue, a distance of 161.15 feet, to a point on the southerly edge of Eglin Street right-of-way; Thence, fifth course: curving to the right, along the northerly boundary of said Tract A, common to the southerly edge of said Eglin Avenue right-of-way, on a curve with a radius of 550.00 feet, a delta angle of 12°23'21", a length of 118.93 feet, a chord bearing of N38°24'13"E, and chord distance of 118.70 feet; Thence, sixth course: curving to the right, along the northerly boundary of said Tract A, common to the southerly edge of said Eglin Avenue right-of-way, on a curve with a radius of 549.52 feet, a delta angle of 05°02'40", a length of 48.38 feet, a chord bearing of

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N53°01'43"E, and chord distance of 48.36 feet; Thence, seventh course: curving to the right, along the northerly boundary of said Tract A, common to the southerly edge of said Eglin Avenue right-of-way, on a curve with a radius of 545.00 feet, a delta angle of 07°45'13", a length of 73.75 feet, a chord bearing of N53°29'24"E, and chord distance of 73.70 feet; Thence, eighth course: S75°05'02"E, along the northerly boundary of said Tract A, common to the southerly boundary of said Luna Avenue, a distance of 39.42 feet; Thence, ninth course: N64°28'33"E, along the northerly boundary of said Tract A, common to the southerly boundary of said Luna Avenue, a distance of 78.73 feet; Thence, tenth course: S25°29'43"E, a distance of 165.19 feet; Thence, eleventh course: N57°16'53"E, a distance of 345.56 feet, to a point on the northerly boundary of said Tract A, common to a point on the southerly edge of said Eglin Street right-of-way; Thence, twelfth course: curving to the right, along the northerly boundary of said Tract A, common to the southerly edge of said Eglin Avenue right-of-way, on a curve with a radius of 550.00 feet, a delta angle of 02°28'16", a length of 23.72 feet, a chord bearing of S69°57'14"E, and chord distance of 23.72 feet; Thence, thirteenth course: curving to the right, along the northerly boundary of said Tract A, common to the southerly edge of said Eglin Avenue right-of-way, on a curve with a radius of 549.52 feet, a delta angle of 03°42'19", a length of 35.54 feet, a chord bearing of S60°51'03"E, and chord distance of 35.53 feet; Thence, fourteenth course: curving to the right, along the northerly boundary of said Tract A, common to the southerly edge of said Eglin Avenue right-of-way, on a curve with a radius of 546.33 feet, a delta angle of 03°47'49", a length of 36.21 feet, a chord bearing of S63°10'31"E, and chord distance of 36.20 feet; Thence, fifteenth course: S61°13'27"E, along the northerly boundary of said Tract A, common to the southerly edge of said Eglin Avenue right-of-way, a distance of 53.46 feet; Thence, sixteenth course: S61°14'34"E, along the northerly boundary of said Tract A, common to the southerly edge of said Eglin Avenue right-of-way, a distance of 173.85 feet, to a point on the northerly boundary of said Tract A, common to a point on the southerly edge of said Eglin Street right-of-way; Thence seventeenth course: S16°13'39"E, a distance of 38.18 feet; Thence eighteenth course: S61°13'07"E, a distance of 36.34 feet; Thence nineteenth course:

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S28°46'21"W, a distance of 911.76 feet, to a point on the southerly boundary of Tract B of Block 2 of Rushmore Crossing, common to a point on the northerly boundary of said Tract C of Rushmore Center; Thence twentieth course: N60°50'28"W, along the southerly boundary of said Tract B, common to the northerly boundary of said Tract C of Rushmore Center, a distance of 47.54 feet; Thence twenty-first course: N60°52'33"W, along the southerly boundary of said Tract B, common to the northerly boundary of said Tract C of Rushmore Center, a distance of 161.19 feet, to the southwesterly corner of said Tract B, Common to the southeasterly corner of said Tract A; Thence twenty-second course: N60°51'06"W, along the southerly boundary of said Tract A, common to the northerly boundary of said Tract C of Rushmore Center, a distance of 306.46 feet, to the southwesterly corner of said Tract A, common to the northwesterly corner of said Tract C of Rushmore Center, common to a point on the easterly right-of-way of said Luna Avenue and the point of beginning, located in the E½ of the SE¼, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota

PARCEL ACREAGE	Approximately 14.591 acres
LOCATION	South of Interstate 90 and Eglin Street, west of East North Street and east of Luna Avenue
EXISTING ZONING	General Commercial District (Planned Development Designation)
SURROUNDING ZONING	
North:	General Commercial District (Planned Development Designation)
South:	General Commercial District (Planned Development Designation)
East:	General Commercial District (Planned Development Designation)
West:	General Commercial District (Planned Development Designation)
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	2/6/2009
REVIEWED BY	Vicki L. Fisher / Ted Johnson

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**RECOMMENDATION:**

Staff recommends that the Planned Commercial Development - Initial and Final Development Plan be **approved with the following stipulations:**

1. Prior to setting the signal at the intersection of Eglin Street and Approach No. 9, a traffic signal warrant analysis, signed and sealed by a licensed South Dakota Professional Engineer, verifying that warrants are being met shall be submitted for review and approval. If the traffic signal warrant analysis demonstrates that a signal is required, then the signal shall be installed;
2. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
3. An Air Quality Permit application shall be submitted for review and approval prior to any surface disturbance of one acre or more. In particular, the Air Quality Permit shall include the owner's signature, identify the local contractor, describe the location of the work area and include a site plan;
4. Prior to issuance of a building permit, all necessary changes shall be made to the site plan(s) as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Growth Management Department;
5. Prior to issuance of a building permit, a Preliminary Plat shall be reviewed and approved by the City Council. In addition, prior to issuance of a Certificate of Occupancy a Final Plat shall be approved and recorded;
6. Prior to issuance of a building permit, the issue of whether the property should be served by the high level water zone or the low level water zone to insure that adequate fire flows as per the International Fire Code are being provided to the site shall be resolved. In addition, the construction plans shall be revised as needed;
7. The proposed structure(s) shall conform architecturally to the plans and elevations and color palette reviewed and approved as part of this Planned Commercial Development;
8. The compactor and the bale and pallet area shall be located in compliance with the proposed plan and screened along all four sides as proposed;
9. No outdoor storage of pallets, cardboard boxes or other similar materials shall be allowed outside of the screened bale and pallet area. In addition, no storage of semi-trailers shall be allowed on the property;
10. The outdoor display area shall be designed and located in compliance with the proposed plan;
11. The three rail white fencing shall be allowed on a temporary basis only. Once the development has been completed, the fence shall be removed on a phase by phase basis;
12. The retaining wall shall be constructed in compliance with the approved plans. In addition, a Permit to Work in the Right-of-way shall be obtained if needed;
13. All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Planned Commercial Development. Changes to the proposed 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

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- 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;
14. A minimum of 504,848 landscaping points with a minimum of 15 planter islands shall be provided. In addition, the landscaping shall be in accordance with the approved plans. All landscaping shall also be continually maintained in a live vegetative state and replaced as necessary;
  15. A minimum of 641 parking spaces shall be provided with 13 of the parking spaces being handicap accessible spaces. Two of the handicap spaces shall be "van accessible". In addition, three stacking lanes shall be provided for each individual fueling station. All provisions of the Off-Street Parking Ordinance shall be continually met;
  16. The Truck Route Plan shall continually meet the minimum radii and turning movement requirements;
  17. An east-west pedestrian sidewalk shall be provided as proposed as a part of the construction of the Sam's Club site. The proposed north-south pedestrian sidewalk shall be constructed along the east side of the access aisle when future development occurs on the adjacent properties. In particular, the sidewalk shall be allowed to be constructed in phases contingent upon a pedestrian sidewalk being extended from Eglin Street to the specific building site;
  18. The currently adopted International Fire Code shall be continually met. In particular, fire hydrants shall be installed and operational prior to the issuance of a building permit and/or any construction on the site using combustible material(s). In addition, prior to issuance of a building permit, all weather access roads shall be constructed in compliance with the Street Design Criteria Manual in order to accommodate Fire Department apparatus;
  19. 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;
  20. A retail store and a gas station shall be allowed on the property. In addition, no overnight camping or overnight recreational vehicle parking shall be allowed. Any other use of the property shall require the review and approval of a Major Amendment to the Commercial Development Plan;
  21. All provisions of the General Commercial District shall be met unless an exception is specifically authorized as a stipulation of this Initial and Final Commercial Development Plan application or a subsequent Major Amendment; and,
  22. 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. A time extension may be granted if identified and requested as a part of a phasing schedule submitted with the Final Commercial Development Plan application; or upon written request to the Growth Management Director, and prior to the Final Development Plan approval expiration date, a one year extension for Final Development Plan approval may be granted.

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GENERAL COMMENTS:

**(Update: March 18, 2009. All revised or added text is shown in bold print.) This item was continued at the March 5, 2009 Planning Commission meeting to allow the applicant to submit additional information. Subsequently, the applicant has submitted additional information as noted below.**

The applicant has submitted an Initial and Final Commercial Development Plan to construct a 141,445 square foot commercial store with a gas station. The site will be the future location of "Sam's Club". The applicant has also submitted a Preliminary Plat (File 09PL005) to create five lots as a part of Rushmore Crossing. In addition, the Preliminary Plat identifies the vacation of a portion of Cambell Street and Eglin Street. The applicant has also submitted a Variance to the Subdivision Regulations (File #09SV005) to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer and to reduce the width of the access easement(s) from 59 feet to 26 feet as they extend through the property.

The property is located in the southeast intersection of Luna Avenue and Eglin Street. Currently, the property is void of any structural development.

STAFF REVIEW:

Staff has reviewed the Initial and Final Commercial Development Plan and has noted the following considerations:

Outdoor Display Area: On February 25, 2009, the applicant submitted a revised site plan showing the proposed covered area located along the northeast corner of the Sam's Club building as an outdoor display area. However, revised elevations were also submitted that show this area as a loading and unloading area.

The revised site plan does not include any dimensions or detail for the outdoor display area. It is also unclear if utilizing this area as an outdoor display area will eliminate pedestrian access between the parking lot located on the east side of the building and the entrance located on the north side of the building.

Staff recommends that the Initial and Final Commercial Development Plan be continued to allow the applicant to submit a detailed and dimensioned site plan for the outdoor display area demonstrating how the area will function and showing pedestrian access from the adjacent parking lot to the entrance of the store. In addition, the applicant must clarify whether the use of the covered area is for a loading and unloading area and/or outdoor display area.

**(Update: March 18, 2009) The applicant has submitted a detailed drawing for the outdoor display area showing an approximate 16.5 foot by 46.5 foot display area located adjacent to the east wall of the Sam's Club building. In addition, the drawing demonstrates that a 14 foot 8 inch clear pedestrian walkway will be maintained adjacent to the display area to provide access from the parking lot to the entrance of the store. As such, staff recommends that the display area be allowed as proposed.**

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Design: The elevations originally submitted with this application for the Sam's Club retail store identified the building as a one story structure with a parapet along all four sides. The elevations also identified the gas station as a one story with a flat roof. The applicant indicated that both structures will be constructed with concrete masonry units, cultured stone, synthetic stucco, drivet and glass. The color scheme included shades of beige and brown with blue banding.

On February 25, 2009, the applicant submitted revised elevations for the two structures eliminating the blue banding from all four sides of the Sam's Club building and changing the gas station kiosk blue roof and fascia to brown. Removing the blue color from the design of the buildings appears to be more in character with the balance of the development within Rushmore Crossing. However, some other architectural feature is needed to break up the large span of wall along the front of the Sam's Club building. As an example a brown banding in place of the previous blue banding or different materials and textures along the top of the structure would add an architectural detail to break up the large spans of wall. Another option may be to extend the proposed pillars along the front of the building to the top of the wall instead of midway up the wall as proposed.

The applicant has also indicated that the roofing system for the Sam's Club building will be a single ply thermoplastic polyolefin membrane in light tan color. All roof top units will be painted to blend with the roofing membrane. It appears that the design and coloring of the roof top will sufficiently screen the roof top equipment for the adjacent properties.

Please note that the front elevation of the Sam's Club building showing the main entrance into the building is highly visible from Interstate 90 and Eglin Street. This property is located within a corridor that serves as a gateway into the Rapid City community. The balance of the building is not as visible due to the terrain and the proposed retaining wall with landscaping proposed along the rear and right side of the structure. Staff recommends that the Initial and Final Commercial Development Plan be continued to allow the applicant to submit revised elevations for review and approval providing an additional architectural feature along the front of the Sam's Club building to break up the large span of wall.

**(Update: March 18, 2009) The applicant has submitted a revised elevation and a sample of the building material demonstrating that the varied texture design along the front of the building breaks up the large span of wall. In addition, the applicant has submitted a detailed drawing of the proposed capped pillars along the front of the building which also provides an additional architectural feature to break up the large span of wall. As such, staff recommends that the proposed structure(s) conform architecturally to the plans and elevations and color palette reviewed and approved as part of this Planned Commercial Development.**

Infrastructure Improvements: Construction plans have been submitted for review and approval as a part of the associated Preliminary Plat application. The construction plans show the construction of access streets, utilities, and drainage improvements for the proposed commercial development. In reviewing the plans, staff has noted that the water plans

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currently show the property being served from the high level water zone located in Luna Avenue. However, the property must be served from the low level water zone located in Eglin Street.

On February 24, 2009, the applicant submitted revised construction plans for review and approval. A cursory review confirmed that the water plans continue to show the property being served from the high level water zone. Since the construction plans were submitted well after the February 6, 2009 submittal deadline for items to be heard at the March 5, 2009 Planning Commission meeting, staff has not had sufficient time to thoroughly review the plans. As such, staff recommends that the Initial and Final Commercial Development Plan be continued to allow staff sufficient time to review the revised construction plans and to allow the applicant to revise the water plans to show the property being served from the low level water zone.

**(Update: March 18, 2009) To date, the issue of whether the high level water zone or the low level water zone should serve the property in order to provide adequate fire flows to the site as per the International Fire Code has not been resolved. Additional modeling and analysis is currently being completed. As such, staff recommends that prior to issuance of a building permit, the water design issue be resolved and revised construction plans be submitted for review and approval as needed.**

Sidewalks: The site plan submitted with the application identified that an east-west pedestrian walkway is being provided from Luna Avenue along the front of the proposed Sam's Club building connecting to the sidewalk in front of the Scheel's building located on an adjacent lot. The site plan did not originally provide a north-south pedestrian access from Eglin Street to the proposed commercial use(s) to be located on the lots. However, on February 25, 2009, the applicant submitted a revised site plan showing a north-south pedestrian walkway along the common access aisle located between Lot 1 and Lots 3 and 4.

**(Update: March 18, 2009) As noted above, the revised site plan identifies both an east-west pedestrian walkway and a north-south pedestrian walkway. Staff recommends that the east-west pedestrian sidewalk be provided as proposed as a part of the construction of the Sam's Club site. The proposed north-south pedestrian sidewalk shall be constructed along the east side of the access aisle when future development occurs on the adjacent properties. In particular, the sidewalk shall be allowed to be constructed in phases contingent upon a pedestrian sidewalk being extended from Eglin Street to the specific building site.**

Retaining Wall: A retaining wall, measuring in height from approximately 4 feet to 20 feet, is proposed to be constructed along Luna Avenue and a portion of Eglin Street. It appears that the retaining wall construction will impact and/or potentially encroach into Eglin Street right-of-way due to the extent of the excavation. As such, detailed plans and plan notes must be submitted demonstrating that the retaining wall and the construction limits for the retaining wall will not encroach into the adjacent right-of-way. The plans must also be signed and sealed by a Professional Engineer. Staff recommends that the Initial and Final Commercial Development Plat be continued to allow the applicant to submit the additional



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information for review and approval.

**(Update: March 18, 2009)** The applicant has submitted plans for the proposed retaining wall demonstrating that the retaining wall and the construction limits for the retaining wall will not encroach into the adjacent right-of-way.

**Staff recommends that the retaining wall be constructed in compliance with the approved plans. In addition, a Permit to Work in the Right-of-way must be obtained if needed.**

Geotechnical Report: A note on the retaining wall plans states that "Foundation Treatment is required. Foundation treatment shall be as recommended by the geotechnical engineering report by Terracon". In addition, a note on the site plan for the Sam's Club building states that the building will require drilled piers. To date, the geotechnical report for the proposed retaining wall along Luna Street and for the Sam's Club building has not been submitted for review and approval. As such, staff recommends that the Initial and Final Commercial Development Plan be continued to allow the applicant to submit the geotechnical report(s).

**(Update: March 18, 2009)** The applicant has submitted a geotechnical report addressing the construction of the wall, the building and the overall site. Staff has reviewed and approved the report.

Irrigation Plan: The construction plan cover sheet references two plan sheets for the irrigation system. However, the sheets are not included in the set. As such, staff recommends that the Initial and Final Commercial Development Plan be continued to allow the applicant to submit an irrigation plan for review and approval.

**(Update: March 18, 2009)** The applicant has submitted an irrigation plan for the site. Staff has reviewed and approved the plan.

Traffic Signal: A Traffic Impact Study was submitted for review and approval as a part of the Preliminary Plat (File #07PL038) for Phase One of Rushmore Crossing. The Traffic Impact Study identified the western approach to Lot 1 (Approach #8) as a future signalized intersection. The construction plans submitted with this Initial and Final Commercial Development Plan identify the eastern approach (Approach #9) to Lot 1 as the signalized intersection. Since this location was not addressed as a part of the approved Traffic Impact Study, staff recommends that prior to Planning Commission approval, an addendum to the Traffic Impact Study be submitted for review and approval demonstrating that the eastern approach should be signalized in lieu of the western approach and identify what threshold will require the signalization or the construction plans must be revised to show the signalization of the western approach as per the approved Traffic Impact Study.

Staff notes that it does not appear that the traffic signal will be warranted at this time. As such, staff recommends upon submittal of a Final Plat application, surety be posted for the proposed traffic signal and/or the applicant must enter into an agreement to install the signalized lights when warrants are met.

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**(Update: March 18, 2009)** The applicant has indicated that they would like to set the traffic signal at the intersection of Eglin Street and Approach No. 9 as a part of the development of the Sam's Club site. As such, staff recommends that prior to setting the signal at the intersection, a traffic signal warrant analysis, signed and sealed by a licensed South Dakota Professional Engineer, verifying that warrants are being met shall be submitted for review and approval. If the traffic signal warrant analysis demonstrates that a signal is required, then the signal at the intersection of Eglin Street and Approach No. 9 shall be installed.

Approach: The site plan shows a portion of the service road approach on Luna Avenue located on the adjacent property. The applicant has indicated that they will obtain an access easement from the adjacent property owner to allow the approach as designed in lieu of redesigning the approach to avoid the encroachment. Prior to Planning Commission approval, a copy of the recorded easement must be submitted for review and approval.

**(Update: March 18, 2009)** The applicant has submitted a copy of a recorded access and utility easement for that portion of the approach located on the adjacent property.

Parking: The 141,445 square foot Sam's Club retail store and the 192 square foot gas station kiosk require that a minimum of 637 parking spaces be provided. Thirteen of the parking spaces must be handicap accessible with two of the spaces being "van accessible". The parking plan identifies 647 parking spaces with 15 handicap accessible spaces. In addition, two of the handicap spaces are "van accessible".

The parking plan does not currently identify any parking provisions for the outdoor display area. Until the dimensions for the outdoor display area are identified, a parking determination can not be made. Staff recommends that the Initial and Final Commercial Development Plan be continued to allow the applicant to submit a revised parking plan which includes parking for the outdoor display area.

**(Update: March 18, 2009)** The 16.5 foot by 46.5 foot outdoor display area will require that four parking spaces be provided. As noted above, the Sam's Club retail store and the gas station will require that a minimum of 637 parking spaces be provided for a total of 641 parking spaces. Thirteen of the parking spaces must be handicap accessible with two of the spaces being "van accessible". The parking plan identifies 647 parking spaces with 15 handicap accessible spaces. In addition, two of the handicap spaces are "van accessible". The parking plan also identifies three stacking lanes at each individual fueling station as required. As such, the proposed parking plan is in compliance with the City's adopted Parking Regulations.

Landscaping: A minimum of 491,881 landscaping points are required. In addition, 13 planter islands must be provided. The applicant's site plan identifies that 504,848 landscape points are being provided with 15 planter islands.

The landscape plan also identifies that honey locust trees will be planted within the line of

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sight along portions of Luna Avenue and Eglin Street. This is allowed as long as an unobstructed cross-visibility at a level between 2 ½ feet and 10 feet above the edge of the roadway is maintained. The landscaping plan must be revised to include a line of sight dimension at the intersection of Luna Street and the service drive. Staff recommends that the revised landscaping plan showing the line of sight at the intersection be submitted for review and approval prior to Planning Commission approval.

**(Update: March 18, 2009) The applicant has submitted line of sight drawings demonstrating that the landscaping will not create an interference at the intersections.**

**Staff recommends that a minimum of 504,848 landscaping points with a minimum of 15 planter islands be provided. In addition, the landscaping must be planted in accordance with the approved plans. All landscaping must be continually maintained in a live vegetative state and replaced as necessary.**

Master Plan: The applicant has submitted a Master Plan showing the future construction of a commercial building on proposed Lot 2 located north of the Sam's Club site. The applicant should be aware that the proposed commercial building is located within the line of sight along Eglin Street. As such, any future development of Lot 2 must be designed to preclude encroachment into the line of sight.

Fencing: The applicant has indicated that a three rail white fence will be used throughout the development to separate the undeveloped area from the developed area. This in part, is being proposed to clarify parking and access points. The applicant should be aware that the three rail white fencing is being allowed on a temporary basis only. Once the development has been completed, the fence must be removed on a phase by phase basis.

Outdoor Storage: In the past, staff has recently received complaints that wood pallets and semi-trailers are stored at the current Sam's Club site located on LaCrosse Street. As such, staff is recommending that no storage of semi-trailers be allowed on this property. In addition, no outdoor storage of pallets, card board boxes or other similar materials shall be allowed.

Notification Requirement: The receipts from the certified mailings have been returned and the sign has been posted on the property. **Staff has received several calls of inquire regarding this item. It did not appear that any of the callers opposed the request.**