

STAFF REPORT
April 23, 2009

No. 09PD014 - Major Amendment to a Planned Commercial Development to expand the area of the on-sale liquor establishment to include an outside service area **ITEM 29**

GENERAL INFORMATION:

APPLICANT/AGENT	Uncork'd Wine and Tapis Bar
PROPERTY OWNER	Autumn Hills Properties
REQUEST	No. 09PD014 - Major Amendment to a Planned Commercial Development to expand the area of the on-sale liquor establishment to include an outside service area
EXISTING LEGAL DESCRIPTION	Lot 3 of Block 1 of Stoney Creek South Subdivision, Section 22, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 2.5 acres
LOCATION	5734 Sheridan Lake Road
EXISTING ZONING	General Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	General Commercial District (Planned Commercial Development)
South:	General Commercial District (Planned Commercial Development)
East:	General Commercial District (Planned Commercial Development)
West:	General Commercial District (Planned Commercial Development)
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	3/27/2009
REVIEWED BY	Jared Ball / Karley Halsted

RECOMMENDATION:

Staff recommends that the Major Amendment to a Planned Commercial Development to expand the area of the on-sale liquor establishment to include an outside service area be approved with the following stipulations:

1. Prior to Planning Commission approval, the applicant shall submit a complete site plan that is drawn to scale for review and approval;

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2. Prior to Planning Commission approval, the applicant shall complete the required landscaping improvements or post surety for the improvements;
3. Prior to Planning Commission approval, the applicant shall submit a revised site plan that is drawn to scale and includes the location of the proposed fence. In addition, the applicant shall provide elevations and building materials for the proposed fence;
4. The on-sale liquor establishment shall only be operated in conjunction with a full service restaurant;
5. A minimum of 161 parking spaces shall be provided. Six of the spaces shall be handicap accessible with one of the handicap spaces being "van accessible". In addition, all provisions of the Off-Street Parking Ordinance shall be continually met;
6. All outdoor lighting shall be reflected within the property boundaries so as to not 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;
7. The dumpster shall be located as shown on the site plan and screened on all four sides as proposed;
8. All applicable stipulations of the initial Planned Commercial Development shall be continually met; and,
9. The Planned Commercial Development shall expire if the use is not undertaken 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 Planned Commercial Development to expand an on-sale liquor establishment to include an outside dining area. The property is located at 5734 Sheridan Lake Road. More specifically the property is located southeast of the intersection of Sheridan Lake Road and Catron Boulevard. Currently a two building strip mall is constructed on the property. The applicant has constructed a 480 square foot patio adjacent to the existing restaurant and is now applying for a Major Amendment to the Planned Commercial Development.

On May 25, 2006 Planning Commission approved an Initial and Final Planned Commercial Development (#06PD025) for the property with the following stipulations:

1. Prior to Planning Commission approval, the structural elevations shall be revised to show a parapet along all four sides of the proposed commercial building. Upon review and approval of the revised elevation(s), the proposed structure(s) shall conform architecturally to the plans and elevations and color palette submitted as part of this Planned Commercial Development Plan;
2. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
3. Prior to issuance of a building permit, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Development Service Center Division;
4. Prior to issuance of a building permit, the plans shall be revised to show the four foot high landscaping wall designed and stamped by a Registered Professional Engineer;
5. An Air Quality Permit shall be obtained prior to any surface disturbance in excess of one

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- acre;
6. The proposed commercial structure shall be used for retail, office, banking, Laundromat, restaurant and medial clinic(s) uses as allowed in the General Commercial District. In particular, no more than 7,363 square feet of restaurant area shall be allowed or additional parking shall be provided. In addition, no on-sale liquor use shall be allowed as a part of this Planned Commercial Development. The addition of the second building and/or any other use or change in use shall require a Major Amendment to the Planned Commercial Development;
 7. A minimum of 104,035 landscaping points shall be provided. The landscaping plan shall comply with all requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
 8. A minimum of 161 parking spaces shall be provided. Six of the spaces shall be handicap accessible with one of the handicap spaces being "van accessible". In addition, all provisions of the Off-Street Parking Ordinance shall be continually met;
 9. All outdoor lighting shall be reflected within the property boundaries so as to not 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. The dumpster shall be located as shown on the site plan and screened on all four sides as proposed;
 11. The 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 particular, on-site fire hydrants shall be provided as needed. In addition, all weather access roads shall be constructed in compliance with the Street Design Criteria Manual in order to accommodate Fire Department apparatus. The proposed structure(s) shall be fully fire sprinkled and fire alarmed as per the 2003 International Fire Code;
 12. Prior to issuance of a building permit, the applicant shall sign a developmental lot agreement for the two lots or the property shall be platted into one lot;
 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; and,
 14. All provisions of the General Commercial District shall be met unless otherwise specifically authorized as a stipulation of this Final Commercial Development Plan or a subsequent Major Amendment.

On June 21, 2007 A Major Amendment to a Planned Commercial Development was approved. The Major Amendment was to allow an on-sale liquor establishment in conjunction with a simulated golf entertainment use. The Major Amendment required an additional 15 parking stalls to be located on the property and was approved with the following stipulations:

1. The on-sale liquor establishment shall be operated in conjunction with a simulated golf entertainment use.
2. The hours of operation shall be from 8:00 am to 10:00 pm Monday thru Thursday, and 8:00 am to 12:00 am on Friday thru Sunday.
3. All applicable stipulations of the initial Planned Commercial Development shall be

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continually met.

It should be noted that the simulated golf business that required 15 parking spaces is no longer located on the property.

On August 7, 2008 Planning Commission approved a Major Amendment to the Planned Commercial Development to allow an on-sale liquor establishment in conjunction with a full service restaurant with the following stipulations:

1. The on-sale liquor establishment shall be operated in conjunction with a full service restaurant;
2. The hours of operation shall be from 11:00 am to 11:00 pm Monday thru Thursday, 11:00 am to 12:00 midnight on Friday and Saturday, and 11:00 am to 10:00 pm on Sunday;
3. A minimum of 170 parking spaces shall be provided. Six of the spaces shall be handicap accessible with one of the handicap spaces being "van accessible". In addition, all provisions of the Off-Street Parking Ordinance shall be continually met;
4. All applicable stipulations of the initial Planned Commercial Development shall be continually met; and,
5. The Planned Commercial Development shall expire if the use is not undertaken 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.

Currently, 2 restaurants, a fitness center and retail businesses are located on the property. It should be noted that the simulated golf business that required 15 parking spaces is no longer located on the property.

STAFF REVIEW: Staff has reviewed this request for a Major Amendment to a Planned Commercial Development to allow an on-sale liquor establishment as it relates to the applicable provisions of Section 17.54.030 of the Rapid City Municipal Code and has noted the following issues:

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

There are no places of religious worship, schools, playgrounds, parks, or similar use located within 500 feet. Staff does not find that this request for an expansion to an on-sale liquor use will have an adverse effect on any place of religious worship, school, playground, park, or areas of similar use.

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

The property abuts residential property on the eastern and western boundary. Sheridan Lake Road, a four lane principal arterial street, separates the property from the residential property on the western boundary. The eastern boundary abuts property that is currently undeveloped but is

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zoned Low Density Residential District. A major drainage easement 80 feet in width currently separates the property from the Low Density Residential District property. To the north of the proposed use is an existing strip mall with various retail uses and to the south of the property an office complex is being constructed. Staff has not received any complaints about the current application. However, it should be noted, that several area property owners had objections to the on-sale liquor establishment when it was approved in 2008. (File # 08PD033). In particular, property owners were concerned about noise and traffic increases due to the sale of alcohol. The drainage easement located along the east side of the property and Sheridan Lake Road located along the west side of the property provides a buffer to the adjacent residential developments.

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".*

Currently, Wings and Rings, an on-sale liquor establishment exists at the northern end of this shopping center development. In addition, Uncork'd, a full service restaurant with an on-sale beer and wine license is located on at the southern end of this shopping center development. Because of the nature of the on-sale liquor establishments in this shopping center, this expansion does not appear to be an undue concentration of similar uses.

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

Parking: The existing restaurants, general retail areas, and fitness center requires 155 parking spaces. The applicant's site plan identifies 172 parking spaces, six of which are handicap spaces with three spaces being "van accessible". It should be noted that a previously approved simulated golf business that was required to provide 15 parking stalls is no longer located on the property, (File #07PD038). With the addition of the 480 square foot patio, a total of 161 spaces are required for the site. The applicant's parking plan meets the minimum requirements of the parking regulations.

Site Plan: The plans that were submitted with this application were not drawn to scale. On April 13, 2009 staff spoke with the applicant's representative about the requirements of the site plan. During that conversation, the applicant's representative informed staff that a revised site plan would be submitted that is drawn to scale for review and approval. As such, prior to Planning Commission approval of the Major Amendment to the Planned Commercial Development to expand the area of the on-sale liquor establishment to include an outside service area, the applicant must submit a complete site plan that is drawn to scale for review and approval.

Landscaping: A minimum of 104,035 landscaping points is required for the existing development. A landscaping plan identifying 104,950 landscaping points was previously approved for the development. (File # 08PD033). However, upon visiting the site, staff noted that the required landscaping as previously approved has not been completely installed. In particular, the 70,700 points identified on the previously approved plan as ground cover does not meet the requirement that the landscaping be maintained in a live vegetative state. Upon visiting the site, staff noted that the area identified as ground cover currently contains decorative

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gravel and does not meet the City's landscaping requirements.

On April 13, 2009 staff spoke with the applicant's representative about the outstanding violation on the site. During that conversation, the applicant's representative informed staff that the applicant would be obtaining an estimate for the additional required landscaping and will be posting surety for the improvements. As such, prior to Planning Commission approval of the Major Amendment to the Planned Commercial Development to expand the area of the on-sale liquor establishment to include an outside service area, the applicant must make the required landscaping improvements or post surety for the improvements.

Proposed Fence: The plans that were submitted with this application identify a screening fence that is five feet in height and 100 feet in length to be located south of the patio. However, the applicant did not provide elevations, building material, or a site plan identifying the exact location of the fence.

On April 13, 2009 staff spoke with the applicant's representative about the outstanding issues regarding the fence. During that conversation, the applicant's representative informed staff that a revised site plan would be resubmitted that identifies the location of the fence. In addition, elevations and a list of building materials for the proposed fence will be resubmitted. As such, prior to Planning Commission approval of the Major Amendment to the Planned Commercial Development to expand the area of the on-sale liquor establishment to include an outside service area, the applicant must submit a revised site plan that is drawn to scale and includes the location of the proposed fence. In addition, the applicant must provide elevations and building materials for the proposed fence.

Notification:

Staff has noted that the sign has not been posted on the property and the required mailings have not been sent. Staff will notify the Rapid City Planning Commission at the April 23, 2009 Planning Commission meeting if the required legal notification requirements have not been met.

Staff recommends that the Major Amendment to a Planned Commercial Development be approved with the above stated stipulations.