

STAFF REPORT
May 21, 2009

No. 09PD017 - Planned Commercial Development - Initial and Final Development Plan to allow an on-sale liquor establishment **ITEM 27**

GENERAL INFORMATION:

APPLICANT	Timothy Norberg
AGENT	Robb Schlimgen for Schlimgen Design Consultants, Inc.
REQUEST	No. 09PD017 - Planned Commercial Development - Initial and Final Development Plan to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lots 12 thru 23 of Block 8 of St. Elmo Addition No. 1, Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.92 acres
LOCATION	2101 Mount Rushmore Road
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District - Shopping Center-1 District
West:	Medium Density Residential District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	4/24/2009
REVIEWED BY	Vicki L. Fisher / Karley Halsted

RECOMMENDATION:

Staff recommends that the Planned Commercial Development - Initial and Final Development Plan to allow an on-sale liquor establishment be approved with the following stipulations:

1. Prior to Planning Commission approval, the applicant shall demonstrate screening around the roof top mechanical units;
2. Prior to Planning Commission approval, access to the dumpster shall be demonstrated;
3. Prior to Planning Commission approval, drainage information addressing the water quality capture volumes shall be submitted for review and approval;
4. Prior to Planning Commission approval, the site plan shall be revised to clearly demonstrate curb and access control along the west lot line;
5. An Exception is hereby granted to reduce the rear yard setback along the west lot line from 15 feet to 6 feet for the proposed structure. No further encroachments into the 15

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- foot setback are allowed. All other setbacks shall be provided in compliance with the General Commercial District;
6. An Exception is hereby granted to waive the requirement to provide a 6 foot high screening fence along the entire west lot line in order to allow the two approaches along the alley. A 6 foot high wood screening fence shall be constructed along the balance of the west lot line. In addition, the fence shall be constructed to conform architecturally to the elevation and color palette submitted as part of this Initial and Final Planned Commercial Development Plan;
 7. All provisions of the General Commercial District shall be met unless an Exception is specifically authorized as a stipulation of this Commercial Development Plan or a subsequent Major Amendment;
 8. A Building Permit shall be obtained. In addition, a Certificate of Occupancy shall be obtained prior to occupancy;
 9. The proposed structure(s) shall conform architecturally to the plans and elevations and color palette submitted as part of this Initial and Final Commercial Development Plan;
 10. The signage shall conform to the design, color and location as shown in the sign package approved with this Initial and Final Planned Commercial Development. Changes to the 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 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;
 11. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way to preclude creating a hazard to the passing motorist or constituting a nuisance of any kind;
 12. A minimum of 32,500 landscaping points shall be provided. In addition, the landscaping shall be designed to reduce the heat, noise, wind and air turbulence and the glare of automobile lights within the parking lot and shall be planted with the specific size and plant material proposed. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
 13. A minimum of 58 parking spaces shall be provided. In addition, three of the parking spaces shall be handicap accessible spaces. One of the handicap spaces shall be "van" accessible. All provisions of the Off-Street Parking Ordinance shall be continually met;
 14. The dumpster shall be located as shown on the site plan and continually screened on all four sides;
 15. The currently adopted International Fire Code shall be continually met;
 16. A full service restaurant with on-sale liquor, an arcade and a gift store shall be allowed on the property unless otherwise specifically authorized as a Major Amendment to the Commercial Development Plan; and,
 17. 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

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Management Director, and prior to the Final Development Plan approval expiration date, a one year extension for Final Development Plan approval may be granted.

GENERAL COMMENTS:

The applicant has submitted an Initial and Final Commercial Development Plan to allow an on-sale liquor establishment in conjunction with a full service restaurant and to allow an arcade with a gift shop to be constructed on the property. The applicant has indicated that the structure will be a one story structure and consist of 7,788 square feet.

On February 23, 2009, a building permit was issued to allow a restaurant with an arcade and gift shop to be constructed on the property. On April 24, 2009, the applicant submitted this Initial and Final Commercial Development Plan to allow an on-sale liquor establishment in conjunction with the full service restaurant. The site plan submitted with this application shows changes to the structure which are different from the site plan approved as a part of the building permit. In particular, the building is being expanded along the western portion of the structure. The applicant should be aware that a building permit must be submitted for review and approval showing this change upon approval of the Initial and Final Commercial Development Plan. In addition, the site plan submitted with the building permit must comply with the site plan approved as a part of this Initial and Final Commercial Development Plan.

The property is located west of Mount Rushmore Road between Saint Anne Street and Flormann Street. The hotel that was previously located on the property has been removed and the proposed 7,788 square foot restaurant is currently being constructed.

STAFF REVIEW:

Staff has reviewed this request for an Initial and Final Commercial Development Plan to allow an on-sale liquor establishment in conjunction with a full service restaurant 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 areas of similar use located within 500 feet of the property. As such, this request for an on-sale liquor establishment in conjunction with a full service restaurant does not appear to 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 properties located west of this site are currently zoned Medium Density Residential and have been developed with single family residences. An alley separates this property from the residential properties. In addition, the applicant is proposing to construct a 6 foot high wood screening fence along the west lot line, with the exception of two approaches from the

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alley onto the property. The commercial structure has been designed to face onto Mount Rushmore Road with the primary entrance provided from Mount Rushmore Road in order to minimize traffic along the alley. The Planned Commercial Development will serve as a tool to insure that the site is continually maintained as proposed in order to minimize the impact on the adjacent residential development and to insure that a buffer is continually provided between the uses.

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".*

Pizza Hut, a full service restaurant with on-sale liquor, is located one block north of the property. Perkins is located approximately ½ block south of the property and is also a full service restaurant with on-sale liquor. A casino with on-sale liquor is located directly south of the property. In addition, Rode Inn, a restaurant and lounge with on-sale liquor, is located east of the property.

Three of the four existing on-sale liquor establishments are operating in conjunction with a full-service restaurant. The proposed on-sale liquor use for this site is also accessory to the principal use of the restaurant. The provision of on-sale liquor to restaurant patrons as an accompaniment to meals would not appear to alter the nature of the restaurant business. This request for on-sale liquor use in conjunction with a full service restaurant does not appear to constitute an undue concentration which would cause blight or deterioration or diminish land values in the surrounding area.

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

Design: The applicant has submitted elevations of the building showing the structure as a one story building with a parapet along the front of the building. The applicant has also indicated that the structure will be constructed with lap siding, Exterior Installation and Finish System (EIFS), brick, wood and glass. The building colors will consist of tones of brown with black trim and dark burgundy brick.

Staff recommends that the proposed structure conform architecturally to the plans and elevations and color palette submitted as part of this Initial and Final Commercial Development Plan.

Parking: Based on the uses as identified by the applicant, a minimum of 58 parking spaces must be provided. The applicant has submitted a parking plan identifying 59 parking spaces on the property.

Staff recommends that a minimum of 58 parking spaces be provided as required. In addition, three of the parking spaces must be handicap accessible spaces. One of the handicap spaces must be "van" accessible.

Landscaping: A minimum of 32,232 landscaping points are required. The applicant has submitted a landscaping plan showing 32,500 landscaping points. In particular, the

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landscaping plan identifies a mix of trees and shrubs along the perimeter of the property. In addition, trees and shrubs are shown along the outdoor patio area.

Staff recommends that a minimum of 32,500 landscaping points be provided as proposed. In addition, the landscaping must be designed to reduce the heat, noise, wind and air turbulence and the glare of automobile lights within the parking lot and must be planted with the specific size and plant material proposed. All landscaping must be continually maintained in a live vegetative state and replaced as necessary.

Setbacks: Chapter 17.18.050 of the Rapid City Municipal Code states that the depth of a rear yard which abuts a residential district shall be not less than 15 feet. As previously noted, the property located west of this site is zoned Medium Density Residential District and is adjacent to the "rear yard" on this property. The applicant is requesting to reduce the rear yard setback from 15 feet to 6 feet for the proposed commercial structure.

Staff has reviewed the request and noted that the 6 foot high wood screening fence to be located along this lot line will serve as a buffer between the properties. In addition, a 20 foot wide alley separates this property from the residential properties. As such, staff recommends that an Exception be granted to reduce the rear yard setback along the west lot line from 15 feet to six feet for the proposed structure only. No further encroachments into the 15 foot setback are allowed. All other setbacks must be provided in compliance with the General Commercial District.

Signage: The applicant has submitted a sign package identifying six wall signs located along the front of the building. The proposed wall signs are sized and designed as follows:

- Two 3 foot wide by 14 foot long externally illuminated signs constructed on a steel frame with wood base and plastic face lettering located on either side of the main entrance;
- A 4 foot 9 ½ inch wide by 12 foot long internally illuminated sign constructed with on an aluminum frame with and plastic face channel lettering located over the main entrance;
- Two 2 foot wide X 12 foot long awning signs with 11 inch tall vinyl lettering located above the windows on either side of the main entrance; and,
- An 8 foot diameter internally illuminated sign constructed with a steel frame and plastic face located at the top of the building centered above the main entrance.

The sign package also shows that the existing 30 foot high pole sign located along Mount Rushmore Road will be redesigned to include a 6 foot 8 inch wide by 15 foot ½ inch long cabinet sign with internal illumination located at the top of the pole. In addition, a 7 foot 8 inch wide by 3 foot high message sign will be located below the cabinet sign on the pole. The applicant has indicated that none of the signage will include an electronic reader board.

Staff recommends that the signage must conform to the design, color and location as shown in the sign package approved with this Initial and Final 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 Industrial Development. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid

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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 must also be obtained for each individual sign.

Dumpster: The site plan identifies the dumpster located west of the building, adjacent to the parking lot. It is unclear how the applicant proposes to access the dumpster. As such, staff recommends that prior to Planning Commission approval, access to the dumpster be demonstrated.

Screening: Chapter 17.18.080 of the Rapid City Municipal Code states that when a General Commercial Zoning District is adjacent to a residential district, an opaque ornamental screening fence not less than 5 for more than 6 feet in height shall be constructed along the adjacent property lines and shall be maintained in good condition. The applicant has submitted a site plan showing a 6 foot high wood fence along the west lot line with the exception of the two approach locations along the alley. The applicant has, subsequently, requested that an Exception be granted to waive the requirement that a screening fence be constructed along the entire property line.

Staff has reviewed the request and noted that the commercial structure has been designed to face onto Mount Rushmore Road with the primary entrance provided from Mount Rushmore Road in order to minimize traffic along the alley. In addition, the alley serves as a 20 foot separation between this property and the residential properties. As such, staff recommends that an Exception be granted to waive the requirement to provide a 6 foot high screening fence along the entire west lot line in order to allow the two approaches along the alley. A 6 foot high wood screening fence must be constructed along the balance of the west lot line. In addition, the fence must be constructed to conform architecturally to the elevation and color palette submitted as part of this Initial and Final Planned Commercial Development Plan.

Roof Top Units: The applicant has submitted noise rating data for the roof top units showing that the three units have a noise rating of 82dB, 83dB and 82dB, respectively. An acceptable noise rating of 65 dB to 70dB is appropriate within a residential district. As such, staff is recommending that prior to Planning Commission approval, the applicant demonstrate screening around the roof top mechanical units in order to mitigate the noise generated by the roof top units to an acceptable rating.

Fire Code: Staff noted that all applicable provisions of the International Fire Code shall be continually met.

Notification Requirement: As of this writing, the receipts for the certified mailing requirement have not been returned. Staff will notify the Planning Commission at the May 21, 2009 Planning Commission meeting if this requirement has not been met.