

STAFF REPORT
October 22, 2009

No. 09PD029 - Major Amendment to a Planned Commercial Development to allow an on-sale liquor establishment **ITEM 12**

GENERAL INFORMATION:

APPLICANT	Autumn Hills Properties, LLC
AGENT	Steve Colgan for N.W.E. Management
PROPERTY OWNER	Autumn Hills Properties, LLC
REQUEST	No. 09PD029 - Major Amendment to a Planned Commercial Development to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lots 1 and 2 of Autumn Hills Plaza Subdivision, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.95 acres
LOCATION	5312 Sheridan Lake Road
EXISTING ZONING	General Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	Low Density Residential District (Planned Residential Development)
South:	General Commercial District (Planned Commercial Development)
East:	Medium Density Residential District (Planned Residential Development)
West:	Low Density Residential District (Planned Residential Development)
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	6/24/2009
REVIEWED BY	Vicki L. Fisher / Mary Bosworth

RECOMMENDATION:

Staff recommends that the **Major Amendment to the Planned Commercial Development be approved with the exclusion of an on-sale liquor establishment and with revised uses which include the following stipulations:**

- 1. The following uses shall be allowed: sports club or health spa, a veterinary establishment, provided that all animals shall be kept inside soundproof, air conditioned buildings, retail sales, medical offices not to include drop in patients**

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- and/or emergency care facilities, professional and business offices and/or storage. Any other use shall require a Major Amendment to the Planned Commercial Development. In particular, a Major Amendment to the Planned Commercial Development shall be required in order to allow on-sale liquor on the subject property;
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, the site plan shall be revised to show the "Keep Right" sign within the approach off Sheridan Lake Road. In addition, prior to issuance of a Certificate of Occupancy, the sign shall be placed as identified.
 4. The proposed structure(s) shall continue to conform architecturally to the approved plans, color palette and elevations;
 5. All signage shall conform to the previously approved sign package. 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 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;
 6. A minimum of 76,023 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;
 7. A minimum of 47 parking spaces shall be provided with two handicap accessible spaces. One of the handicap spaces shall be "van" accessible. In addition, three stacking lanes shall be provided for the coffee shack's drive through window. All provisions of the Off-Street Parking Ordinance shall be continually met. Expansion of the permitted uses shall be allowed contingent upon the minimum number of off-street parking spaces being provided pursuant to the Parking Regulations;
 8. A six foot high wood privacy fence shall be maintained in compliance with the approved location and design plans;
 9. All currently adopted International Fire Codes shall be met; and,
 10. The Planned Commercial Development shall expire if the use is not undertaken and completed within two years of the date of approval by the City Council, or if the use as approved has ceased for a period of two years;

GENERAL COMMENTS:

(Update, October 12, 2009. All revised and/or added text is shown in bold print.) The applicant originally submitted this Major Amendment to the Planned Commercial Development to allow an on-sale liquor establishment in conjunction with a full service restaurant within a portion of the existing commercial structure located on the property. However, due to parking concerns, the applicant is no longer requesting to allow an on-sale liquor establishment on the property. In addition, since some of the existing uses are different than the previously approved uses, the applicant has requested that approval of this Major Amendment to the Commercial Development Plan acknowledges the existing uses as permitted uses. The applicant has also

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indicated that the area previously proposed for an on-sale liquor establishment will be used as retail and/or office space.

(Update, September 25, 2009. All revised and/or added text is shown in bold print.) This item has been continued several times to allow the applicant to address the parking issue and to revise the application to include the existing uses which differ from the previously approved uses. To date, the additional information has not been submitted for review and approval. As such, staff recommends that this item be continued to the October 22, 2009 Planning Commission meeting to allow the applicant to submit the additional information and to revise the application as noted.

(Update, September 12, 2009. All revised and/or added text is shown in bold print.) This item was continued at the August 27, 2009 Planning Commission meeting at the applicant's request to allow them additional time to address the parking issue and to revise the application to include the existing uses which differ from the previously approved uses. To date, the additional information has not been submitted for review and approval. As such, staff recommends that this item be continued to the October 8, 2009 Planning Commission meeting to allow the applicant to submit the additional information and to revise the application as noted.

(Update, August 14, 2009. All revised and/or added text is shown in bold print.) This item was continued at the August 6, 2009 Planning Commission meeting at the applicant's request to allow them additional time to address the parking issue as noted in Stipulation No. 1. To date, no additional information has been submitted. Staff will notify the Planning Commission at the August 27, 2009 Planning Commission meeting if a revised site plan showing a minimum of 60 parking spaces in compliance with the City's adopted Parking Regulations has not been submitted for review and approval.

(Update, July 31, 2009. All revised and/or added text is shown in bold print.) This item was continued at the July 23, 2009 Planning Commission meeting at the applicant's request to allow them additional time to address the parking issue. The applicant has subsequently requested that this item be continued to the August 27, 2009 Planning Commission meeting to allow them additional time to address the parking issue. As such, staff recommends that the Major Amendment to the Planned Commercial Development be continued as requested.

The applicant has submitted a Major Amendment to a Commercial Development Plan to allow an on-sale liquor establishment in conjunction with a full service restaurant. In particular, the applicant is proposing to utilize a 2,000 square foot area of an existing 9,000 commercial building located on the property for a pizza parlor to be known as "Top Dog Pizza".

On March 4, 2004, the Planning Commission approved an Initial and Final Commercial Development Plan (File #04PD002) to allow a 9,000 square foot commercial building and a coffee hut to be constructed on the property.

On November 23, 2005, the Planning Commission approved a Major Amendment to the Commercial Development Plan (File #05PD071) to revise the sign package.

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The property is located approximately 350 feet north of the intersection of Sheridan Lake Road and Catron Boulevard on the east side of Sheridan Lake Road. Currently, a 9,000 square foot commercial building and a coffee hut are located on the property.

STAFF REVIEW:

Staff has reviewed this request for a Major Amendment to a 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.*

Calvary Lutheran Church is located west of the property on the west side of Sheridan Lake Road. Sheridan Lake Road, a four lane principal arterial street with a bike path along the west side of the street, serves to separate the uses and provides a buffer between the church and the restaurant with on-sale liquor. There are no 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.*

Residential development currently exists north and east of the property. As a part of the original Initial and Final Commercial Development Plan, a six foot high wooden privacy fence was required along the north lot line to screen the commercial use from the adjacent residential development. It was also determined that the 100 foot wide major drainage way to be constructed along the east lot line would provide adequate separation between the commercial use and the adjacent residential development located east of the property. The drainage way and the privacy fence have been constructed. 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".*

Buffalo Wings and Rings and Uncork'd Wine and Tapis Bar, full service restaurants with on-sale liquor, are located within the Stoney Creek South commercial development approximately 1,000 feet south of this property. The proposed on-sale liquor use for this site is also accessory to the principal use of the property as a 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 an 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.

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

Existing Development: The existing one story structure with signage and lighting has been constructed in compliance with the site plan and elevations approved as a part of the original Initial and Final Commercial Development Plan. As such, staff recommends that the proposed structure continually conform architecturally to the plans and elevations and color palette submitted as part of the original Initial and Final Commercial Development Plan.

Uses: The original Initial and Final Commercial Development Plan was approved to allow the 9,000 square foot commercial building to be used as follows:

- 1,000 square foot restaurant area
- 7,000 square foot retail sales and/or professional and business office area
- 1,000 square foot storage area.

The applicant has indicated that the existing building is currently being used as follows:

- 2,000 square foot fitness center area
- 3,000 square foot retail sales and/or professional and business office area
- 1,000 square foot veterinary clinic
- 1,000 square foot photography studio

As previously indicated, the applicant is proposing to utilize the remaining 2,000 square foot area of the building for Top Dog Pizza, an on-sale liquor establishment with a full service restaurant.

Since some of the existing uses are different than the previously approved uses, staff recommends that approval of this Major Amendment to the Commercial Development Plan acknowledges the existing uses as permitted uses contingent upon the minimal parking requirement being provided for the use(s). In addition, any other use or any expansion of the on-sale liquor use will require a Major Amendment to the Planned Commercial Development.

(Update: October 12, 2009.) As noted above, the applicant is no longer requesting to allow an on-sale liquor establishment on the property. The applicant has indicated that this 2,000 square foot area of the structure will be leased as retail and/or office space. In addition, since some of the existing uses are different than the previously approved uses, staff recommends that approval of this Major Amendment to the Commercial Development Plan acknowledges the existing uses as permitted uses contingent upon the minimal parking requirement being provided for the use(s). In particular, staff recommends that the following uses be allowed: sports club or health spa, a veterinary establishment, provided that all animals shall be kept inside soundproof, air conditioned buildings, retail sales, medical offices not to include drop in patients and/or emergency care facilities, professional and business offices and/or storage. Any other use shall require a Major Amendment to the Planned Commercial Development. In particular, a Major Amendment to the Planned Commercial Development shall be required in order to allow on-sale liquor on the subject property.

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Parking: The previously approved uses as identified in the original Initial and Final Commercial Development Plan require a minimum of 47 parking spaces with two of the parking spaces being handicap accessible. In addition, one of the handicap spaces must be "van" accessible. The applicant has submitted a site plan showing that the 47 parking spaces have been constructed in compliance with the Parking Regulations and as per the approved parking plan. However, based on the existing uses and including the proposed pizza parlor, a minimum of 60 parking spaces must be provided. In addition, three of the parking spaces must be handicap accessible with one of the handicap spaces being "van" accessible.

The applicant has requested that the parking requirement be reduced from 60 spaces to the 47 spaces currently existing citing the hours of operation for the businesses as justification to reduce the parking. In particular, the applicant has indicated that the proposed restaurant's primary business hours will be at noon and in the evenings. In addition, the applicant notes that the professional offices, the veterinary clinic and the photography studio close at 5:00 p.m. each day. The fitness center closes at 7:00 p.m. Monday through Friday and noon on Saturday. The liquor store is open until 10:00 p.m. each day. Even though several of the businesses will be closed during the evenings, it appears that they will all be open during the day. As such, the minimum required number of parking spaces must be provided to insure that adequate parking is being provided on the property during the day, in particular during the lunch hour as noted by the applicant as a primary business hour for the restaurant.

During the review of the original Initial and Final Commercial Development Plan, it was identified that a second phase of development may be proposed on the property in the future. In particular, Phase Two included two additional commercial buildings between the existing building and Sheridan Lake Road. The site plan also identified an expanded parking plan for the three buildings which included 72 parking spaces with four of the spaces being handicap accessible. Even though it does not appear that the applicant will be proceeding with Phase Two of the development at this time, it was demonstrated that additional parking could be provided on the site.

Based on the conflict with the hours of operation as noted by the applicant and since additional parking can be provided on the site, staff recommends that the request to reduce the parking requirement from 60 spaces to 47 spaces be denied. In addition, prior to Planning Commission approval, the site plan must be revised to show a minimum of 60 parking spaces in compliance with the City's adopted Parking Regulations. Three of the parking spaces must be handicap accessible with one of the spaces being "van" accessible.

(Update: October 12, 2009.) Based on the existing and proposed uses as noted above, a minimum of 44 parking spaces must be provided. In addition, two of the spaces must be handicap accessible with one of the handicap spaces being "van" accessible. The applicant's site plan identifies 47 parking spaces with two handicap spaces. In addition, one of the handicap spaces is "van" accessible.

Staff recommends that a minimum of 47 parking shall be provided with two handicap accessible spaces. One of the handicap spaces shall be "van" accessible. In addition, three stacking lanes must be provided for the coffee shack's drive through window. All provisions of the Off-Street Parking Ordinance must be continually met.

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Expansion of the permitted uses shall be allowed contingent upon the minimum number of off-street parking spaces being provided pursuant to the Parking Regulations.

Direction Sign: An approach along Sheridan Lake Road serves as access to the property. The approach has been constructed with one ingress lane and two egress lanes separated by a median. Currently, the tendency is to enter the site using one of the egress lanes due to the design of the median. As such, staff recommends that a "Keep Right" sign be placed within the approach to insure that those entering the site keep right of the median. In particular, staff recommends that prior to issuance of a building permit, the site plan be revised to show the "Keep Right" sign and that prior to issuance of a Certificate of Occupancy, the sign be placed as identified.

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

Notification Requirement: The receipts from the certified mailings have been returned and the sign been posted on the property. Staff has received one call of inquiry regarding this proposal. The caller indicated concern with the proposed use and lack of parking on the property.

Staff is recommending that the Major Amendment to the Planned Commercial Development be **approved with the stipulations of approval as identified above.**