

STAFF REPORT  
January 7, 2010

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**No. 09PD045 - Planned Commercial Development - Initial and Final Development Plan**      **ITEM 38**

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GENERAL INFORMATION:

APPLICANT/AGENT	Peggy A. Livermont for Piesano's Pacchia, Inc.
PROPERTY OWNER	James S and Charlette Steele
REQUEST	<b>No. 09PD045 - Planned Commercial Development - Initial and Final Development Plan</b>
EXISTING LEGAL DESCRIPTION	Lot 8 less Lot 8a and Lot 11 less Lot 11a of Tract D, Lot 12 less Lot A but including Lot B of Lot 12 of Tract D of Sunnyvale Subdivision, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.93 acres
LOCATION	3618 Canyon Lake Drive
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	National Guard
South:	General Commercial District
East:	General Commercial District
West:	Medium Density Residential District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	9/11/2009
REVIEWED BY	Karen Bulman / Karley Halsted

RECOMMENDATION:

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

- 1. The expansion of the on-sale alcohol use will be operated in conjunction with a full service restaurant;**
- 2. No video lottery sales are allowed at this location;**
- 3. No alcohol sales will be sold until after 4 p.m. Monday through Friday while school is in session;**
- 4. A building permit and an occupancy permit shall be obtained for the patio expansion;**
- 5. All applicable provisions of the currently adopted International Fire Code shall be continually met;**

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6. **All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;**
7. **A minimum of 50 parking spaces shall be provided with wheel stops on all spaces adjacent to sidewalks or public rights-of-way or building entrances and exits. Two 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;**
8. **Prior to initiation of the use of the patio, the agreement between the City of Rapid City and James Steele for the completion of the Planned Commercial Development improvements shall be in place;**
9. **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. A sign permit shall also be obtained for any new individual sign; and,**
- 10 **The Planned Commercial Development shall expire if the use has not commenced 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, December 22, 2009. All revised and/or added text is shown in bold print.) This item was continued to the January 7, 2010 Planning Commission meeting to allow further information to be submitted.** (Update, November 30, 2009. All revised and/or added text is shown in bold print.) This item was continued to the December 10, 2009 Planning Commission meeting to allow further information to be submitted. (Update, October 14, 2009. All revised and/or added text is shown in bold print.) This item was continued to the October 22, 2009 Planning Commission meeting to allow further information to be submitted. The applicant is requesting a Planned Commercial Development – Initial and Final Development Plan to allow an expansion of an on-sale liquor establishment in conjunction with a full service restaurant. The establishment, "Piesano's Pacchia", occupies a 2,036 square foot portion of Steele Plaza at 3618 Canyon Lake Drive. Currently, within this complex are offices, studio, a laundromat, and this restaurant for a total footage of 11,400 square feet. On September 8, 1992, the City Council approved a Use on Review (#1118) for an on-sale liquor establishment at this location. It was determined that 52 off-street parking spaces must be provided for these uses.

The stipulations of approval for the Use on Review for this property included:

1. That a revised parking plan is reviewed and approved prior to Common Council approval of this Use on Review;
2. That a 5-6 foot high opaque ornamental screening fence is constructed along the west property line of Steele Plaza;
3. No video lottery sales are allowed at this locations; and,
4. That malt beverages not be sold until after 4 p.m. Monday through Friday while school is in session.

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A Variance was granted by the Zoning Board of Adjustment on April 20, 1993 to reduce the off-street parking spaces from 52 to 46 as required on the approved Use on Review. In addition, the screening fence requirement on the west boundary of the property was also eliminated by the Zoning Board of Adjustment.

The applicant is requesting that the on-sale alcohol use be expanded to include a 336 square foot outdoor dining area located on the south side of the building. The building is within the Steele Plaza located along Canyon Lake Drive and east of Sunnyvale Drive.

**STAFF REVIEW:** Staff has reviewed this request with respect to the four criteria established for On-Sale Liquor establishments identified in Section 17.50.185:

1. *The request will not "adversely affect" the use of any place used for religious worship, school, park, playground, or similar use within five hundred (500) foot radius.*

There are no schools within a 500 foot radius. There is one place of religious worship within the 500 foot radius, located at 1631 Rushmore Street. Canyon Lake Drive and developed lots along Canyon Lake Drive separate the church from the property. The area around the property has commercial and residential uses. Staff's review of the proposed expansion of the on-sale liquor establishment finds that the proposed use should have no significant adverse effect on the surrounding area.

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

There is a single family residence located adjacent and west of the proposed expansion of the on-sale liquor establishment. A fence, retaining wall and landscaping between the two properties buffers the residential use. Additional residences are located across Canyon Lake Drive to the southwest. Staff does not anticipate that the proposed expansion of use will have a significant negative impact on any residential area.

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."*

There are no on-sale liquor establishments located in the general area of the proposed use. There does not appear to be a concentration of similar uses in this area that would cause blight, deterioration or would substantially diminish or impair property values. In addition, this expansion of the on-sale liquor establishment operates in conjunction with a full service restaurant, so any adverse effects may be mitigated.

4. *The proposed use has been reviewed under the Section 17.54.030(E) and Section 5.12.140.*

Staff has reviewed the proposed use with respect to Chapter 17.18 of the Rapid City Municipal Code and notes the following issues:

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Land Use: The applicant has indicated that the on-sale alcohol use will be operated in conjunction with the restaurant. The restaurant seats 48 people and the expanded patio area will seat approximately 16-18 people. The balance of the businesses located in Steele Plaza includes a laundromat and office or retail businesses. The previously approved Use on Review (#1118) included stipulations that no video lottery be included at this location and that alcohol sales will not occur until after 4 p.m. Monday through Friday while school is in session. Staff recommends that these two stipulations continue with this Planned Commercial Development and the applicant has agreed to comply with the stipulations. (Revised 11-30-09)

Design: The Steele Plaza building complex includes one story buildings. The exteriors are wood and brick in earth tones with tiled mansard style roofs.

Parking: The site plan submitted does not accurately portray the construction of the parking lot. Staff has provided the applicant with red line comments to be addressed in a revised site plan including; aisles widths, lot lines, identified parking spaces, utility locations, and parking lot features. The site plan indicated three driveway approaches. Staff is requesting that one of the approaches be removed. Staff is requesting that the application be continued to allow a revised site plan to be submitted for review and approval showing the current parking lot and the proposed changes to the parking lot. All red line comments must be returned to the Growth Management Office. The applicant submitted an exception request to the City Council to keep the third west driveway approach open. The City Council did not grant the exception. As such, a revised site plan has been submitted and red line comments returned indicating that the west driveway approach will be eliminated. The revised parking lot plan indicates 50 parking spaces, including handicapped spaces, and one way aisles to be marked as indicated on the site plan. Wheel guards must be placed along parking spaces abutting all sidewalks, public rights-of-way and building entrances or exits. (Revised 11-30-09) **The applicant has submitted a cash surety and the agreement between the City of Rapid City and James Steele for the completion of the Planned Commercial Development improvements by June 1, 2010 has been approved by the City Council. (Revised 12-22-09)**

Landscaping: Staff noted that the structure is not expanding by 20 percent or more. In accordance with Section 17.50.300 of the Rapid City Municipal Code, additional landscaping is not required for the proposed expansion of the on-sale liquor establishment. However, it appears that the landscaping currently installed on the site does not comply with the approved Conditional Use Permit (#1118) for the property. As such, a revised landscaping plan shall be submitted for review and approval and the previously required landscaping installed or surety posted prior to Planning Commission approval. A review of the landscaping material indicates that the landscaping complies with the approved Conditional Use Permit. All landscaping must continue to be maintained in a live and vegetative state. (Revised 11-30-09)

Signage: A ground sign identifying "Steele Plaza" and tenants is located on the property. Piesano's Pacchia has two signs located on the south and east side of the building. Other tenant spaces have additional signs at their location. Staff requests that a complete sign

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package be submitted for review and approval identifying the dimensions and building material for each sign. A sign permit shall also be obtained for any new individual sign. (Revised 11-30-09)

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

Permits: A building permit and an occupancy permit must be obtained for the patio expansion.

Notification: As of this writing, the required sign has not been posted on the property and the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the October 8, 2009 Planning Commission meeting if these requirements have not been met. Staff has received no comments or objections regarding the proposed Planned Commercial Development at the time of this writing. The required sign has been posted and the receipts from certified mailings have been returned. (Revised 11-30-09)

Staff is recommending that the Planned Commercial Development – Initial and Final Development Plan to allow an on-sale liquor establishment be continued to the October 22, 2009 Planning Commission meeting to allow further information to be submitted. Staff has not received adequate information to indicate the current or proposed site plan. In addition, if the property owner does not agree to remove one of the approaches, an Exception must be obtained from the City Council. As such, staff is recommending that the Planned Commercial Development – Initial and Final Development Plan to allow an on-sale liquor establishment be continued to the December 10, 2009 Planning Commission meeting to allow the information to be submitted for review and approval and the potential Exception obtained from the City Council. If the information is not submitted and the Exception obtained by November 13, 2009, staff will recommend that the application be denied without prejudice at the December 10, 2009 Planning Commission meeting.

Staff recommends that the Planned Commercial Development – Initial and Final Development Plan to allow an on-sale liquor establishment be approved with the previously stated stipulations. (Revised 11-30-09)

**Staff recommends that the Planned Commercial Development – Initial and Final Development Plan to allow an on-sale liquor establishment be approved with the previously stated stipulations. (Revised 12-22-09)**