

STAFF REPORT  
May 6, 2010

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**No. 09PD048 - Planned Commercial Development - Initial and Final Development to allow an on-sale liquor establishment**      **ITEM 18**

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GENERAL INFORMATION:

APPLICANT	J. Scull Construction
AGENT	Sperlich Consulting, Inc.
PROPERTY OWNER	Willkat, LLC
REQUEST	<b>No. 09PD048 - Planned Commercial Development - Initial and Final Development to include an on-sale liquor establishment</b>
EXISTING LEGAL DESCRIPTION	Lot 1A of Block 1 of Stoney Creek South Subdivision, located in the NW1/4 SW1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.606 acres
LOCATION	5550 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	9/25/2009
REVIEWED BY	Patsy Horton / Karley Halsted / Ali DeMersseman

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

- 1. The proposed commercial structure in Phase One shall be used for retail, office, restaurant with on-sale liquor and medical clinic uses as allowed in the General Commercial District. No other use is allowed as a part of this Planned Commercial**

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- Development. The final development of the patio/courtyard and the two additional buildings and/or any other use or change in use will require a Major Amendment to the Planned Commercial Development;
2. All provisions of the General Commercial District shall be met unless otherwise specifically authorized as a stipulation of this Planned Commercial Development or a subsequent Major Amendment;
  3. The commercial structure shall conform architecturally to the plans, elevations and color palette approved with the Planned Commercial Development;
  4. All signage shall conform to the design, color and location as shown in the sign package submitted as part of the Planned Commercial Development. No electronic signs are being approved as a part of this 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. 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;
  5. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan. In particular, a minimum of 66 parking spaces shall be provided with three of the spaces being handicap accessible and one of the handicap spaces being "van accessible";
  6. The landscaping plan shall continually comply with all requirements of the Zoning Ordinance and the approved landscaping plan. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
  7. 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;
  8. The proposed dumpster shall be screened on all four sides with a 6 foot high opaque privacy fence;
  9. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
  10. All International Fire Codes shall be continually met; and,
  11. 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:

(Update, April 28, 2010. All revised and/or added text is shown in bold print.) This item was continued to the May 6, 2010 Planning Commission meeting to allow the applicant to submit a revised sign package for review and approval. On April 26, 2010, the applicant submitted a revised sign package, which includes an elevation for an on-premises ground sign for the development.

(Update, April 13, 2010. All revised and/or added text is shown in bold print.) This item was continued to the April 22, 2010 Planning Commission meeting to allow the applicant to

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submit a revised sign package for review and approval. As of this writing, a revised sign package has not been submitted. As such, staff recommends that this item be continued to the May 6, 2010 Planning Commission meeting.

(Update, March 29, 2010. All revised and/or added text is shown in bold print.) This item was continued to the April 8, 2010 Planning Commission meeting to allow the applicant to submit a revised sign package for review and approval. As of this writing, a revised sign package has not been submitted. As such, staff recommends that this item be continued to the April 22, 2010 Planning Commission meeting.

(Update, March 16, 2010. All revised and/or added text is shown in bold print.) This item was continued to the March 25, 2010 Planning Commission meeting to allow the applicant to obtain City Council approval of the associated Vacation of Access and Utility Easement request (No. 10VE003). On March 15, 2010, the City Council approved the associated Vacation of Access and Utility Easement (No. 10VE003). In addition, the applicant has submitted a new access easement document for the property, which has been recorded with the Register of Deeds.

On March 16, 2010, the applicant indicated that a revised sign package for the site would be submitted for review and approval. As such, staff recommends that the item be continued to the April 8, 2010 Planning Commission meeting to allow the applicant to submit a revised sign package.

(Update, February 10, 2010. All revised and/or added text is shown in bold print.) This item was continued to the February 18, 2010 Planning Commission meeting to allow the applicant to prepare an easement vacation, as well as a new access easement in order to demonstrate legal access. On February 5, 2010, the applicant submitted a Vacation of Access and Utility Easement request (No. 10VE003) and a copy of a new access easement document for the property. The Vacation of Access and Utility Easement request will be considered at the March 4, 2010 Planning Commission meeting, the March 9, 2010 Public Works Committee meeting, and the March 15, 2010 City Council meeting. As such, staff recommends that this item be continued to the March 25, 2010 Planning Commission meeting in order to allow the applicant to obtain City Council approval of the associated Vacation of Access and Utility Easement request.

(Update, January 27, 2010. All revised and/or added text is shown in bold print.) This item was continued to the February 4, 2010 Planning Commission meeting to allow the applicant to submit the required information. To date, the access easement submitted for review does not demonstrate legal access to the property; however, the applicant has indicated that they are preparing an easement vacation application as well as a new access easement in order to demonstrate legal access. As such, staff recommends that this item be continued to the February 18, 2010, Planning Commission meeting to allow the applicant to submit the easement documentation.

(Update, January 12, 2010. All revised and/or added text is shown in bold print.) This item was continued to the January 21, 2010 Planning Commission meeting to allow the applicant

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to submit the required information. To date, the access easement submitted for review does not demonstrate legal access to the property; however, the applicant has indicated that they are preparing an easement vacation application as well as a new access easement in order to demonstrate legal access. Additionally, the applicant has submitted a revised site plan to address the remaining issues. As such, staff recommends that this item be continued to the February 4, 2010, Planning Commission meeting to allow the applicant to submit the easement documentation.

(Update, December 1, 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 the applicant to submit the required information. To date, the access easement submitted for review does not demonstrate legal access to the property; however, the applicant has indicated that they are preparing an easement vacation application as well as a new access easement in order to demonstrate legal access. Additionally, the applicant has indicated that a revised site plan will be submitted to address the remaining issues. However, to date, the additional information has not yet been submitted. As such, staff recommends that this item be continued to the January 21, 2010, Planning Commission meeting to allow the applicant to submit the revised site plan and easement documentation.

(Update, December 1, 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 the applicant to submit the required information. To date, the access easement submitted for review does not demonstrate legal access to the property; however, the applicant has indicated that they are preparing an easement vacation application as well as a new access easement in order to demonstrate legal access. Additionally, the applicant has indicated that a revised site plan will be submitted to address the remaining issues. However, to date, the additional information has not yet been submitted. As such, staff recommends that this item be continued to the January 21, 2010, Planning Commission meeting to allow the applicant to submit the revised site plan and easement documentation.

(Update, November 10, 2009. All revised and/or added text is shown in bold print.) This item was continued to the November 19, 2009 Planning Commission meeting to allow the applicant to submit the required information. To date, the access easement submitted for review does not demonstrate legal access to the property. Additionally, the proposed dumpster location, Phase 3 structure and numerous parking stalls are located within the easement as provided. The revised master plan submitted to address circulation concerns is inconsistent with the access easement submitted. The revised master plan also identifies a "t" intersection that creates vehicular backing conflicts. Additionally, the truck turning movements submitted for review and approval are not shown within the access easement provided. As such, staff recommends that this item be continued to the December 10, 2009, Planning Commission meeting to allow revisions to the master plan or identify traffic control devices to prevent backing conflicts and to address the truck turning movements.

(Update, October 28, 2009. All revised and/or added text is shown in bold print.) This item was continued to the November 5, 2009 Planning Commission meeting to allow the applicant to submit the required information. To date, the access easement submitted for

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review does not demonstrate legal access to the property. The revised master plan submitted to address circulation concerns is inconsistent with the access easement submitted and identifies an offset circulation pattern that creates vehicular backing conflicts. Additionally, the truck turning movements submitted for review and approval are not shown within the access easement provided. As such, staff recommends that this item be continued to the November 19, 2009, Planning Commission meeting.

The applicant has submitted an Initial and Final Commercial Development Plan to allow one commercial structure with on-sale liquor and a courtyard to be located on the above legally described property. The applicant has also indicated that two additional commercial structures will be proposed as part of Phase Two and Phase Three, with each structure approximately 4,000 square feet in area. The applicant requested that the previous Initial and Final Commercial Development Plan application (#09PD044) be denied without prejudice to allow on-sale liquor approval to be considered as a part of the application.

The property is located in the southeast corner of the intersection of Sheridan Lake Road and Catron Boulevard. 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:

**Design Features:** The applicant has submitted building elevations of the commercial structure identifying that the proposed building will be one story with a 2 foot parapet along the east elevation, wrapping the structure approximately 9.5 feet around the north and south elevations. The building will be constructed with brick, wood, pre-cast stone banding, metal awnings, glass, dryvit and be earth tone in color. The applicant indicated that the color elevations match the buildings in the existing development to the south and east. However, the elevation information submitted does not identify the top of wall height, top of roof height or the furnished roof height measurements in order to determine whether or not the parapet as proposed provides a sufficient screening device to buffer the roof top mechanical units. Additionally, the roofing materials should be brown in color to minimize light reflections.

As such, staff recommends that prior to Planning Commission approval, the applicant submit for review and approval the location, size and noise rating of any exterior air handling equipment, proposed equipment screening for rooftop facilities and that the roofing material color shall match the building color palette. Additionally, because the facility is located at the intersection of two principal arterials and adjacent to residential dwelling units, staff recommends that the applicant revise the building elevations to include a wrap-around 2 foot parapet.

**Land Use:** The applicant has submitted a list of proposed uses within the retail/commercial structure as follows: medical supply stores, retail stores (clothing, beauty salons, etc.), offices (insurance, real estate, etc.), fitness centers/aerobic classes, display/art stores, copy centers, furniture sales, photography studios, and a restaurant including on-sale liquor. In addition, the applicant has indicated that a gaming related business and/or adult oriented/gentlemen's clubs will not be proposed. The site plan also identifies a patio

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approximately 1,950 square foot in area. The applicant indicated that seating will be available on the patio and that a railing will be installed for protection. As such, staff recommends that the applicant submit for review and approval an elevation of the proposed railing with a color palette matching the buildings in the existing adjacent development. Staff is recommending that the proposed commercial structure in Phase One be used for retail, office, restaurant with on-sale liquor and medical clinic(s) uses as allowed in the General Commercial District. In addition, no other use is allowed as a part of this Planned Commercial Development. The final development of the patio/courtyard and the two additional buildings and/or any other use or change in use will require a Major Amendment to the Planned Commercial Development.

Additionally, when the courtyard development proceeds, the applicant is advised that noise and exhaust attenuation measures will be required to mitigate negative impacts to future patio customers.

Parking: The site plan identifies the restaurant as a 4,000 square foot building requiring that a minimum of 44 parking spaces be provided. The site plan also identifies a patio/courtyard approximately 1,950 square feet in area. As such, the site plan must be revised to reflect 66 parking spaces with three of the spaces being handicap accessible and one of the handicap spaces being "van accessible". Although the proposal identifies that the patio will be developed by others, utilization of the patio as part of Phase 1 will create an 11 stall parking shortage.

The site plan also identifies 23.83 foot access aisle along the south property line in lieu of the required 26 foot access aisle requirement. As such, staff is recommending that the applicant submit a revised site plan demonstrating an adequate access aisle.

Staff also recommends that the parking plan continue to meet the minimum requirements of the Rapid City Municipal Code.

The applicant submitted a revised site plan to accommodate the required 26 foot access aisle requirement as referenced above. In doing so, the parking stalls identified in Phase 3 have been shifted 1 foot onto the adjacent Lot 1B. Prior to the development in Phase 3, the applicant will need to provide a shared parking agreement between Lots 1A and 1B to accommodate this 1 foot shift. The applicant should also be aware that when Phase 2 develops, Phase 2 will require 21 parking stalls based on the retail calculation of 5 parking stalls per 1,000 gross square foot of building area, thus creating a shortfall of 6 parking stalls as proposed. It should be noted that the proposed parking stalls in Phase 3 are located along the lot line and within the access easement.

Truck Turning Movements: The applicant submitted information regarding the truck turning movements as requested. However, those movements utilize Lot 7 and the applicant must provide documentation to demonstrate legal access as well as the truck turning movements through the impacted parcel. As such, staff is recommending that the applicant submit a revised truck turning movement from Bendt Drive to the property and legal access documentation across Lot 7. The applicant provided a proposed easement across Lot 7 as

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requested. However, the site plan identifies the dumpster, Phase 3 structure and numerous parking stalls located within the previously submitted easement documentation. As such, staff recommends that the applicant submit a revised site plan demonstrating the truck turning movements utilizing the proposed access easement across Lot 7 and that the turning movements do not conflict with existing or proposed parking stalls.

Signage: The applicant has submitted a sign package identifying one 5 foot by 20 foot wide on-premise sign along the main entry of the structure for a total of 100 square foot of signage. No other signs were included as part of the Phase One site development. In addition, the sign must be constructed with similar building materials and color palette as the proposed structure.

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. No electronic signs are being approved as a part of this sign package. The addition of electronic signs shall be considered a Major Amendment to 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. 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.

**(Update: April 28, 2010) The applicant has submitted a revised sign package that includes the addition of a 25 foot 5.5 inch tall by 13 foot wide on-premises ground sign located along the Sheridan Lake Road and set back 8 feet from the western property line. The sign will be constructed of brick and earth toned dryvit. Three tenant panels, each measuring 36 inches tall by 119 inches wide, will be mounted to the sign structure. The proposed sign will not contain electronic messages. In addition, the proposed on-premises ground sign is not located within any clear sight triangle.**

Landscaping: A minimum of 57,957 landscaping points are required. The applicant's site plan identifies that 59,200 points are being provided. In particular, the landscaping plan identifies a row of large trees along the east access and two planter islands within the parking lot. However, adequate landscape protection measures have not been provided. As such, staff is recommending that the applicant shall submit a revised site plan demonstrating the installation of curbing or other landscape protection devices. Staff also recommends that the landscaping comply with the type and location of plant material submitted as a part of the Planned Commercial Development. In addition, all landscaping must be continually maintained in a live vegetative state and replaced as necessary.

Lighting Plan: The site plan identifies lighting within the parking area. The applicant submitted the elevations of the proposed lighting package for review and approval. Based on the information submitted, it appears that the lighting package as proposed is consistent with

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the adjacent development.

However, to date the design of the proposed lighting has not been submitted for review and approval. As such, staff recommends that the applicant submit for review and approval a complete lighting package identifying the design of the proposed lighting. In addition, the lighting must 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.

Access Easement: The site plan references a recorded temporary access easement providing access from Sheridan Lake Road across two adjacent properties along the common lot line, serving as access to the subject property and internal circulation between the lots. Staff reviewed the document and noted that the access easement lapsed two years after originally created and is now null and void. As such, copies of recorded permanent access easements providing access to the subject property must be submitted for review and approval.

The applicant provided a copy of a Warranty Deed recorded in Book 153, Page 7732, that specifically reserved a private access and public utility easement for the same location as identified in the temporary access easement referenced above. However, the Deed omitted signatories for Lot 2, Block 1 and Lot 7, Block 2 of Stoney Creek South Subdivision authorizing the use of those two parcels as suggested. Additionally, the legal description for the referenced easement on the attached Warranty Deed Exhibit describing the easement begins in the southwest corner of Lot 1B of Block 1, not the southeast corner. As such, copies of recorded permanent access easement(s) providing access to the subject property executed by all parcel owners affected and incorporating the accurate legal description must be submitted for review and approval.

Circulation: The applicant has submitted an internal circulation pattern connecting the adjacent Lot 7 through the proposed Phase Two and Three buildings. The previously approved master plan for the development identifies two connections to public rights-of-way at Sheridan Lake Road and Bendt Drive with an internal circulation pattern connecting Lots 1A and 1B to Lot 7 from the north and south sides of the existing building on Lot 7. As such, staff recommends that the applicant submit a revised master plan for review and approval of the entire commercial development on the corner of Sheridan Lake Road and Catron Boulevard demonstrating adequate site circulation.

The applicant submitted a revised master plan to reflect the circulation patterns proposed for Lots 1A and 1B of Block 1. The revised master plan identifies the main entrance to the complex at Sheridan Lake Road via an existing 3 lane shared access easement recorded on the associated plat between Lots 2 and 3, Block 1, Stoney Creek South, and an existing 3 lane approach onto Lot 7, Block 2, Stoney Creek South. However, the proposed entrance to the property through Lot 7 has an offset intersection and conflicts with backing out of the parking stalls. Additionally, it appears that based on the revised master plan the eventual predominant traffic movement through the Stoney Creek South Subdivision once fully developed will be located at the southern lot line of Lot 7, currently constructed as a two



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lane approach.

The circulation patterns as proposed with the revised master plan do not align with the previously referenced access easement. Additionally, the revised master plan for Phase 3 identifies 51 proposed parking stalls located within the access easement, a proposed dumpster located within the access easement, and a proposed building located within the access easement. As such, staff recommends that the applicant revise the master plan as submitted on October 22, 2009 to reflect the access easement location once recorded, relocate the proposed dumpster site, and relocate the proposed Phase 3 structure to accommodate the location of the access easement or revise the location of the access easement.

Master Utility Plan: To date, the applicant has not submitted a Master Utility Plan demonstrating the location of all private utilities for the entire site necessary to determine whether proposed sewer connections to future structures comply with the adopted standards. As such, staff recommends that the applicant submit the Master Utility Plan for the site for identifying the location of the services to the future buildings and sewer connections to the proposed buildings.

Drainage: The applicant provided information regarding water quality calculations and the Stoney Creek South Side Drainage Design Report. The report includes the drainage design and capture utilizing an existing culvert. Staff recommends that the on-site drainage continually comply with the Rapid City Municipal Code.

Courtyard Retaining Wall: The applicant submitted a revised site plan detailing the design for the retaining wall and appears to comply with the City's Standard Specifications. The site plan identifies the location of a 3 foot retaining wall between the 1,180 square foot minimum sand infiltration basin and the approximate 1,950 square foot patio/courtyard. The applicant indicated that the patio/courtyard will be a concrete slab on the surface grade. As such, staff recommends that the applicant submit for review and approval design plans for the retaining wall to ensure that the infiltration basin will not negatively impact the courtyard.

Stormwater Management Plan: The applicant submitted a revised site plan demonstrating that the stormwater runoff from the proposed paved surface is contained. However, temporary construction easements will be required prior to building permit approval to address the off-site stormwater control plans.

The City Council recently adopted a Stormwater Quality Manual which provides a set of criteria and technical guidance for erosion and sediment control at construction sites. Because site conditions will affect the suitability and effectiveness of erosion control measures, a plan specific to each site is required. Specifically, a revised site plan is necessary demonstrating that stormwater runoff from the proposed paved surface is contained. An Erosion and Sediment Control Plan designed in compliance with the adopted Stormwater Quality Manual, including a narrative with the signature block must be submitted for review and approval.

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Fire: The Fire Department has indicated that all International Fire Codes must be met as a part of the design standards for the development. The Fire Department staff has also indicated that the structures must include fire sprinkler protection within the proposed food service establishment exceeding 3,000 square feet. In addition, the grades and location of access drives and/or streets must comply with the City Street Criteria Manual and the International Fire Code in order to accommodate Fire Department apparatus. An all weather drivable surface must be in place prior to any building construction on the site. The Fire Department has also indicated that an address must be posted on the site prior to or in conjunction with building construction. All International Fire Codes must be continually met.

The applicant submitted turning movements for Engine #4. However, the turning movements did not include access from the existing approach through Lot 7 nor align with the previously referenced access easement. As such, staff recommends that the applicant submit for review and approval truck turning movements beginning from the public right-of-way approach traversing through Lot 7 along the access easement to the property.

The applicant provided copies of a recorded access easement depicting legal access across Lot 1B to Lot 1A; however, the site plan submitted identifies that the dumpster, the Phase 3 structure and numerous parking stalls are located within the recorded easement. The applicant also submitted a copy of a proposed easement to address legal access to Lot 1A through Lot 7. As such, staff recommends that the applicant submit a revised site plan demonstrating that there are no obstructions within the recorded access easement or revise the access easement and that the truck turning movements utilize the proposed access easement across Lot 7 and do not conflict with existing or proposed parking stalls.

Pedestrian Access: The applicant submitted a revised site plan demonstrating pedestrian access from the property to the public right-of-way as requested. The applicant's site plan identifies a 4 foot wide pedestrian sidewalk located along northwest property line in the public right-of-way as required. However, there is no pedestrian connection from the proposed sidewalk in the public right-of-way to the site. Staff recommends that the applicant submit a revised site plan demonstrating that there is adequate pedestrian access from the site onto the public right-of-way, thus ensure pedestrian connectivity to the transportation system.

Loading zone: The site plan does not identify the loading zone location for the delivery areas nor does it identify adequate area for truck turning movements. As such, a revised site plan demonstrating that there is adequate area for loading and unloading supplies to the proposed restaurant without creating pedestrian/vehicular conflicts must be submitted for review and approval. Additionally, the applicant must demonstrate that adequate truck movement circulation is available on the existing paved surface without impacting any parking spaces. Please note that a minimum of 66 parking spaces must be provided for the proposed use.

Dumpster location: The applicant submitted a revised site plan identifying the location of the dumpster as requested. However, it appears that the dumpster is partially located on the adjacent property and within the access easement. As such, the applicant will need to

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demonstrate authorization to utilize the adjacent property. The site plan does not identify the location of the dumpster. In addition, the dumpster elevations, screening and building materials were not submitted with the application. A revised site plan identifying the location of a proposed dumpster, as well as elevations of the proposed dumpster screening and proposed dumpster material must be submitted for review and approval.

Notification Requirement: As of this writing, the receipts from the certified mailings have not been returned nor has the sign been posted on the property. Staff will notify the Planning Commission at the October 22, 2009 Planning Commission meeting if these requirements have not been met.

**(Update: April 28, 2010) The receipts from the certified mailings have been returned and the sign has been posted on the property.**