

STAFF REPORT  
May 27, 2010

---

**No. 10PD036 - Major Amendment to a Planned Commercial Development**      **ITEM 25**

---

GENERAL INFORMATION:

APPLICANT/AGENT	James K. Byrne, DDS
PROPERTY OWNER	FICACS, LLC
REQUEST	<b>No. 10PD036 - Major Amendment to a Planned Commercial Development</b>
EXISTING LEGAL DESCRIPTION	Lots 1 and 2 of Mediterranean Subdivision, Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.93 acres
LOCATION	1805 and 1815 38th Street
EXISTING ZONING	Neighborhood Commercial District (Planned Commercial Development)
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	Medium Density Residential District
East:	Medium Density Residential District
West:	Medium Density Residential District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	4/30/2010
REVIEWED BY	Jim Flaaen / Ted Johnson

RECOMMENDATION:

Staff recommends that the Major Amendment to a Planned Commercial Development be approved with the following stipulations:

1. Prior to Planning Commission approval, a sign package shall be submitted for review and approval;
2. Prior to Planning Commission approval, a revised landscape plan must be submitted for review and approval. A minimum of 39,445 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;
3. The proposed screening fence shall conform architecturally to the proposed elevations, design plans and color palette submitted as a part of this Major Amendment to the

STAFF REPORT  
May 27, 2010

---

**No. 10PD036 - Major Amendment to a Planned Commercial Development**      **ITEM 25**

---

- Planned Commercial Development;
4. All signage shall conform to the design, color and location as shown in the sign package approved as a part of the Planned Commercial Development. No electronic signs are approved as a part of this Development Plan. The addition of electronic signage will require 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;
  5. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
  6. The screening fence along the south and west lot line(s) shall continually conform to the architecturally to the plans and elevations, design plans and color palette submitted with the Final Development Plan. In particular, the fence shall be constructed of wood and be six feet in height, except for the first 25 feet of the fence as it extends from Canyon Lake Drive and/or 38<sup>th</sup> Street. This portion of the fence shall not be more than four feet in height;
  7. The buildings shall conform architecturally to the plans and designs previously approved Final Development Plan;
  8. A minimum of 6 parking spaces shall be provided. One of the spaces shall be "van handicap accessible". In addition four stacking lanes shall be provided for the drive-up window. 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 air handling equipment shall be screened with an opaque screening fence as shown on the elevation(s);
  11. The screening fence located along the south and west lot line(s) shall conform architecturally to the proposed elevations, design plans and color palette submitted with this Final Planned Commercial Development. In particular, the fence shall be constructed of wood and be six feet in height, except for the first 25 feet of the fence as it extends from Canyon Lake Drive and/or 38<sup>th</sup> Street. This portion of the fence shall not be more than four feet in height;
  12. The International Fire Code shall be continually met;
  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;
  14. The proposed structure shall be used as a dental office. In addition, all provisions of the Zoning Ordinance shall be met unless otherwise specifically authorized as a stipulation of the Final Commercial Development Plan application or a subsequent Major Amendment; and,
  15. 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

STAFF REPORT  
May 27, 2010

---

**No. 10PD036 - Major Amendment to a Planned Commercial Development**      **ITEM 25**

---

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 allow for a dental office as an approved use on the subject property.

On April 6, 2006, the Planning Commission approved with stipulations an Initial Commercial Development Plan (06PD013) to allow an ice cream and coffee shop on the property. The stipulations of approval addressed issues of screening, signage, landscaping, access, utilities, parking, hours of operation, lighting, screening, Fire Code, and usage. Concurrently, the Planning Commission also approved a Special Exception to the Street Design Criteria Manual (06SE001) to allow three points of access and allow access from both adjoining streets, Canyon Lake Drive and 38<sup>th</sup> Street, in lieu of lesser traveled streets.

On September 7, 2006, the Planning Commission approved with stipulations a Final Commercial Development Plan (06PD050) to allow a 1,990 square foot ice cream and coffee shop on the property. The stipulations of approval addressed issues of screening, signage, landscaping, parking, hours of operation, lighting, screening, Fire Code, and usage.

On October 26, 2006, the Planning Commission approved with stipulations a Major Amendment to a Planned Commercial Development (06PD081) to reduce the size of the previously approved ice cream and coffee shop from 1,990 square feet to 1,498 square feet due to construction costs. There were 17 stipulations of approval that included:

1. Prior to Planning Commission approval, the design plans shall be revised to show the roof with an earth tone color in a shade of brown or taupe in lieu of burgundy. With the exception of the color of the roof, the proposed structure shall conform architecturally to the proposed elevations, design plans and color palette submitted as part of this Final Planned Residential Development;
2. The proposed screening fence shall conform architecturally to the proposed elevations, design plans and color palette submitted as part of this Final Planned Residential Development;
3. The pole sign along Canyon Lake Drive shall measure a maximum of ten feet in height by 11.8 feet in width. In addition, a maximum 3 foot by 9 foot message board with manually changeable lettering shall be allowed along the bottom of the sign. An electronic reader board shall not be allowed. In addition, the sign shall be constructed with similar building materials and color palette as the proposed structure. The balance of the directional signs and the wall sign shall conform architecturally to the design plans and color palette submitted as a part of this Planned Commercial Development. The lighting for the sign(s) shall be designed to preclude reflection on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign;
4. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
5. Prior to issuance of a building permit, all necessary changes shall be made to the

STAFF REPORT  
May 27, 2010

---

**No. 10PD036 - Major Amendment to a Planned Commercial Development**      **ITEM 25**

---

- construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Development Service Center Division;
6. Prior to issuance of a building permit, the civil engineering sheets shall be stamped and signed by a Professional Engineer registered by the State of South Dakota;
  7. A minimum of 39,445 landscape 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 when necessary;
  8. A minimum of 21 parking spaces shall be provided. One of the spaces shall be "van handicap accessible". In addition, four stacking lanes shall be provided for the drive-up window. All provisions of the Off-Street Parking Ordinance shall be continually met;
  9. The hours of operation for the drive-up window shall be limited to 7:00 a.m. to 11:00 a.m. In addition, the access lane to the drive-up window shall be gated when the drive-up is not in use. The gate shall conform to the proposed elevation and design plans submitted as a part of this Final Planned Commercial Development;
  10. The hours of operation for the outdoor seating area shall be limited to 9:00 a.m. to 10:00 p.m.;
  11. 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;
  12. The air handling equipment shall be screened with an opaque screening fence as shown on the elevation(s);
  13. The screening fence located along the south and west lot line(s) shall conform architecturally to the proposed elevations, design plans and color palette submitted with this Final Planned Commercial Development. In particular, the fence shall be constructed of wood and be six feet in height, except for the first 25 feet of the fence as it extends from Canyon Lake Drive and/or 38<sup>th</sup> Street. This portion of the fence shall not be more than four feet in height;
  14. The International Fire Code shall be continually met;
  15. 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;
  16. 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,
  17. The proposed structure shall be used as an ice cream and coffee shop. In addition, all provisions of the Zoning Ordinance shall be met unless otherwise specifically authorized as a stipulation of the Final Commercial Development Plan application or a subsequent Major Amendment.

The property is located at the southeast corner of the intersection of Canyon Lake Drive and 38<sup>th</sup> Street. A vacant restaurant currently exists on the property. Properties to the north, south, east and west are zoned Medium Density Residential District. Adjacent land uses are a mixture of single family residences and multi-family residences.

STAFF REPORT  
May 27, 2010

---

**No. 10PD036 - Major Amendment to a Planned Commercial Development**      **ITEM 25**

---

STAFF REVIEW: Staff has reviewed this Major Amendment to a Planned Residential Development and has noted the following considerations:

Use: The property was previously used as an ice cream and coffee shop as approved. The applicant is now proposing to use the property as a dental office. A dental office is an approved use in a Neighborhood Commercial District. The traffic generated for the proposed dental office use should not exceed the traffic generated for a restaurant. In addition, the proposed use will not create any additional noise, odor or other nuisances that would negatively affect the surrounding neighborhood.

Signage: A sign package was not submitted with this Major Amendment application. Prior to Planning Commission approval, the applicant must submit a sign package for review and approval. The applicant should be aware that no electronic signs are currently allowed.

Landscaping: Section 17.50.300 of the Rapid City Municipal Code requires that landscaping be provided on the property. Based on the developed area of the property, a minimum of 39,445 landscape points are required. The applicant submitted an identical landscape plan that was approved as a part of the previous Major Amendment. The submitted landscape plan indicates that 67,265 landscape points are provided on the property. The proposed landscaping includes a variety of 17 coniferous and 15 deciduous trees as well as over 17,000 square feet of grass. However, a staff inspection of the property on May 20, 2010 found that the landscaping had not been installed as per the previously approved site plan. As such, prior to Planning Commission approval, the applicant must submit a revised landscape plan that accurately identifies the existing landscaping on the property and the proposed additions to the landscaping.

Screening: The property is zoned Neighborhood Commercial District and properties to the north, south, east and west are zoned Medium Density Residential District. As such, per Section 17.20.080 of the Rapid City Municipal Code an opaque screening fence of at least 5, but not more than 6, feet is along adjacent property lines. The site plan indicates that a 6 foot tall wood fence is provided along the south and southwest property lines adjacent to residential districts. The east and northwest property lines are adjacent to street right-of-way and as such, no screening fence is required. The screening fence must be installed as per the approved site plan and continually maintained in good condition.

Parking: The submitted site plan identifies 21 parking spaces provided on the property, with one of the spaces being "van" handicap accessible. Section 17.50.270 requires that a minimum of 6 spaces be provided on the property including one "van" accessible handicap space for the proposed dental office use. The parking spaces and striping must be installed as per the approved parking plan and all provisions of the Off-street Parking Ordinance shall be continually met.

Developmental Lot: A Developmental Lot Agreement was signed on August 11, 2006 in accordance with Section 17.04.180 of the Rapid City Municipal Code designating Lots 1 and 2 as a Developmental Lot.

STAFF REPORT  
May 27, 2010

---

**No. 10PD036 - Major Amendment to a Planned Commercial Development      ITEM 25**

---

Access: The property is currently accessible from three access points; two access points off 38<sup>th</sup> Street and one access point off Canyon Lake Drive. The Street Design Criteria Manual Section 8.2.1 identifies that not more than two driveways shall be allowed to any business establishment and requires that if the property has frontage on more than one street, access is permitted only from the less traveled street frontage. An Exception to the Street Design Criteria Manual (#06SE001) to allow three points of access and allow access from both adjoining streets in lieu of lesser traveled streets was approved by the Planning Commission on April 6, 2006.

Fire Code: The Rapid City Fire Department has indicated that they do not have any objections to the proposed Major Amendment and change in use. The applicant should be aware that all provisions of the International Fire Code must be continually met

Notification Requirement: As of this writing, the receipts from the certified mailing have not been returned nor has the sign been posted on the property. Staff will notify the Planning Commission at the May 27, 2010 Planning Commission meeting if these requirements have not been met. Staff has not received inquiries regarding this item.

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