

STAFF REPORT
November 4, 2010

No. 10PD065 - Major Amendment to a Planned Commercial Development to allow on-sale liquor establishments **ITEM 26**

GENERAL INFORMATION:

APPLICANT/AGENT	Midland Rushmore, LLC
PROPERTY OWNER	Midland Rushmore, LLC
REQUEST	No. 10PD065 - Major Amendment to a Planned Commercial Development to allow on-sale liquor establishments
EXISTING LEGAL DESCRIPTION	Lot 4 in Block 3 of Rushmore Crossing located in Section 29, Tract E in Block 2 of Rushmore Crossing located in Sections 29 and 32, and Lot 5 in Block 2 of Rushmore Crossing located in Sections 29 and 30 all located in T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 43.05 Acres
LOCATION	Along Eglin Street at Rushmore Crossing
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	10/8/2010
REVIEWED BY	Jim Flaaen / Ted Johnson

RECOMMENDATION:

Staff recommends that the Major Amendment to a Planned Commercial Development to allow on-sale liquor establishments be approved with the following stipulations:

1. The on-sale liquor establishments shall operate in conjunction with a full-service

STAFF REPORT
November 4, 2010

No. 10PD065 - Major Amendment to a Planned Commercial Development to allow on-sale liquor establishments **ITEM 26**

- restaurant only. Any other on-sale liquor use will require a Major Amendment to the Planned Commercial Development(s);
2. The approved uses shall be limited to retail, full-service restaurant with on-sale liquor, hotel and business uses on Tract E and Lot 5 of Block 2 and office, retail, storage and a maximum 4,850 square foot full-service restaurant with on-sale liquor on Lot 4 of Block 3;
 3. All parking shall continually comply with the approved parking plans as stipulated in the Final Development Plans and subsequent Major Amendments;
 4. The outdoor patio shall be located and constructed as per the submitted site plan and that a minimum five foot wide clear pedestrian path on the sidewalk shall be maintained at all times;
 5. The landscaping shall continually comply with the previously approved landscape plans. The landscaping plans must also comply with all requirements of the Zoning Ordinance. In addition, the landscaping must continually be maintained in a live, vegetative state, kept free of refuse and debris and replaced when necessary;
 6. 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. 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;
 7. All currently adopted International Fire Codes shall be continually met;
 8. A Building Permit shall be obtained prior to construction and a Certificate of Occupancy shall be obtained prior to occupancy;
 9. No overnight camping shall be allowed;
 10. The 50,000 square foot basement area of the Scheel's building shall be exclusively used for storage. Any other use of the basement shall require the review and approval of a Major Amendment to the Planned Commercial Development. In addition, additional parking shall be provided as needed for the use;
 11. The proposed structure(s) shall conform architecturally to the plans, elevations and color palette submitted as part of the Planned Commercial Development Plan;
 12. The roof top mechanical equipment shall be screened from view along the front and side(s) of the building. In addition, prior to issuance of a Building Permit, a line of sight drawing shall be submitted for review and approval showing the roof top mechanical equipment from the rear elevation of the building. The roof top mechanical equipment shall be camouflaged in color to match the color of the roof;
 13. All outdoor lighting shall be designed to 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 passing motorists or constitute a nuisance of any kind;
 14. The location, size and noise rating of all exterior air handling equipment shall be submitted for review and approval. In addition, the equipment shall be screened from all adjacent properties, including rooftop facilities;
 15. Prior to the issuance of a Building Permit for any new structure, an Erosion and Sediment Control Plan shall be submitted for review and approval;

STAFF REPORT
November 4, 2010

No. 10PD065 - Major Amendment to a Planned Commercial Development to allow on-sale liquor establishments **ITEM 26**

16. The previously approved screening fence with landscaping shall be continually maintained along Interstate 90;
17. All fencing shall conform architecturally to the proposed elevations, color palette and design plans submitted as part of the Planned Commercial Development;
18. Dumpsters shall be located as proposed on the previously approved site plans and screened on four sides as approved;
19. An Air Quality Permit shall be obtained prior to any surface disturbance in excess of one acre;
20. All provisions of the General Commercial Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Initial Commercial Development Plan, the Final Commercial Development Plan or a subsequent Major Amendment; and,
21. 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 Management Director, and prior to the Final Commercial Development Plan approval expiration date, a one year extension for Final Commercial Development Plan approval may be granted.

GENERAL COMMENTS: The applicant has submitted a Major Amendment to a Planned Commercial Development request to allow on-sale liquor establishments on three lots within the Planned Development area. In particular, the applicant is seeking approval of the Major Amendment to allow potential on-sale liquor uses to occupy tenant spaces within the Rushmore Crossing Planned Commercial Development operating in conjunction with full-service restaurants. In addition, the applicant has proposed to construct an outdoor patio adjacent to one of the tenant spaces, Qdoba, within the Planned Commercial Development.

As previously stated, the proposed Major Amendment includes three separate lots within the Rushmore Crossing commercial site. On April 26, 2007, the Planning Commission approved with stipulations a Planned Commercial Development – Initial Development Plan (#07PD019) that included the entire Rushmore Crossing development site along the Eglin Street Corridor between Luna Avenue and East North Street. The Initial Development Plan proposed approximately 861,000 square feet of new commercial development on 127 acres. Subsequent development projects with the Planned Development area have been approved through individual Planned Commercial Development – Final Development Plans and Major Amendments to the Planned Commercial Development.

The Major Amendment to the Planned Commercial Development request as submitted will modify several existing Final Development Plans and Major Amendments including:

- #07PD048 – Approved with stipulations on July 26, 2007
 - Major Amendment to the Initial Development Plan to eliminate approximately 32 acres from the previously approved Planned Commercial Development boundary.

STAFF REPORT
November 4, 2010

No. 10PD065 - Major Amendment to a Planned Commercial Development to allow on-sale liquor establishments **ITEM 26**

- #07PD074 – Approved with stipulations on September 20, 2007
 - Final Commercial Development Plan to construct 1,250 parking spaces with landscaping within the western portion of the Rushmore Crossing development site.
- #07PD060 – Approved with stipulations on September 6, 2007
 - Final Commercial Development Plan to construct 1,057 parking spaces with landscaping within the eastern portion of the Rushmore Crossing development site.
- #08PD004 – Approved with stipulations on April 10, 2008
 - Major Amendment to the Final Commercial Development Plan (#07PD060) to revise the landscape plan to eliminate 115,000 landscape points from the eastern parking area and relocate them along a pedestrian walkway within the western parking area.
- #08PD050 – Approved with stipulations on October 9, 2008
 - Major Amendment to the Final Commercial Development Plan (#07PD060) to reduce the required number of parking spaces for a phase of the Rushmore Crossing commercial development from 2,307 parking spaces to 2,083 parking spaces.
- #07PD100 – Approved with stipulations on January 10, 2008
 - Final Commercial Development Plan to construct 154,064 square feet of retail space as part of Phase One of Rushmore Crossing’s “Soft Power District”.
- #08PD010 – Approved with stipulations on March 27, 2008
 - Final Commercial Development Plan to construct 75,615 square feet of retail space as part of Phase Two of Rushmore Crossing’s “Soft Power District”
- #09PD018 – Approved with stipulations on May 21, 2009
 - Major Amendment to the Planned Commercial Development to revise the previously approved sign package within the “Soft Power District”.
- #08PD061 – Approved with stipulations on December 18, 2008
 - Planned Commercial Development – Initial and Final Development Plan to allow for the construction of a 20,165 square foot commercial structure.
- #10PD042 – Approved with stipulations on June 24, 2010
 - Final Commercial Development Plan to construct a 7,724 square foot retail building and a connecting 24,200 square foot retail building within the Rushmore Crossing development area. The approved additions will provide a structural connection between the Target and Scheel’s stores.

The properties included in this application are located south of Eglin Street, west of East North Street and east of North La Crosse Street. A large contiguous commercial development,

STAFF REPORT
November 4, 2010

No. 10PD065 - Major Amendment to a Planned Commercial Development to allow on-sale liquor establishments **ITEM 26**

Rushmore Crossing, is located on the properties.

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 places of religious worship, parks or playgrounds located within a 500 foot radius of the property. General Commercial Zoning District with Planned Commercial Development surrounds the property and one undeveloped residential district is located in the immediate vicinity. Staff does not find that the proposed on-sale liquor establishments will have any adverse effects on the area.

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

There is one residential zoning district adjacent to Lot 5 of Block 2. However, the property is currently undeveloped. The nearest developed residential area is located approximately 775 feet to the southwest of the property across railroad right-of-way. The property is surrounded by General Commercial Zoning District with a Planned Commercial Development. Staff does not anticipate that the proposed on-sale liquor use will result in any significant adverse effects on any future residential areas.

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 currently no on-sale liquor establishments located within 500 feet of the three lots proposed with this application. The proposed on-sale liquor establishments are located within a highly commercialized area. In addition, proposed on-sale liquor establishments will operate in conjunction with full-service restaurants. As such, it does not appear that the proposed on-sale liquor establishment will create an undue concentration of similar uses.

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

Staff has reviewed the proposed use with respect to Chapter 17.54.030(E) and has noted the following issues:

Outdoor Patio: As previously stated, the applicant has proposed to include an outdoor patio adjacent to one of the tenant spaces currently occupied by Qdoba. The proposed outdoor patio will be approximately 346 square feet and will be located on the north side of the existing building. The applicant has submitted a site plan for the proposed outdoor patio that indicates that a minimum five foot clear pedestrian path will be retained on the sidewalk adjacent to the building. The proposed patio will require the applicant to relocate an existing landscape area on the sidewalk to accommodate the proposed patio. Staff recommends

STAFF REPORT
November 4, 2010

No. 10PD065 - Major Amendment to a Planned Commercial Development to allow on-sale liquor establishments **ITEM 26**

that the outdoor patio be constructed as per the submitted site plan and that a minimum five foot wide clear pedestrian path be maintained at all times.

Use: The Planned Commercial Development – Initial Development Plan stipulated that the properties be used for retail, restaurant, hotel and business uses on Tract E and Lot 5 of Block 2. All other uses, including on-sale liquor, for these two properties must be stipulated as part of a Final Development Plan or a Major Amendment shall be obtained. The Planned Commercial Development – Initial and Final Development plan for Lot 4 of Block 3 stipulated that the property be used for office, retail and storage with a maximum 4,850 square foot restaurant. The approved Planned Commercial Development stipulated a maximum square footage for the restaurant use due to concerns with available parking on the property. The addition of on-sale liquor to the approved restaurant use would require a Major Amendment under the previously granted approvals.

This Major Amendment request would allow on-sale liquor establishments operating in conjunction with a full-service restaurant to be located on the three properties. Staff recommends that the approved uses be limited to retail, full-service restaurant with on-sale liquor, hotel and business uses on Tract E and Lot 5 of Block 2 and office, retail, storage and a maximum 4,850 square foot full-service restaurant with on-sale liquor on Lot 4 of Block 3. Any change in use(s) or expansion of the restaurant area shall require the review and approval of a Major Amendment to the Planned Commercial Development(s).

Parking: The Planned Commercial Development – Initial Development Plan identified that a parking calculation of 4.5 parking spaces per 1,000 square feet of gross floor area was proposed for the development. Based on the 861,000 square feet of commercial use, 3,875 parking spaces were required. Parking plans for Tract E and Lot 5 of Block 2 have been previously approved by the Planning Commission through Final Development Plans and subsequent Major Amendments. The proposed outdoor patio expansion at Qdoba in Tract E will require that additional parking is provided based on the additional restaurant area. However, sufficient parking appears to be in place based on the current existing uses on the property. As the property continues to develop, a reevaluation of the required and available parking may be required.

The previously approved parking plan for Lot 4 of Block 3 included a full-service restaurant in the parking determination. The proposed on-sale liquor use(s) will not lead to an increase in the required number of parking spaces over and above the full-service restaurant use. Staff recommends that the parking be installed and continually maintained as per the approved parking plans.

Landscaping: The Planned Commercial Development – Initial Development Plan stipulated that upon submittal of a Final Development Plan a complete landscaping plan must be submitted for review and approval. The landscaping for Tract E and Lot 5 of Block 2 have been previously approved by the Planning Commission as a part of the Final Development Plan and subsequent Major Amendments. The proposed on-sale liquor establishments operating in conjunction with full-service restaurants have not been constructed. As such, prior to issuance of a Building Permit, a complete landscape plan for the proposed building must be

STAFF REPORT
November 4, 2010

No. 10PD065 - Major Amendment to a Planned Commercial Development to allow on-sale liquor establishments **ITEM 26**

submitted for review and approval to ensure that the landscaping is in compliance with the previously approved landscape plan.

The previously approved Planned Commercial Development – Initial and Final Development Plan for Lot 4 of Block 3 (#08PD061) included a landscape plan. The Initial and Final Development Plan stipulated that 88,020 landscape points must be provided on the property. The landscape calculation included the proposed retail structure and the 4,850 square foot restaurant building. The proposed on-sale liquor use will not lead to an increase in the required number of landscape points.

Staff recommends that the landscaping comply with the previously approved landscape plans. The landscaping plans must also comply with all requirements of the Zoning Ordinance. In addition, the landscaping must continually be maintained in a live, vegetative state, kept free of refuse and debris and replaced when necessary.

Signage: A sign package for Tract E and Lot 5 of Block 2 has previously been approved through previously approved Final Development Plans and subsequent Major Amendments. No signage has been submitted for the proposed on-sale liquor establishments operating in conjunction with full service restaurants.

Additionally, a sign package was previously reviewed and approved as part of the Planned Commercial Development – Initial and Final Development Plan for the property located on Lot 4 of Block 3.

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. 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.

Fire Code: The Fire Department has indicated that all development within the existing Planned Commercial Development(s) is required to provide fire sprinkler protection and be fire alarmed as per the 2003 International Fire Code. As such, staff recommends that all currently adopted International Fire Codes 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 November 4, 2010 Planning Commission meeting if these requirements have not been met. Staff has received one objection to the proposed request.

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