

STAFF REPORT
February 24, 2011

No. 11PD003 - Initial and Final Commercial Development Plan to allow an on-sale liquor establishment **ITEM 18**

GENERAL INFORMATION:

APPLICANT	Emily Bernahl for GreenbergFarrow
PROPERTY OWNER	SM Rushmore Mall, LLC
REQUEST	No. 11PD003 - Initial and Final Commercial Development Plan to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lot 8 and the west 162 feet of Lot 7 of Rushmore Mall Addition to the City of Rapid City, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.18 acres
LOCATION	2016 and 2112 North Maple Avenue
EXISTING ZONING	Shopping Center-2 District
SURROUNDING ZONING	
North:	Shopping Center-2 District (Planned Commercial Development)
South:	General Commercial District
East:	Shopping Center-2 District
West:	Shopping Center-2 District (Planned Commercial Development)
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	1/14/2011
REVIEWED BY	Jim Flaaen / Karley Halsted

RECOMMENDATION:

Staff recommends that the Initial and Final Commercial Development Plan to allow an on-sale liquor establishment be **approved with the following stipulations:**

- 1. Prior to Planning Commission approval a revised utility plan shall be submitted demonstrating that water and sewer services will be connected to City services as per City standards;**
- 2. A minimum of 44,447 landscape points shall be provided. The landscaping shall be installed as per the approved landscape plan and continually maintained in a live vegetative state, kept free of refuse and debris and replaced when necessary;**
- 3. The approved uses for the property shall be limited to a full service restaurant and**

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- on-sale liquor establishment operating in conjunction with a full-service restaurant. Any other use of the property shall require a Major Amendment to the Planned Commercial Development;
4. An Exception is hereby granted to allow a 1.18 acre parcel in lieu of the required 4 acre parcel as required in the Shopping Center – 2 Zoning District;
 5. An Exception is hereby granted to allow a 5 foot setback from the street for the proposed parking lot in lieu of the 25 foot setback as required in the Shopping Center – 2 Zoning District;
 6. Prior to issuance of a Building Permit, a developmental lot agreement must be signed and submitted to the Growth Management office;
 7. Prior to initiation of construction, a building permit shall be obtained and a Certificate of Occupancy shall be obtained prior to occupancy of the building;
 8. All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;
 9. The proposed structure(s) shall conform architecturally to the plans, elevations and color palette submitted as part of the Planned Commercial Development Plan;
 10. 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 motorists;
 11. 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. The addition of electronic signage will require a Major 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;
 12. A minimum of 74 off-street parking spaces shall continually be provided including a minimum of 3 handicap accessible spaces with one being “van accessible”. The parking shall be installed as per the approved parking plan and continually maintained as such;
 13. All applicable provisions of the currently adopted International Fire Code shall continually be met;
 14. All provisions of the General Commercial Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Initial and Final Commercial Development Plan 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 use as approved has ceased for a period of two years.

GENERAL COMMENTS: (Updated February 14, 2011. All added and/or revised text is showing bold print.) This item was continued to the February 24, 2011 Planning Commission meeting at the applicant’s request to allow the applicant to submit a

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revised site plan to accurately identify a larger structure than originally proposed.

The applicant has submitted a Planned Commercial Development – Initial and Final Development Plan request to allow an on-sale liquor establishment in conjunction with a full-service restaurant at the property located at 2016 and 2112 North Maple Avenue. In particular, the applicant has proposed to locate a 6,693 square foot full-service restaurant, Texas Roadhouse, at the property.

The property is located northeast of the intersection of North Maple Avenue and Disk Drive. The proposed full-service restaurant will be located on two lots. The western lot is currently void of any structural development. A vacant commercial retail building is located on the eastern lot.

STAFF REVIEW: Staff has reviewed this request with respect to the four criteria established for Planned Commercial Developments (PCD) and Planned Development Designations (PDD) identified in Section 17.50.100.

- 1. No PCD or PDD should be less than 1 acre in size unless it is determined by the Common Council that a smaller PCD or PDD is appropriate.*

This Initial and Final Planned Commercial Development Plan covers approximately 1.18 acres.

- 2. A PCD or PDD may be permitted in General Commercial, Neighborhood Commercial, Central Business and Office Commercial zoning districts.*

This Initial and Final Planned Commercial Development is located within the Shopping Center – 2 District. A Planned Commercial Development is not specifically referenced within Section 17.50.100. However, pursuant to Chapter 17.32.090 of the Rapid City Municipal Code all final site development plan changes must be reviewed and approved by the Planning Commission. Traditionally, changes to the final site development plan have been addressed through the Planned Commercial Development process subject to review and approval by the Planning Commission.

- 3. A PCD shall only contain permitted uses and conditional uses for the zoning district in which the PCD is located.*

This Initial and Final Planned Commercial Development Plan is to allow a full-service restaurant and an on-sale liquor establishment in the Shopping Center – 2 Zoning District. A restaurant is a permitted use and an on-sale liquor establishment is a conditional use in the Shopping Center – 2 Zoning District.

- 4. A PCD shall designate the type of uses approved for the development. Any change in approved land uses or changes in occupancy varying one Standard Industrial Classification (SIC) 2-digit code classification to another shall require an*

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amendment to the PCD.

The applicant has proposed to use the property for an on-sale liquor establishment operating in conjunction with a full service restaurant. An on-sale liquor establishment is a conditional use within the Shopping Center - 2 Zoning District. All requirements of the Shopping Center - 2 District must continually be met unless authorized as a stipulation of approval as a part of this Final Development Plan or subsequent Major Amendment. In addition, the approved uses for the property shall be limited to a full service restaurant and on-sale liquor establishment operating in conjunction with a full-service restaurant.

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 and Shopping Center - 2 District with a Planned Commercial Development surrounds the property. Staff has not identified any significant adverse impacts that the proposed on-sale liquor establishment will have on the area.

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

There are two Medium Density Residential zoned areas located within 500 feet of the property. The properties are currently undeveloped. However, the properties are located on the south side of Interstate 90 which will serve as a physical buffer between the proposed on-sale liquor use and the residential areas. The balance of the surrounding property is zoned General Commercial Zoning District with a Planned Commercial Development and Shopping Center – 2 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 existing or 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 3 on-sale liquor establishments located within 500 feet of the property. Red Lobster is located to the west of the property across the driveway to the Rushmore Mall on the north side of Disk Drive. Fuddrucker’s and Kaktus Kim’s are located within Rushmore Mall north of the property. In addition, Olive Garden and Minerva’s are located approximately 825 feet to the west of the

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property and 650 feet east of the property respectively. The nearby on-sale liquor establishments all operate in conjunction with a full-service restaurant. The proposed on-sale liquor establishment is located within a highly commercialized area. In addition, the proposed on-sale liquor establishment will operate in conjunction with a full-service restaurant, Texas Roadhouse. As such, it does not appear that the proposed on-sale liquor establishment will create an undue concentration of similar uses so as to result in blight, deterioration or substantially diminished property values.

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:

1. *The location, character and natural features of the property:*

The proposed building will be a 6,693 square foot structure constructed using wood lap siding with a cedar stain. In addition, cedar-colored brick veneer accents will be included around the base of the structure and the columns. The proposed roof will be a metal roof with a gray aluminum color. The proposed eaves and other building accents will be dark green in color. The proposed structure will be a maximum height of 27 feet 6 inches and will include two 12 foot tall flagpoles displaying the United States flag and Texas state flag. Staff recommends that the proposed structure conform architecturally to the plans, elevations and color palette approved as part of the Planned Commercial Development Plan.

2. *The location, character and design of adjacent buildings:*

The buildings adjacent to the proposed restaurant building are commercial structures of similar construction and design and are a mix of concrete construction or siding. Staff finds that the design and character of the proposed building is consistent with the design and character of the adjacent buildings.

3. *Proposed fencing, screening and landscaping:*

A minimum of 44,447 landscape points are required for the property. The applicant submitted a landscape plan that provides 53,386 landscape points consisting of large trees, shrubs and grassed areas. Staff recommends that the landscaping be installed and maintained as per the approved landscape plan and continually maintained in a live, vegetative state and kept free of refuse and debris and replaced when necessary.

The Shopping Center – 2 Zoning District requires that when a neighborhood shopping center is near or adjacent to residential area(s), fences, walls or year-

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round screening shall be provided when necessary. The proposed site is surrounded by General Commercial and Shopping Center – 2 Zoning Districts. The nearest residential areas are located south of Interstate 90 which provides a physical buffer from the proposed development.

4. *Proposed vegetation, topography and natural drainage:*

The topography of the property slopes to the south-southwest, however the majority of the property is relatively flat. As previously noted, the applicant has submitted a landscape plan that indicates that the area will be landscaped with large trees, shrubs and grasses.

5. *Proposed pedestrian and vehicular access, circulation and parking, including that related to bicycles and other unpowered vehicles and provisions for handicapped persons:*

Chapter 17.50.270 of the Rapid City Municipal Code requires that 74 off-street parking spaces be provided for the proposed 6,693 square foot restaurant including 3 handicap accessible spaces with a minimum of 1 being “van accessible”. The parking plan submitted by the applicant identifies that 74 off-street parking spaces are being provided including 6 handicap spaces with 3 being “van accessible”. Staff recommends that the off-street parking be constructed and maintained as per the approved parking plan.

The submitted site plan identifies that the loading zone for the proposed restaurant will be located on the north side of the building facing Rushmore Mall. Staff review has noted that the loading zone is approximately 54 feet in width which may create the need for extensive maneuvering within the road network on the Rushmore Mall property for larger trucks to access the loading area. As such, staff recommends that truck deliveries occur during off-peak hours so as to not adversely affect the flow of traffic within the Rushmore Mall property.

6. *Existing traffic and traffic to be generated by the proposed use:*

The proposed on-sale liquor establishment operating in conjunction with a full-service restaurant is located within a highly commercialized area. A community shopping center, Rushmore Mall, is located to the north and existing on-sale liquor establishments operating in conjunction with full-service restaurants are located to the west of the property. Smaller retail outlets are located to the east of the property. Roadways in the area of the proposed restaurant site are a mix of collector and principle arterial streets designed to accommodate the traffic generated by a community shopping center and outlying commercial uses. As such, staff finds that the existing road network surrounding the proposed restaurant use will sufficiently accommodate any additional traffic generated by the proposed use.

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7. *Proposed signs and lighting:*

A sign package has been submitted with the application. In particular, the applicant has proposed 3 static wall signs to be located on the building. The first sign will be located on the south side of the building facing Maple Avenue and will be 32 feet 7 inches wide and 7 feet tall for an overall size of 126 square feet. The sign will include the message "Texas Roadhouse" in red lettering with the company logo in green, black and yellow. The sign will be internally illuminated. The second proposed sign will be located on the east side of the building facing the parking lot located above the main building entrance. The proposed sign will be 5 feet 7 inches wide and 3 feet 3 inches tall for an overall size of 18.1 square feet. The proposed sign will include the message "Texas Roadhouse" with white lettering on a black and red striped background with the company logo in red, yellow, black and green. The proposed sign will be internally illuminated using fluorescent lamps. The third sign will be located on the west side of the building facing the entrance to the Rushmore Mall area. The proposed sign will be 10 feet wide and 5 feet 10 inches tall for an overall size of 58.33 square feet. The proposed sign will include the message "Texas Roadhouse" with white lettering on a black and red striped background with the company logo in red, yellow, black and green. The proposed sign will be internally illuminated using fluorescent lamps.

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. No electronic signs are being proposed as a part of this Final Development Plan. Staff is recommending that the addition of electronic signage will require a Major 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.

8. *The availability or public utilities and services:*

Public Works Department staff review has noted that the proposed full-service restaurant does not connect to City water and sewer services as required. Rather, service is proposed to be taken from private service lines, resulting in a non-conforming service for the property violating City standards. As such, prior to Planning Commission approval the applicant must submit a revised utility plan demonstrating that water and sewer services will be connected to City services as per the adopted City standards.

9. *The objectives of the adopted comprehensive plan and the purpose of the*

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ordinance codified herein:

The property is intended to be used for retail and commercial uses. The proposed on-sale liquor use is a conditional use in the Shopping Center – 2 Zoning District. The proposed use of the property meets the objectives of the adopted comprehensive plan and the purpose of the Zoning Ordinance.

10. *The overall density, yard, height and other requirements of the zone in which it is located:*

The site for the proposed restaurant with on-sale liquor use is approximately 1.18 acres in size. The proposed building will span two lots and as such, prior to issuance of a building permit, the applicant must enter into a development lot agreement. The two lots have been previously platted and are bound to the north, south and west by existing roadways. In addition, the reduced lot size is similar to reduced lot sizes for the existing restaurant uses located to the west of the property. As such, staff recommends that the exception be granted to allow for the reduced lot size to allow a 1.18 acre lot size in lieu of the required 4 acre lot size.

The proposed site layout identifies that portions of the parking lot are located within the required 25 foot setback from North Maple Avenue. The southeast corner of the parking lot is setback approximately 5 feet from the property line abutting North Maple Avenue. The reduced setback will reflect the structural development pattern of the commercial restaurant development that has previously occurred along North Maple Avenue and Disk Drive south of Rushmore Mall. As such, staff recommends that the exception be granted to allow a 5 foot setback for the proposed parking lot abutting North Maple Avenue in lieu of the required 25 feet.

The restaurant is proposed to be 27 feet 6 inches in height at the roof peak. In addition, the applicant has proposed to locate two 12 foot tall flagpoles on top of the roof peak. However, Chapter 17.50.260 of the Rapid City Municipal Code exempts flagpoles from the height requirements of the zoning districts. As such, the proposed structure is in compliance with the height requirements of the Shopping Center – 2 District.

11. *The effects of noise, odor, smoke, dust, air and water pollution and the degree of control through which clarifiers, screening, setbacks and orientation:*

The proposed on-sale liquor establishment operating in conjunction with a full-service restaurant is located within a highly commercialized area. A community shopping center, Rushmore Mall, is located to the north and existing on-sale liquor establishments operating in conjunction with full-service restaurants are located to the west of the property. Smaller retail outlets are located to the east of the property. Interstate 90 is located to the south of the property, creating a

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physical buffer between the proposed use and the residential areas to the south. Staff has not identified any significant increased adverse effects of noise, odor, smoke, dust, and air or water pollution on the immediate or surrounding area resulting from the proposed development.

12. The degree to which conditions imposed will mitigate and probably adverse impacts of the proposed use on existing adjacent uses:

The stipulations of approval will serve as a tool to insure that the existing parking, landscaping, signage, and lighting will be maintained on the property. In addition, the stipulations secure the use of the property and insure that the currently adopted International Fire Codes are continually met. As such, the stipulations should serve as a tool to mitigate probable adverse impacts of the proposed use on the existing adjacent uses and structures

Notification Requirement: As of this writing, the white receipts from the certified mailing been returned however the green card receipts have not been returned. The required signs have been posted on the property. Staff will notify the Planning Commission at the February 24, 2011 Planning Commission meeting if these requirements have not been met.

Staff recommends that the Planned Commercial Development – Initial and Final Development Plan be approved with the stipulations as identified above.