

STAFF REPORT  
March 10, 2011

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**No. 11PD005 - Initial and Final Planned Commercial Development to allow an On-Sale Liquor Establishment**      **ITEM 12**

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GENERAL INFORMATION:

APPLICANT	Chris Schwartz for Fresh Start Convenience Stores
AGENT	Ted Corean for Corean Construction LLC
PROPERTY OWNER	Chris Schwartz
REQUEST	<b>No. 11PD005 - Initial and Final Planned Commercial Development to allow an On-Sale Liquor Establishment</b>
EXISTING LEGAL DESCRIPTION	Lot 1B of Lot M and Lot 2 of Lot M of Burson Subdivision, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.25 acres
LOCATION	3800 and 3887 East Highway 44
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District - Suburban Residential District (Pennington County)
South:	Low Density Residential District
East:	General Commercial District - General Commercial District (Pennington County)
West:	Suburban Residential District - General Commercial District (Pennington County)
PUBLIC UTILITIES	Rapid Valley Sanitary District
DATE OF APPLICATION	1/27/2011
REVIEWED BY	<b>Marcia Elkins</b> / Jim Flaaen / Karley Halsted

RECOMMENDATION:

Staff recommends that the Initial and Final Planned Commercial Development to allow an On-Sale Liquor Establishment **be approved with the following stipulations:**

- 1. The approved uses for the property shall be limited to a gas station and convenience store, an on-sale liquor establishment and car wash. Any other use shall require a Major Amendment to the Planned Commercial Development;**
- 2. Prior to initiation of construction, a building permit shall be obtained and a Certificate**

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of Occupancy shall be obtained prior to occupancy of the structure;

3. The structures shall conform architecturally to the plans, elevations and color palette submitted as a part of the Planned Commercial Development Plan;

4. 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;

5. All signage shall conform to the design, color and location as identified as a part of the Planned Commercial Development Plan. 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 required 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 b designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign;

6. An exception is hereby granted to allow only two stacking spaces for the two eastern wash bays. The parking shall be installed as per the approved parking plan and continually maintained as such;

7. All applicable provisions of the currently adopted International Fire Code shall be continually met;

8. 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;

9. 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,

10. The Planned Commercial Development shall expire if the use is not undertake 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: This report has been updated as of March 3, 2011. All updates have been identified in bold. No other changes have been made to this report.**

The applicant has submitted a Planned Commercial Development – Initial and Final Development Plan to allow a gas state and convenience store, car wash, liquor store and casino on the property. In particular, the applicant has proposed to expand an existing gas station and convenience store, Ranch Mart, to include a casino and liquor store and attach the building to the adjacent car wash building on the adjacent lot to the west. The car wash is located at 3800 East Highway 44 and was annexed into the City limits in 1999. The Ranch Mart is located at 3887 East Highway 44 and was recently annexed into the City limits on November 28, 2010 (#10AN003).

The properties are zoned General Commercial District. Service and filling establishments are a permitted use in the General Commercial District and a car wash and on-sale liquor establishments are conditional uses in the General Commercial District. As such, the

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applicant has submitted this Planned Commercial Development request to allow the conditional uses.

The properties are located on East Highway 44, on the north side of Highway 44, west of Jolly Lane and south of School Drive. A gas station and convenience store and car wash are located on the properties.

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 1.25 acres.

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

The proposed Initial and Final Planned Commercial Development is located within the General Commercial Zoning District.

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 an on-sale liquor establishment, casino, gas station and convenience store and car wash in the General Commercial Zoning District. A gas station and convenience store is a permitted use and an on-sale liquor establishment and car wash are conditional uses in the General Commercial 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 amendment to the PCD.*

The applicant has proposed to use the property for an on-sale liquor establishment, gas station and convenience store and car wash. A gas station and convenience store is a permitted use and an on-sale liquor establishment and car wash are conditional uses in the General Commercial Zoning District. All requirements of the General Commercial 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 an on-sale liquor establishment, gas station and convenience store and car wash.

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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. Rapid Valley Elementary School is located approximately 1,300 feet east of the property, outside of the 500 foot radius. Black Hills Speedway is located to the east of the property across Jolly Lane. 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 is a Low Density Residential Zoning District located to the south of the property across East Highway 44 and across railroad right-of-way. Property zoned Suburban Residential District by Pennington County is located to the south, north and west within 500 feet of the property. However, all Suburban Residential District zoned properties are located either across right-of-way, including East Highway 44 and School Drive, or across adjacent properties. As such, the residential areas appear to be sufficiently buffered from the proposed use by these physical barriers.

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 property. As such, the proposed use does not appear to create an undue concentration of similar uses so as to create blight, deterioration, or negatively affect 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 existing car wash building is constructed of steel frame construction light tan and green in color. In addition, the existing Ranch Mart gas station and convenience store is constructed using block walls and a steel roof of light tan and dark red. The properties are located at 3800 and 3887 East Highway 44, northwest of the intersection of East Highway 44 and Jolly Lane, south of School Drive.

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

The buildings located on adjacent properties are of similar block wall and steel frame

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construction. In addition, there are several single family homes located within the vicinity of the proposed use consisting of both stick-built and mobile homes.

3. *Proposed fencing, screening and landscaping:*

The site plan submitted by the applicant has not proposed any new fencing and/or screening for the property. The property is not adjacent to any residential property and is not required to provide fencing and/or screening from residential properties.

The applicant has submitted a landscape plan with the application. The landscape plan identifies that the proposed landscaping will consist of existing grassed areas, one large tree and six proposed medium trees to be planted on the east portion of the property. However, the landscape plan does not identify the locations of the medium trees. The landscape plan must be revised to ensure that the proposed location of the medium trees does not conflict with sight triangles, utility lines or other structures or infrastructure. As such, staff recommends that this item be continued to the March 10, 2011 Planning Commission meeting to allow the applicant to submit a revised landscape plan for review and approval.

**A revised landscape plan identifying the location of the proposed trees was submitted on February 28, 2011. Staff is reviewing the location of the proposed trees to determine that the proposed locations do not conflict with any identified sight triangles, utility line or other structures or infrastructure. Staff is in the process of reviewing the plan and will notify the Planning Commission at the March 10, 2011 meeting if there are any conflicts or corrections that are required.**

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

The existing vegetation on the property consists of grassed areas and one large deciduous tree. The topography on the property is relatively flat with no elevations changes. As previously noted, the applicant has submitted a landscape plan identifying that six additional medium trees will be planted on the eastern portion of the property. However, the landscape plan does not identify the locations of the medium trees. The landscape plan must be revised to ensure that the proposed location of the medium trees does not conflict with sight triangles, utility lines or other structures or infrastructure.

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 identifies that 43 permanent striped off-street parking spaces are required for the proposed retail and casino uses on the property including a minimum of two handicap accessible spaces with one being "van accessible". The submitted parking plan identifies that 43 parking spaces are being provided with 4 handicap accessible spaces and 2 "van accessible" spaces.

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In addition, a minimum of three striped stacking spaces are required for each wash bay of the car wash. The proposed car wash has a total of 5 wash bays. The submitted parking plan has identified that the required three stacking spaces are being provided at the western three service bays. However, only two stacking spaces are shown at the eastern two wash bays. The applicant has requested an exception to allow only two stacking spaces for these two wash bays. The existing lot is angled to the east reducing the width of the lot by approximately 30 feet from the western lot line to the eastern wash bays. As such, based on the irregular lot, the need to provide circulation behind the stacking spaces, and the fact that the location and design of the wash bays are an existing condition, staff recommends that the exception request to reduce the required stacking spaces from three to two for the eastern two wash bays be approved.

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

The existing gas station and convenience store and car wash were existing uses and structures at the time of annexation into the City. As such, the property has existed and operated as a retail and service use for many years. The addition of the on-sale liquor use would not appear to have a significant increase vehicular traffic to the property. In addition, the property is located adjacent to East Highway 44, a principle arterial on the Major Street Plan, and Jolly Lane, a collector street. The existing road network will be sufficient to accommodate any increased traffic from the proposed uses.

7. *Proposed signs and lighting:*

No additional signage is proposed for the building expansion. The existing signage on the Ranch Mart building and the car wash building will remain. There is an existing pole sign located on the southeast corner of the property which includes an off-premise sign for the Elks Lodge and Golf Course. City Code Enforcement officials have identified that an off-premise sign license has not been obtained for the sign and is currently in violation of the Rapid City Municipal Code. As such, staff recommends that this item be continued to the March 10, 2011 Planning Commission meeting to allow the applicant to obtain a license for the off-premise sign in violation of the Rapid City Municipal Code or remove the sign.

**The owners of the off-premise sign obtained an off-premise sign license on March 2011 for the legal non-conforming sign.**

In addition, the site plan submitted by the applicant indicates that a portion of the pole sign is located within the East Highway 44 right-of-way. As such, staff recommends that this item be continued to the March 10, 2011 Planning Commission meeting to allow the applicant to verify the location of the sign and resubmit a correct site plan, remove the sign from the right-of-way or vacate that portion of the right-of way encroached upon by the sign.

**On February 28, 2011, a new site plan was submitted identifying that the existing sign is located outside of the public right-of-way. Staff will field check the**

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**information prior to the March 10, 2011 Planning Commission meeting and confirm that the information that has been submitted is correct.**

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

The property is served by water and sewer services provided by Rapid Valley Sanitary District. However, the property is also served by a City-owned fire hydrant from a water main within the East Highway 44 right-of-way. Public Works staff has reviewed the submitted site plan and has noted that all underground services are not identified on the site plan. In addition, the site plan does not identify which services are those of Rapid City and those of Rapid Valley Sanitary District. A revised site plan must be submitted identifying all underground utilities and correctly labeling which services are owned by Rapid City and which are owned by Rapid Valley Sanitary District. As such, staff recommends that this item be continued to the March 10, 2011 Planning Commission meeting to allow the applicant to submit a revised site plan for review and approval.

**A revised site plan was submitted on February 28, 2011. The Public Works staff is reviewing the information and will notify the Planning Commission if any changes or corrections are required.**

9. *The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein:*

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

Chapter 5.12.090 of the Rapid City Municipal Code restricts the distribution of on-sale alcoholic beverages and vehicular fuel on the same property by the same licensee. However, the applicant may reduce the area covered in the legal description of the alcohol license such that the area served by the alcohol license is restricted to only the casino portion of the property thereby complying with the Code requirements. As such, prior to issuance of a Certificate of Occupancy, the applicant must document that they are in compliance with Chapter 5.12.090 of the Rapid City Municipal Code.

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

The existing structure on the property is in compliance with the density, yard and height requirements of the General Commercial 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 gas station and convenience store, car wash and on-sale liquor uses are

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located along a commercial and industrial corridor. There are existing residences located to the south of the property which are buffered from the proposed use by the existing road network and residences to the north of the property buffered by the existing road network and adjacent commercial uses. The property has been operated as a commercial establishment in the past with no apparent impacts on the adjacent uses. As such, staff has not identified any significant adverse effects of noise, odor, smoke, dust, and air and water pollution on the area.

*12. The degree to which conditions imposed will mitigate any probable 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 have 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. **The required green cards have been submitted.**

Staff recommends that this item be continued to the March 10, 2011 Planning Commission meeting to allow the above issues to be addressed.

**Based on the additional information that has been submitted for review and approval, staff recommends approval of the request for an Initial and Final Planned Commercial Development to allow an On-Sale Liquor Establishment.**