

STAFF REPORT
April 7, 2011

No. 10PD068 - Initial and Final Planned Commercial Development to allow an on-sale liquor establishment **ITEM 19**

GENERAL INFORMATION:

APPLICANT	Black Hills BBQ, Inc.
AGENT	Sanderson Stewart
PROPERTY OWNER	Midland Rushmore, LLC
REQUEST	No. 10PD068 - Initial and Final Planned Commercial Development to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lot 5 of Block 3 of Rushmore Crossing, Section 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.32 acres
LOCATION	1718 Eglin Street
EXISTING ZONING	General Commercial District
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	10/22/2010
REVIEWED BY	Patsy Horton / Marcia Elkins / Jim Flaaen / Ted Johnson

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. 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. Any other use of the property shall require a Major Amendment to the**

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- Planned Commercial Development;**
- 2. A minimum of 50,499 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. Prior to issuance of a building permit, all redlined comments shall be addressed. Additionally, the redlined plans shall be returned to the Growth Management Department;**
 - 4. Prior to initiation of construction, an air quality permit shall be obtained;**
 - 5. 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;**
 - 6. All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;**
 - 7. The proposed structure(s) shall conform architecturally to the plans, elevations and color palette submitted as part of the Commercial Development Plan. Additionally, the roof coating shall match the color palette;**
 - 8. 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;**
 - 9. A minimum of 85 off-street parking spaces shall continually be provided including a minimum of 4 handicap accessible spaces with one being “van accessible”. The parking shall be installed as per the approved parking plan and continually maintained as such;**
 - 10. Prior to issuance of a building permit, the sign package shall be revised to reflect the monument sign as an 8 foot wide by 4 foot high sign, located at least 10 feet from the public right-of-way, as identified on the Site Plan Layout (Sheet C.2). One monument sign located at the southeast entrance shall be allowed;**
 - 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). Signage shall continually comply with the Rapid City Municipal Code. A sign permit shall also be obtained for each individual sign;**
 - 12. Upon warrants being met to construct a signal along Eglin Street at the western shared approach, the western shared approach shall be redesigned to add a lane and align the left turn lane with the driveway located south of Eglin Street as per the Rushmore Crossing Traffic Impact Study, 3rd Edition;**
 - 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**

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15. **Commercial Development Plan or a subsequent Major Amendment; and, 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 March 31, 2011. All revised and/or edited text is shown in bold print.) This item was continued to the April 7, 2011 Planning Commission meeting at the applicant's request to allow the applicant to address site development grading issues. The applicant has submitted a revised plan identifying the necessary retaining wall and has addressed all site issues.

(Updated March 11, 2011. All revised and/or edited text is shown in bold print.) This item was continued to the March 24, 2011 Planning Commission meeting at the applicant's request to allow the applicant to site development grading issues. The information provided to staff indicated that a retaining wall would be required due to the topography of the site. Staff had been informed that the applicant wished to review site development alternatives prior to moving forward with the project. To date, the staff has not received any updated plans. Staff has attempted to contact the applicant's agent to review the status of the project; however, no response has been received as of this writing. As such, staff recommends that this item be continued to the April 7, 2011 Planning Commission meeting.

(Updated February 14, 2011. All revised and/or edited text is shown in bold print.) This item was continued to the February 24, 2011 Planning Commission meeting at the applicant's request to allow the applicant to resolve issues with the acquisition and development of the property. The applicant has since requested that this item be continued to the March 24, 2011 Planning Commission meeting to allow revised site plans to be submitted. As such, staff recommends that this item be continued to the March 24, 2011 Planning Commission meeting.

The applicant has submitted a Planned Commercial Development – Initial and Final Development Plan to allow an on-sale liquor establishment in conjunction with a full-service restaurant on the property located at 1718 Eglin Street. In particular, the applicant has proposed a “Famous Dave’s” restaurant with on-sale liquor to be located on the property.

On November 9, 2010, the applicant indicated that there are several outstanding issues regarding the acquisition and proposed development for the property that needed to be addressed prior to the application moving forward. As such, the applicant has requested that this item be continued to the December 9, 2010 Planning Commission meeting and staff is in concurrence with that request.

GENERAL COMMENTS: The applicant has submitted an Initial and Final Commercial Development Plan to allow an on-sale liquor establishment in conjunction with a full-service restaurant at the property located at 1718 Eglin Street. In particular, the applicant has proposed to locate a 7,710 square foot full-service restaurant, Famous Dave’s BBQ, on the property.

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The property is located south of Interstate I-90 and north of Eglin Street. A commercial retail building is located west of the 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 1.32 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 General Commercial Zoning District and is permitted as a Conditional Use 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 will allow a full-service restaurant and an on-sale liquor establishment in the General Commercial Zoning District. A restaurant is a permitted use and an on-sale liquor establishment is a conditional use 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 operating in conjunction with a full service restaurant. An on-sale liquor establishment is a conditional use within the General Commercial Zoning District. All requirements of the General Commercial Zoning 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.

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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 and General Commercial Zoning District with 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 no residential areas located within 500 feet of the property. The properties north of Interstate 90 are vacant. The balance of the surrounding property is currently occupied by commercial developments and/or detention facilities. 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 no other on-sale liquor establishments located within 500 feet of the property. The proposed on-sale liquor establishment is located within a developing commercialized area. The proposed on-sale liquor establishment will operate in conjunction with a full-service restaurant, Famous Dave’s BBQ. 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 used 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 7,710 square foot structure constructed as a “log cabin” style building with brown logs and grey stone accents. The proposed pitched roof will be metal with a green coated steel finish. The overall height of the building is approximately 20 feet. Two stone chimneys are incorporated into the building design and included in the 20 foot height. The site will also have an outdoor patio located on the southeast side of the building. The proposed patio will be enclosed with a barrier of stone and log-style columns and railing. The patio area is approximately 20 feet by 30 feet.

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Staff recommends that the proposed structure conform architecturally to the plans, elevations and color palette approved as part of the Commercial Development Plan. Changes to the proposed building layout that comply with all building and fire code regulations, which the Growth Management Director determines to be consistent with the original approved site plan, shall be allowed as a Minimal Amendment to the Planned Commercial Development.

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

The building adjacent to the proposed restaurant is constructed of rock face concrete masonry unit block that is earth tone in color. Staff finds that the design and character of the proposed building is consistent with the design and character of the adjacent buildings and appears to comply with the previously approved design guidelines for Rushmore Crossing.

3. *Proposed fencing, screening and landscaping:*

A minimum of 50,449 landscape points are required for the property. The applicant submitted a landscape plan that provides 51,000 landscape points consisting of large trees, shrubs, hedge, and grassed areas. The applicant has added an additional landscape buffer adjacent to Interstate 90. Staff recommends that sufficient landscaping is maintained along the north property line to adequately screen vehicle headlights from Interstate 90 along the entryway into the community. Staff also 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.

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

The majority of the property is relatively flat with the exception of the northern boundary. The applicant has provided erosion control measures to address the slope. 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 85 off-street parking spaces be provided for the proposed 7,710 square foot restaurant including 4 handicap accessible spaces with a minimum of 1 being "van accessible". The parking plan submitted by the applicant identifies that 88 off-street parking spaces are being provided including 4 handicap spaces with 1

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being “van accessible”. Staff recommends that the off-street parking be constructed and maintained as per the approved parking plan.

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. This establishment is part of a community shopping center, Rushmore Crossing, and includes several retail outlet areas. Roadways in the area of the proposed restaurant site are a mixture of collector and principal arterial streets designed to accommodate the traffic generated by a community shopping center and outlying commercial uses. The Rushmore Crossing Traffic Impact Study, 3rd Edition, identifies that the western most shared driveway into this site has been identified as a potential future signalized intersection. If signal warrants are met, the west shared driveway onto the site will need to be reconstructed to add a left turn driving lane that aligns with the left turn driving lane to the south.

Staff finds that the existing road network surrounding the proposed restaurant use will sufficiently accommodate any additional traffic generated by the proposed use.

7. Proposed signs and lighting:

A sign package has been submitted with the application. In particular, the applicant has proposed 4 static wall signs for each side of the building. There are two signs on the south side of the building facing Eglin Street. One sign measures 18 feet 8 inches wide and 5 feet 6 inches tall and will project 13 inches from the building. The second sign on the south wall of the building is located above the main entrance and measures 12 feet 8 inches wide and 5 feet 3 inches tall, projecting 13 inches from the building. The sign on the north side of the building facing Interstate 90 measures 11 feet 11 inches wide and 3 feet 6 inches tall and will project 13 inches from the building. The “To Go” sign on the east side of the building measures 6 feet wide and 4 feet 6 inches tall and will project 6 inches from the building. All signs will include a combination of white, yellow, red and black lettering with internal illumination. The sign package also includes a ground sign located at the southeast entrance to the property, located 10 feet from the right-of-way. The monument sign measures 8 feet wide, 3 feet 6 inches deep and 4 feet tall as described on Sheet C.2 of the plan sheets. The signage on the monument sign is 6 feet wide and 1 foot 2.75 inches tall with white lettering on a black background. The monument sign is constructed of tan stone with green and brown accents. One monument sign shall be allowed. The sign package site plan and the final site plan identified on Sheet C.2 shall be revised to reflect similar size and location of the proposed signage.

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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 connects to City water and sewer services as required. As such, the proposed building is consistent with the requirement for public utilities.

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

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 1.32 acres in size. The restaurant is proposed to be 20 feet in height at the roof peak. As such, the proposed structure is in compliance with the height requirements of the General Commercial Zoning 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. The property is located within Rushmore Crossing, a community shopping center. Interstate 90 is located to the north of the property creating a physical buffer. 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.

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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 and green cards from the certified mailing been returned. The required signs have been posted on the property.

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