

STAFF REPORT
July 7, 2011

No. 11PD028 - Initial and Final Commercial Development Plan to expand an existing On-Sale Liquor Establishment to include an outdoor patio

ITEM 13

GENERAL INFORMATION:

APPLICANT	William Beshara
PROPERTY OWNER	Colonial House, Inc.
REQUEST	No. 11PD028 - Initial and Final Commercial Development Plan to expand an existing On-Sale Liquor Establishment to include an outdoor patio
EXISTING LEGAL DESCRIPTION	Lot 1 of Block 1 of Highland Park Subdivision located in the S1/2 NE1/4 of Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.776 acres
LOCATION	2501 Mount Rushmore Road
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District (Planned Commercial Development)
East:	General Commercial District
West:	General Commercial District (Planned Commercial Development)
PUBLIC UTILITIES	City
DATE OF APPLICATION	6/9/2011
REVIEWED BY	Fletcher Lacock / Brandon Quiett

RECOMMENDATION:

Staff recommends that the Initial and Final Commercial Development Plan to expand an existing On-Sale Liquor Establishment to include an outdoor patio be approved with the following stipulations:

1. An Exception is hereby granted to allow backing into the right-of-way;
2. An Exception is hereby granted to allow a Planned Commercial Development with a 0.776 acre lot in lieu of the required minimum one acre lot size;
3. A building permit shall be obtained prior to any construction and a Certificate of Occupancy issued prior to occupying the proposed patio;

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4. A minimum of 47 off-street parking spaces shall continually be provided including a minimum of two handicap spaces with one being "van accessible." The applicant shall maintain the existing lease agreement for additional parking. If the lease is ended the applicant shall provide two additional parking spaces on the property or obtain a Major Amendment to the Planned Commercial Development to reduce the parking requirement;
5. All provisions of the General Commercial 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;
6. The currently adopted International Fire Code shall be continually met. In addition, the applicant shall contact the Fire Department to discuss the fire sprinkler protection needs of the building;
7. The proposed expansion shall conform to the dimensions and designs as reviewed and approved as part of this Planned Commercial Development. Revisions to the design of the outdoor patio that the Growth Management Director determines to be consistent with the original approved design, shall be allowed as a Minimal Amendment to the Planned Commercial Development;
8. The Initial and Final Planned Commercial Development shall allow for the expansion of the on-sale liquor establishment to include an outdoor patio. The on-sale liquor use shall be allowed in conjunction with a full service restaurant; and,
9. 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:

The applicant has submitted an Initial and Final Commercial Development Plan to expand an on-sale liquor establishment to include an outdoor patio. In particular, the applicant is proposing to use an 8 foot by 40 foot area located along the south side of the structure to be used as outdoor seating for the restaurant currently located on the property. The 320 square foot area will be enclosed by a wrought iron fence and provide seating for 16 customers.

On June 15, 1992 the Common Council approved a Use on Review with stipulations for an On-Sale Liquor Establishment on the property.

The property is located northwest of the intersection of Mount Rushmore Road and Highland Park Drive. The Colonial House Restaurant is currently located on the property. On the north edge of the property is a strip of commercial spaces including Heroes Baseball Cards and Dakota Pride.

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 of the Rapid City Municipal Code.

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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.*

The proposed Initial and Final Planned Commercial Development Plan includes 0.776 acres. Since this is an existing platted lot, staff recommends that the smaller Planned Commercial Development be approved with the smaller lot size.

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 District.

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

The proposed Initial and Final Planned Commercial Development Plan is to expand an on-sale liquor establishment to include an outdoor patio area in the General Commercial District. A restaurant is a permitted use and an on-sale liquor establishment is a conditional use in the General Commercial 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 is proposing to expand an on-sale liquor establishment to include an outdoor patio area. As previously noted, an on-sale liquor establishment is a conditional use within the General Commercial District. All requirements of the General Commercial District must continually be met unless authorized as a stipulation of approval as a part of this Initial and Final Commercial Development Plan or a subsequent Major Amendment.

Staff has also 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.

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

This property as well as the properties located north, south, east and west are currently zoned General Commercial District. The Best Western Town and Country Inn is located between the property and a residential district located to the northwest.

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."*

The proposed outdoor patio is an expansion to an existing on-sale liquor establishment located in a General Commercial District. Toby's Casino South is approximately 440 feet to the east on the northwest corner of Cleveland Street and 7th Street. In addition, there are several other on-sale liquor establishments along Mount Rushmore Road including the Roadway Inn, Eighth Street Lounge and Casa Real. The proposed outdoor patio is expanding an existing use on the property and should not create an undue concentration if operated in conjunction with a full service restaurant.

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 property is located at 2501 Mount Rushmore Road within a highly commercialized area. The proposed outdoor patio will be located on the south edge of the existing structure. The existing building is a one story commercial structure. To the north of the property is a strip of three one and two story commercial structures.

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

To the west and south of the property is the Best Western Town and Country Inn, a complex of two story commercial structures. To the north and east of the property are single story commercial structures.

3. *Proposed fencing, screening and landscaping:*

The applicant is not required to provide additional landscaping or screening. The applicant should be aware that future expansions to the building or changes in use may require that these improvements be provided in compliance with the adopted Zoning Ordinance.

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

The applicant is not proposing to alter the existing topography and/or drainage on the property. As per, Chapter 17.50.300(F)2 the proposed outdoor patio does not require additional landscaping as it is less than 20% of the building area.

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

Mount Rushmore Road is located east of the property and Highland Park Drive is located to the south of the property and currently provides vehicular access and circulation through the site. A sidewalk is located along Mount Rushmore Road and provides pedestrian access. Currently, 47 parking spaces exist on the property with two handicap accessible spaces with one of the spaces being "van" handicap accessible. The applicant has indicated that a parking agreement exists with the property owner to the west to use thirteen parking spaces located on the adjacent property. The applicant is required to provide 49 parking spaces and with the lease agreement, is in compliance with the parking requirement.

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

The Best Western Town and Country Inn separates the on-sale liquor establishment from existing residential development to the northwest. Traffic from the proposed expansion of an on-sale liquor establishment should not negatively impact residential traffic in the area.

7. *Proposed signs and lighting:*

The applicant is not proposing to add any additional signs or lighting.

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

The property is currently served by public utilities including Rapid City sewer and water.

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 existing restaurant is a permitted use in the General Commercial District and the proposed on-sale liquor use is a conditional use in the General Commercial District. The objective of the adopted comprehensive plan is to insure the sufficient separation of conflicting uses. There is sufficient buffering between the on-sale liquor

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establishment and residential districts and appears to be in compliance with the adopted comprehensive plan.

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

The existing development on the property is in compliance with the density, yard and height requirements of the General Commercial District. As previously noted, a minimum one acre lot size is required for a Planned Commercial Development. Since this is an existing platted lot, staff recommends that a Planned Commercial Development with a 0.776 acre lot size be approved in lieu of the required minimum one acre lot size.

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 along Mount Rushmore Road. As such, staff does not anticipate that expanding the on-sale liquor use to include an outdoor patio area will result in any increased adverse effects of noise, odor, smoke, dust, air or water pollution on the immediate or surrounding area.

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

The stipulations of approval of the Initial and Final Planned Commercial Development will serve as a tool to insure that the existing parking will be maintained on the property. In addition, the stipulations identify the permitted 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.

Notification Requirement: As of this writing, the certified mailing receipts have not been returned and the required signs have not been posted on the property. Staff will notify the Planning Commission at the July 7, 2011 Planning Commission meeting if these requirements have not been met.