

STAFF REPORT  
September 20, 2012

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**No. 12PD029 - Major Amendment to a Planned Development to allow an on-sale liquor establishment in conjunction with a beauty salon**

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**ITEM 7**

GENERAL INFORMATION:

APPLICANT	Pure Bliss, LLC dba A Perfect 10
PROPERTY OWNER	THF Stoneridge Development, LLC
REQUEST	<b>No. 12PD029 - Major Amendment to a Planned Development to allow an on-sale liquor establishment in conjunction with a beauty salon</b>
EXISTING LEGAL DESCRIPTION	Lot 3 of Block 4 of Black Hills Center located in Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1600 square feet
LOCATION	36 East Stumer Road, Suite 118
EXISTING ZONING	Public District - General Commercial District (Planned Development)
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	Office Commercial District (Planned Development)
South:	General Commercial District (Planned Development)
East:	General Commercial District (Planned Development Designation)
West:	General Commercial District (Planned Development)
PUBLIC UTILITIES	Rapid City
DATE OF APPLICATION	August 22, 2012
REVIEWED BY	Fletcher Lacock / Ted Johnson

RECOMMENDATION:

Staff recommends that the Major Amendment to a Planned Development to allow an on-sale liquor establishment in conjunction with a beauty salon be approved with the following stipulations:

1. The stipulations of the previously approved Planned Development (File #10PD071) shall continue to be in effect with this Major Amendment to the Planned Development;
2. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;

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3. Upon submittal of a building permit, plans shall be prepared and stamped by a licensed Architect or Professional Engineer as per SDCL 36-18A;
4. A minimum of 232,000 landscape points shall be provided in accordance with the approved plans. A minimum of six planter islands shall also be provided. In addition, landscaping shall be provided along 5<sup>th</sup> Street in compliance with the proposed landscape plan. All provisions of Section 17.50.300, the Landscaping Regulations of the Rapid City Municipal Code must be continually met. All landscaping must be continually maintained in a live vegetative state and replaced as necessary;
5. A minimum of 236 parking spaces shall be provided. In addition, five of the parking spaces shall be handicap accessible spaces. One of the handicap spaces shall be "van accessible". All provisions of the Off-Street Parking Ordinance shall be continually met;
6. All applicable provisions of the adopted International Fire Code shall continually be met;
7. All provisions of the General Commercial District shall be met unless otherwise specifically authorized as a stipulation of this Conditional Use Permit or a subsequent Major Amendment;
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 motorist or constitute a nuisance of any kind;
9. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Major Amendment to the Planned Development. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Planned Development. 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; and,
10. The Major Amendment to a Planned Development shall allow an on-sale liquor establishment in conjunction with a beauty salon. Any expansion to the on-sale liquor use in conjunction with a beauty salon shall require a Major Amendment to the Planned Development. Any change in use that is a permitted use in the General Commercial District shall require the review and approval of a Minimal Amendment. Any change in use that is a Conditional Use in the General Commercial District shall require the review and approval of a Major Amendment to the Planned Development.

**GENERAL COMMENTS:**

The applicant has submitted a Major Amendment to a Planned Development to allow an on-sale liquor establishment in conjunction with a beauty salon. In particular, the applicant is proposing to serve wine and beer to customers of "A Perfect 10" beauty salon to be located in the existing mini-anchor store located at Black Hills Center east of the new Walmart store. The proposed location will have approximately 1,600 square feet of salon space. The applicant has indicated that the salon will service approximately 40-50 clients per day. The hours of operation will be Monday thru Friday from 9:00 a.m. to 8:00 p.m., Saturday from 9:00 a.m. to 7:00 p.m. and Sunday from 11:00 a.m. to 5:00 p.m.

The proposed on-sale liquor use is for the second of two "A Perfect 10" beauty salons. The first "A Perfect 10" beauty salon is located at 1109 West Omaha Street. On August 4, 2011, a Conditional Use Permit (File #11UR018) to allow an on-sale liquor establishment was

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approved with stipulations for that location.

An Initial Commercial Development Plan (File #10PD031) was approved with stipulations by the Planning Commission on June 14, 2010 and upheld upon appeal by the City Council on June 28, 2010. The Initial Commercial Development Plan was approved to allow a 154,750 square foot "Walmart Supercenter" with an outdoor garden center and to allow a 30,900 square foot mini-anchor retail store and a 16,000 square foot shopping store on the property.

On July 19, 2010, the City Council approved several Rezoning requests and Comprehensive Plan Amendment requests for the property. They are as follows: File #10RZ016, 10RZ017, 10RZ018, 10RZ019, 10CA005, 10CA006, 10CA007 and 10CA008.

A Final Commercial Development Plan (File #10PD071) was approved with stipulations by the Planning Commission on January 27, 2011 and upheld upon appeal by the City Council on February 22, 2011. The Final Commercial Development Plan was approved to allow commercial uses including on-sale liquor establishments in conjunction with a full service restaurant. The stipulations of approval are as follows:

1. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy. In addition, an Air Quality Permit shall be obtained prior to any surface disturbance of one acre or more;
2. Prior to issuance of a building permit, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In particular, the construction plans shall be revised to show the proposed raised "pork chop" island to be constructed at the Eagle Ridge Apartment entrance located outside of E. Stumer Road right-of-way. In addition, the red lined drawings shall be returned and signed and sealed final construction plans shall be submitted to the Growth Management Department;
3. Prior to issuance of a building permit, the applicant's "Easements with Covenants and Restrictions Affecting Land (ECR)" document shall be recorded at the Register of Deed's Office to secure access between the properties. In addition, a copy of the recorded document shall be submitted to the Growth Management Department;
4. Prior to issuance of a building permit, a Covenant Agreement shall be executed to provide the maintenance of the stormwater management facility to be located on proposed Lot 3;
5. Prior to issuance of a building permit, the construction plans shall be revised to include a note stating that "the design of the street lights shall comply with City Design Standards or the applicant shall enter into a Covenant Agreement with the City securing maintenance of the proposed decorative street lights along E. Stumer Road from 5<sup>th</sup> Street to Black Hills Boulevard. If an alternate street light design is utilized, then prior to issuance of a Permit to Work in the Right-of-way, the Covenant Agreement shall be recorded at the Register of Deed's Office and copies of the recorded documents shall be submitted to the Growth Management Department;
6. Prior to issuance of a building permit, the construction plans be revised to include a note stating that "the color of the traffic signal poles and components shall be pursuant to City and State Design Requirements. If an alternate color is utilized, then prior to issuance

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of a Permit to Work in the Right-of-way, the applicant shall enter into a Covenant Agreement with the City and the South Dakota Department of Transportation securing maintenance of the paint on the traffic signal poles and components to be located at the intersections of 5<sup>th</sup> Street and Stumer Road, 5<sup>th</sup> Street and Catron Boulevard and Black Hills Boulevard and Catron Boulevard. In addition, the Covenant Agreement shall be recorded at the Register of Deed's Office and copies of the recorded documents shall be submitted to the City".

7. Prior to issuance of a building permit, a note shall be placed on the landscape plan stating that the soils shall be replaced as needed to support spruce trees. The landscaping shall be provided in compliance with the submitted plans. In particular, a minimum of 672,350 landscape points shall be provided on the Walmart Supercenter lot as proposed. In addition, a minimum of 15 planter islands shall be provided. Bermed landscaping and evergreen trees with a minimum height of six feet shall be provided along the northwest corner of the property as shown on the landscape plan. In addition, a minimum of 232,000 landscape points shall be provided on the mini-anchor and retail shop lot in accordance with approved plans. A minimum of six planter islands shall also be provided. In addition, landscaping shall be provided along 5<sup>th</sup> Street in compliance with the proposed landscape plan. All landscaping shall be irrigated and shall comply with all requirements of the Landscape Ordinance;
8. Prior to issuance of a building permit, a Fence Height Exception shall be obtained to allow a 10 foot high fence in lieu of an 8 foot high fence to enclose a pallet storage area located along the west side of the proposed "Walmart Supercenter" building or the fence elevation shall be revised to show a maximum 8 foot high fence or shown in compliance with previously approved Fence Height Exception. In addition, a Minimal Amendment to the Planned Commercial Development shall be obtained to allow the revised fence elevation if the Fence Height Exception is not obtained. The balance of the proposed fencing shall be provided in accordance with the design and plans submitted;
9. Prior to issuance of a Certificate of Occupancy, bollard barrier(s) within the westbound lane west of the approach into the Eagle Ridge Apartments and bollard barrier(s) within the eastbound lane of Stumer Road directly east of the intersection of Stumer Road and Enchantment Road shall be constructed as per the approved construction plans. Regulatory signs designed in accordance with the Manual on Uniform Traffic Control Devices shall be posted at both ends of Stumer Road. In addition, the raised "pork chop" island or alternative traffic control as approved by the City Engineer shall be constructed within the Eagle Ridge Apartment approach along Stumer Road, outside of the street right-of-way, to preclude left turns from the Eagle Ridge Apartment property onto Stumer Road;
10. Prior to issuance of a Certificate of Occupancy, the following street improvements shall be completed pursuant to the Traffic Impact Study or surety shall be posted for the improvement:
  - Signalize the intersection of Catron Boulevard and Black Hills Boulevard;
  - Signalize the intersection of 5th Street and Stumer Road;
  - Coordinate the two proposed traffic signals with the existing traffic signal at Catron Boulevard and 5th Street with a hard wire interconnect;
  - Construct dual eastbound left-turn lanes on Stumer Road at 5th Street;

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- Construct a separate southbound right-turn lane on 5th Street at Stumer Road;
  - Construct dual southbound left-turn lanes on 5th Street at Catron Boulevard;
  - Construct a separate westbound right-turn lane on Stumer Road at the main Walmart drive; and,
  - Construct a separate westbound right-turn lane at the east driveway on Stumer Road servicing the retail shops.
11. Prior to issuance of a Certificate of Occupancy, the applicant shall enter into a Covenant Agreement with the City to secure the timing of the following improvements pursuant to the Traffic Impact Study:
    - Construction of a separate westbound right turn lane on Catron Boulevard at Black Hills Boulevard; and,
    - Construction of a separate northbound right turn lane on Black Hills Boulevard at Outlot 10;
  12. The proposed signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Planned Commercial Development. No electronic signs are being approved as a part of this sign package. The addition of electronic signs shall be considered a Major Amendment to 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;
  13. No camping or overnight parking shall be allowed. In addition, "No Camping or Overnight Parking" signs shall be posted within the parking lot(s) in accordance with the plans submitted;
  14. An Exception is hereby granted to allow the lighting from the parking lot to reflect onto the adjacent sidewalk located within E. Stumer Road right-of-way. The balance of the lighting shall be designed to reflect light within the property boundaries, so as not to reflect or shine onto adjoining properties and rights-of-way and so as to not be a hazard to the passing motorist or constitute a nuisance of any kind;
  15. The proposed Walmart Supercenter structure, the proposed service kiosk and the proposed shopping center structure shall conform architecturally to the elevations, design plans and color palette submitted as part this Final Commercial Development Plan. In addition, the roof membrane(s) shall be tan in color as proposed. Changes to the elevations may be authorized by the Growth Management Director when they are consistent with the revised architectural style of the development as approved herein;
  16. No outdoor storage of palettes, card board boxes or other similar materials shall be allowed outside of the screened area. In addition, no storage of semi-trailers shall be allowed on the property;
  17. All traffic markings shall be installed and maintained by the applicant at all times pursuant to the approved construction plans;
  18. The currently adopted International Fire Code shall be continually met. In particular, fire hydrants shall be installed and operational prior to the issuance of a building permit

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- and/or any construction on the site using combustible material(s). In addition, prior to issuance of a building permit, all weather access roads shall be constructed in compliance with the Street Design Criteria Manual in order to accommodate Fire Department apparatus. The proposed structures shall also have fire sprinkler systems and be fire alarmed if required as per the currently adopted International Fire Code;
19. A minimum of 730 parking spaces shall be provided on the Walmart Supercenter lot. In addition, 15 of the parking spaces shall be handicap accessible spaces. Two of the handicap spaces shall be "van accessible". In addition, a minimum of three stacking spaces per drive up window shall be provided. A minimum of 235 parking spaces shall be provided on the mini-anchor and retail shop lot. In addition, five of the parking spaces shall be handicap accessible spaces. One of the handicap spaces shall be "van accessible". All provisions of the Off-Street Parking Ordinance shall be continually met;
  20. A bike rack(s) shall be provided in accordance with the design and plans submitted;
  21. Noise generated by the development shall continually comply with the Acoustical Assessment Report which states that the sound levels at the property lines shall not exceed Ldn 65 dBA;
  22. All construction traffic shall be routed along Catron Boulevard;
  23. All use(s) permitted within the General Commercial District shall be allowed. Conditional use(s) within the General Commercial District shall require specific authorization as a stipulation of this Final Commercial Development Plan or a subsequent Major Amendment to the Commercial Development Plan shall be obtained. Off-premise liquor sales with no on-premise liquor consumption shall be allowed on both lots. In addition, on-sale liquor establishments, in conjunction with a full-service restaurant only, shall be allowed on the mini-anchor and shopping center lot. A Major Amendment to the Commercial Development Plan shall be obtained prior to issuance of a building permit for the mini-anchor building. All provisions of the underlying zoning designation(s) shall be met unless otherwise specifically authorized as a stipulation of this Final Commercial Development Plan application or a subsequent Major Amendment;
  24. 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 Development Plan approval expiration date, a one year extension for Final Development Plan approval may be granted; and,
  25. The Public Works Director and the Growth Management Director may approve modifications to the design of the drainage facility located along the north boundary.

The property is located northeast of the intersection of Black Hills Boulevard and Stumer Road and west of 5<sup>th</sup> Street. Currently, a one story commercial strip mall, the Black Hills Center, is located on the property.

**STAFF REVIEW:**

Staff has reviewed the Major Amendment to a Planned Development and has noted the following considerations:

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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 (500) foot radius.*

There are no schools, playgrounds or places of worship located within a 500 foot radius of the subject property. All abutting properties are zoned General Commercial District in a Planned Development or with a Planned Development Designation. The Final Planned Development approved on-sale liquor use in conjunction with a full service restaurant. As of this writing, no restaurant has opened with on-sale liquor use on the above legally described property. The request is not anticipated to have any “adverse affect” on any place used for religious worship, school, park or playground if operated in conjunction with a beauty salon.

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

The properties located approximately 120 feet northeast of the above legally described property and across 5<sup>th</sup> Street are zoned Low Density Residential District. The northern portion of the above legally described property is zoned Public District providing a buffer. Land located approximately 1,000 feet northwest of the above legally described property is zoned Medium Density Residential District. The Walmart Supercenter is located on the property to the west. The property located west of the Walmart is zoned Office Commercial District providing an additional buffer to the proposed on-sale liquor use. It does not appear that the proposed on-sale use will have an adverse affect on the area if operated in conjunction with a beauty salon.

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 existing on-sale liquor establishments located within 500 feet of the property. The approved Final Planned Development allowed on-sale liquor use in conjunction with a full service restaurant on the above legally described property. As of this writing, no restaurant has opened with on-sale liquor use on the above legally described property. It does not appear that the proposed use will create an undue concentration causing blight or deterioration or diminish the land values in the surrounding area if operated in conjunction with a beauty salon.

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 36 East Stumer Road, Suite 118. The existing building is a one story commercial strip mall, the Black Hills Center. The other uses located in the

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strip mall will include Jimmy Johns, Game Stop, Yo-Yo Berry, Great Clips, Healthy Paws, Verizon and a future on-sale liquor establishment in conjunction with a restaurant that was approved with the original Planned Development.

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

The properties located to the east and south are zoned General Commercial District with a Planned Development Designation and are currently undeveloped. The property to the west is zoned General Commercial District with a Planned Development and is the location of the new Walmart Supercenter. Land located to the north of the legally described property is zoned Office Commercial District with a Planned Development and is a two story commercial structure. In addition, land located to the northeast of the property is zoned Low Density Residential District and is currently undeveloped.

*3. Proposed fencing, screening and landscaping:*

The applicant is not proposing any additional fencing, screening or landscaping. The landscaping must be in conformance with the approved Final Planned Development (File# 10PD071). A minimum of 232,000 landscape points must be provided in accordance with the approved plans. A minimum of six planter islands must also be provided. In addition, landscaping must be provided along 5<sup>th</sup> Street in compliance with the proposed landscape plan. All provisions of Section 17.50.300, the Landscaping Regulations of the Rapid City Municipal Code must be continually met. All landscaping must be continually maintained in a live vegetative state and replaced as necessary.

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

There will be no changes in impervious surfaces, topography or drainage.

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

Vehicular access is off of East Stumer Road. A sidewalk is located along East Stumer Road providing pedestrian access. A minimum of 236 parking spaces must be provided. In addition, five of the parking spaces must be handicap accessible spaces. One of the handicap spaces must be "van accessible". The applicant has submitted a parking plan identifying 271 parking spaces with 5 handicap accessible spaces. In addition, two of the handicap spaces are "van accessible". All provisions of the Off-Street Parking Ordinance shall be continually met.

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

The proposed 1,600 square foot beauty salon will generate approximately 3.1 trips per weekday peak hour and 8.2 trips per Saturday peak hour.

*7. Proposed signs and lighting:*



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The applicant has submitted the same sign package that was approved with the original Planned Development for the property. The applicant is not proposing to make any changes to the approved sign package. All signage must conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Major Amendment to the Planned Development. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs will require the review and approval of a Major Amendment to the Planned Development. Lighting for the signs must be designed to preclude shining on the adjacent properties and/or street(s). A sign permit must also be obtained for each individual sign.

The applicant is not proposing any additional lighting as a part of this Major Amendment to the Planned Development. All outdoor lighting must 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 motorist or constitute a nuisance of any kind.

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 commercial uses. The proposed on-sale liquor establishment in conjunction with a beauty salon requires a Major Amendment to the Planned Development. One of the goals of the Comprehensive Plan as identified in the Future Land Use Plan Overview adopted in 2008 is to provide a variety of centers for community activities and employment that meet the needs of residents and are integrated into the fabric of the community. The objective of the adopted Comprehensive Plan is to encourage retail establishments and businesses that are convenient to neighborhood residents, yet compatible with but not intrusive upon residential neighborhoods. Additionally, the objective of the adopted comprehensive plan is to insure that there is sufficient separation of conflicting uses.

The north portion of the above legally described property is zoned Public District and is across 5<sup>th</sup> Street from properties zoned Office Commercial District and Low Density Residential. In addition, the property is located approximately 1,000 feet east of property zoned Medium Density Residential District and is separated from the proposed on-sale use by property zoned Office Commercial District and the Walmart Supercenter. It appears that there is sufficient buffering between the on-sale liquor establishment in conjunction with a beauty salon and the residential districts to the west and north and, therefore, 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:*

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The existing development on the property is in compliance with the density, yard and height requirements of the General Commercial District. All provisions of the General Commercial District must be met unless otherwise specifically authorized as a stipulation of this Major Amendment or a subsequent Major Amendment.

The on-sale liquor establishment in conjunction with a beauty salon is a conditional use in the General Commercial Zoning District. The Major Amendment to a Planned Development shall allow an on-sale liquor establishment in conjunction with a beauty salon. Any expansion to the on-sale liquor use in conjunction with a beauty salon will require a Major Amendment to the Planned Development. Any change in use that is a permitted use in the General Commercial District shall require the review and approval of a Minimal Amendment. Any change in use that is a Conditional Use in the General Commercial District will require the review and approval of a Major Amendment to the Planned Development.

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

It does not appear that the proposed on-sale liquor use will have a negative effect on the surrounding area by causing noise, odor, smoke, dust, air or water pollution.

*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 of the Major Amendment to the Planned Development will serve as a tool to ensure that on-site parking and landscaping are in compliance with the Zoning Ordinance and that the proposed on-sale liquor will only be in conjunction with a beauty salon.

Fire Department: The existing structure is currently fire sprinkler protected. All applicable provisions of the adopted International Fire Code must continually be met.

Notification: The white slips and green cards have not been returned. As of this writing, staff is not aware if the sign has been posted. Staff will conduct a site visit before the September 20, 2012 Planning Commission meeting and will notify the Planning Commission at the meeting if these requirements have not been met.