

STAFF REPORT
February 21, 2013

**No. 13PD002 - Initial Planned Development to Expand an On-Sale
Liquor Establishment**

ITEM 12

GENERAL INFORMATION:

APPLICANT	Paul Bradsky - Atlantis, LLC
AGENT	Janelle Finck - Fisk Land Surveying & Consulting Engineers
PROPERTY OWNER	Atlantis, LLC
REQUEST	No. 13PD002 - Initial Planned Development to Expand an On-Sale Liquor Establishment
EXISTING LEGAL DESCRIPTION	Lot 1 Revised of Atlantis Subdivision, located in Section 27, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 6.32 acres
LOCATION	1300 North Elk Vale Road
EXISTING ZONING	General Commercial
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	Box Elder
South:	General Commercial District - General Commercial District (Final Planned Development)
East:	General Commercial District
West:	General Commercial Distinct
PUBLIC UTILITIES	Rapid City/Box Elder water and sewer
DATE OF APPLICATION	January 24, 2013
REVIEWED BY	Robert Laroco / Brandon Quiett

RECOMMENDATION:

Staff recommends that the Initial Planned Development to expand an on-sale liquor establishment be approved with the following stipulations:

1. An Exception to allow the building height to be increased from 45 feet to 80 feet as shown on the approved plans is hereby granted;
2. Prior to issuance of a building permit, a Final Planned Development shall be approved for the proposed expansion of the Watiki Waterpark and hotel expansion. All additional development shall comply with the requirements of the Rapid City Municipal Code;

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3. Prior to issuance of a building permit, final signed and sealed construction plans must be submitted for review and approval. In particular, plans shall be submitted showing that the all public utilities have been divided at the municipal boundary;
4. Prior to issuance of a building permit, an Air Quality Construction Permit shall be obtained;
5. A building permit shall be obtained prior to construction. A Certificate of Occupancy shall be obtained prior to occupancy;
6. Upon submittal of a Final Planned Development, a full site plan shall be submitted. In particular, a full parking plan shall be submitted. All parking shall comply with the requirements of the Rapid City Municipal Code and the approved parking plan;
7. Upon submittal of a Final Planned Development, a full landscaping plan shall be submitted to Community Planning for review and approval. All landscaping shall be installed and maintained in compliance with the Rapid City Landscaping Ordinance, or an Exception shall be obtained for any non-complying landscaping;
8. Upon submittal of a Final Planned Development, a sign and lighting package for the property must be submitted for review and approval. All signage must comply with the requirements of the Rapid City Municipal Code;
9. All applicable provisions of the International Fire Code shall be continually met;
10. All development shall comply with all the regulations of the General Commercial District unless specifically stipulated as a part of this Initial Planned Development, the Final Planned Development, or a subsequent Major Amendment to the Planned Development, and;
11. This Initial Planned Development shall allow for the expansion of an on-sale liquor establishment in conjunction with a hotel and waterpark complex. Any changes to the use on the property which comply with the requirements of the Rapid City Municipal code shall be permitted. Any changes to the use on the property which do not comply with the Rapid City Municipal Code shall require a Major Amendment to the Planned Development.

GENERAL COMMENTS: The applicant has submitted an Initial Planned Development to allow for expansion of an on-sale liquor establishment. In particular, the applicant is proposing an approximately 30,000 square foot expansion of the existing Watiki Waterpark and hotel complex. Currently, the complex is comprised of the Fairfield Inn & Suites and portions of the Watiki Waterpark located in Rapid City, and a La Quinta Inn located in Box Elder. The current Conditional Use Permit (File # 10UR030) allows an on-sale liquor establishment to be located within sections of the complex located in Rapid City. The applicant has requested an Exception to increase the permitted height of the building from 45 feet to 80 feet to allow for an architectural feature that will accommodate the proposed waterslide features and, as such, has requested the property now be developed through a Planned Development. It should be noted that the applicant has proposed a Marriott Residence Inn and a Convention Center to be located in Box Elder as a part of the development of this site. Prior to issuance of a building permit for development located within Rapid City, a Final Planned Development must be approved for the property.

On May 4, 2006, Planning Commission approved a Conditional Use Permit (File #06UR010) to allow an on-sale liquor establishment to be located on the property. At the time, the original on-sale liquor establishment was located within Box Elder, but the entire complex

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was connected and patrons of the establishment were not restricted to Box Elder. As such, the applicant obtained a Conditional Use Permit to allow an on-sale liquor establishment for those portions of the development located within Rapid City.

On October 23, 2008, Planning Commission approved a Major Amendment to the Conditional Use Permit (File #08UR015) to expand an existing on-sale liquor establishment to include all of Lot 1 Revised of the Atlantis Subdivision, and to transfer a full-sale liquor license to the property, adding the sale of liquor to the previously approved sale of beer and wine.

The property is located at 1300 and 1314 North Elk Vale Road, east of the intersection of North Elk Vale Road and U.S. Interstate 90. The property is developed as a waterpark and hotel complex.

STAFF REVIEW: Staff has reviewed the proposed expansion to the existing on-sale liquor establishment and has noted the following considerations:

Planned Development Criteria: Staff has reviewed the proposed expansion to the existing on-sale liquor establishment per Rapid City Municipal Code Chapter 17.50.050.F(5) and has noted the following considerations:

There are certain conditions pertaining to the particular piece of property in questions because of its size, shape or topography;

The existing development is comprised of approximately 6.32 acres of property located in Rapid City, with an additional 7.11 acres of property located to the north and east in Box Elder. Portions of the existing and proposed development are located within both municipalities. The requested Initial Planned Development are for those portions of the development located within Rapid City limits. The location of this development across City limits creates specific conditions on the property which may benefit from further development through the Planned Development process.

The application of these regulations to this particular piece of property would create a particular difficulty or undue hardship;

A Conditional Use Permit to allow an on-sale liquor establishment has been approved for the property since 2006. The applicant is seeking to expand the existing waterpark in Rapid City and has proposed additional development of a hotel, convention center, and parking in Box Elder to the north and east. The applicant has stated that the proposed expansion will also expand the on-sale liquor use on the property. It does not appear that the application of the regulations would create a particular difficulty or undue hardship.

Exceptions to the underlying zoning district, if granted, would not create undue hardship to the public good or impair the purposes and intent of these regulations;

As a part of the proposed waterpark expansion, the applicant is proposing a structure with a height of 80 feet. The requested Exception for height is to allow for an architectural feature

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that will accommodate the proposed waterslide design. Rapid City Municipal Code permits a building height of 45 feet for structures located in the General Commercial District. As such, the applicant has requested this Initial Planned Development to expand an on-sale liquor use, and has requested an Exception for the additional height. Submitted plans show that the proposed expansion will be located approximately 15 feet lower than the grade of the existing development on the site, which will help to minimize the proposed height of the structure. In addition, plans show that the existing La Quinta Inn in Box Elder is located north of the proposed waterpark expansion and should also serve to mitigate the mass of the proposed structure. For these reasons, staff recommends the Exception to increase the allowable height of the structure from 45 feet to 80 feet be approved.

A literal interpretation of this chapter would deprive the applicant of rights that others in the same district are allowed;

A literal interpretation of the Zoning Ordinance would not deprive the applicant of rights that others in the same district are allowed.

Any adverse impacts will be reasonably mitigated;

Utilities: Public Works staff has noted that City utilities must be divided at the municipal boundary between Rapid City and Box Elder. Upon submittal of a Final Planned Development, plans must be submitted showing the the utilities have been divided at the municipal boundary.

Traffic Impact Study: Public Works staff and Transportation Planning staff has noted that the proposed expansion will generate enough traffic to trigger the requirement for a Traffic Impact Study. However, since access to the property is from Box Elder, the City of Rapid City cannot require a Traffic Impact Study as a stipulation of this Planned Development. The applicant should be aware that a Traffic Impact Study for the proposed development is strongly encouraged by Public Works and Transportation Planning staff.

Landscaping: A full landscaping plan was not submitted as a part of this Initial Planned Development. Upon submittal of a Final Planned Development, a complete landscaping plan must be submitted showing all existing and proposed landscaping for the site. All landscaping must meet the requirements of the Rapid City Municipal Code.

Parking: The submitted plans show that a total of 144 new hotel rooms will be constructed as a part of the new hotel. A total of 318 parking spaces are being proposed as a part of the expansion. The vast majority of the proposed parking spaces are located within the City of Box Elder. These parking spaces may be considered parking as a part of the Planned Development with the submittal of cross-use agreements. In addition, site access and landscaping requirements located in Box Elder may be considered as a part of requirements of the Planned Development with the submittal of cross-use agreements. Upon submittal of a Final Planned Development, signed cross-use agreements for the use of access, parking and landscaping must be submitted to Community Planning and Development Services for review and approval. The waterpark use on the property is reserved for patrons of the hotel, and as such, additional parking for the use is not required. The number of proposed parking

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spaces exceeds the required number of parking spaces. Staff recommends that parking be provided as shown on the approved site plans. All parking must comply with the requirements of the Rapid City Municipal Code.

Signage: A sign package was not submitted with this Initial Planned Development. Upon submittal of a Final Planned Development, a sign and lighting package for the property must be submitted for review and approval. All signage must comply with the requirements of the Rapid City Municipal Code. The applicant should be aware that a sign permit is required for each sign.

Fire Department: The Rapid City Fire Department has not noted any concerns with the proposed development. All applicable provisions of the International Fire Code must be continually met.

Building Permits: The property to be developed appears to be over one acre in size. Disturbances of earth greater than one acre require an air quality permit be obtained prior to construction. Prior to issuance of a building permit, an air quality permit must be obtained for all disturbances of earth greater than one acre. A building permit must be obtained prior to the start of construction. A Certificate of Occupancy must be obtained prior to occupancy.

The Planned Development must serve as the tool by which adverse impacts of the proposed development are mitigated. The applicant has noted that the proposed expansion will meet all land use regulations with the exception of building height. Staff recommends that the property comply with all the regulations of the General Commercial District unless specifically stipulated as a part of this Initial Planned Development, the Final Planned Development, or a subsequent Major Amendment to the Planned Development.

The requested exception to the underlying zoning district standards is an alternative or innovative practice that reasonably achieves the objective of the existing standard sought to be modified;

The requested Exception for height will allow development of the site to include unique architectural features that cross municipal boundaries and accommodate equipment utilized by patrons of the Watiki Waterpark. The previously approved Conditional Use Permit on the property ensures that existing development of the property meets minimum City design standards. The proposed expansion of the development meets the requirements of the General Commercial District with the exception of building height and maintains a similar characteristic to existing development in the area. The requested exception to the underlying zoning is an alternative and innovative practice that reasonably achieves the objective of the existing standard sought to be modified.

On-sale Liquor Establishment Criteria: Staff has reviewed the proposed expansion of the on-sale liquor establishment per Rapid City Municipal Code Chapter 17.50.185 and has noted the following considerations:

The requested use will not adversely affect the use of any place used for religious worship, school, park, playground, or similar use within a 500 foot radius;

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There are no places of religious worship, schools, or parks located within 500 feet of the property. Property to the south is owned by the South Dakota Board of Regents and serves as the University Center of the Black Hills. The structure is located approximately 600 feet from the proposed expansion. The properties are separated by a railroad right-of-way and the on-sale liquor use is limited to patrons of the hotel and waterpark. Property to the north is located within the City of Box Elder. It does not appear the requested use will adversely affect any places of religious worship, school, park, or playground. Development in the area is a mix of commercial uses.

The requested use is sufficiently buffered with respect to residential areas so as to not adversely affect the area;

There are no residential districts located near the proposed use. Property located approximately 2,000 feet to the south is zoned General Agriculture District, but appears to be void of structural development.

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 expansion of an on-sale liquor establishment will serve as an accessory use to the existing and proposed hotels and the water park on the property. The nearest establishment with an on-sale liquor use is located approximately 600 feet to the west, on the west side of North Elk Vale Road. The on-sale liquor establishment is operated in conjunction with a full-service restaurant and is the location of the Dakotah Steakhouse. The General Commercial District is viewed as the appropriate zoning district for the operations of full-service restaurants with an on-sale liquor use. The proposed use will not create an undue concentration of similar uses, so as to cause blight, deteriorations, or substantially diminish or impair property values.

The use complies with the standards of Rapid City Municipal Code Chapter 17.54.030;

Staff has reviewed the proposed expansion of an on-sale liquor establishment and it appears the use complies with the standards of a Conditional Use Permit per the requirements of the Rapid City Municipal Code. The proposed expansion meets all the requirements of the General Commercial District with the exception of height. The proposed Exception for building height will allow for unique architectural features that will also serve the patrons of the waterpark. The proposed on-sale liquor use is in conjunction with the other services provided by the hotel and waterpark and is not the sole use on the property. A Final Planned Development must still be approved for the property. For these reasons, staff recommends that the Initial Planned Development to allow the expansion of an on-sale liquor establishment be approved with the stipulations noted above.

Notification Requirements: As of this writing, the sign has not been posted on the property and the green cards and white receipts that serve as proof of the required certified mailing have not been returned to Community Planning and Development Services. Staff will inform the Planning Commission at the February 21, 2013 Planning Commission if these requirements

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have not been met. As of this writing, there have been no inquiries into the proposed Initial Planned Development.