

STAFF REPORT  
July 3, 2013

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**No. 13PD018 - Major Amendment to a Planned Development to allow an On-Sale Liquor Establishment in conjunction with a restaurant** **ITEM 15**

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GENERAL INFORMATION:

APPLICANT	Luke Wilson - CCW, LLC dba HuHot Mongolian Grill
PROPERTY OWNER	CPP Rushmore LLC
REQUEST	<b>No. 13PD018 - Major Amendment to a Planned Development to allow an on-sale liquor establishment in conjunction with a restaurant</b>
EXISTING LEGAL DESCRIPTION	Lot 9 of Block 2 of Rushmore Crossing, located in Sections 32 and 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.102 acres
LOCATION	Southeast corner of Eglin Street and East North Street
EXISTING ZONING	General Commercial (Planned Development)
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	General Commercial (Planned Development)
South:	General Commercial
East:	General Commercial
West:	General Commercial (Planned Development)
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	May 24, 2013
REVIEWED BY	Robert Laroco / Nicole Lecy

RECOMMENDATION:

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

1. A building permit shall be obtained prior to construction. A Certificate of Occupancy shall be required prior to occupancy;
2. All signage shall comply with the submitted sign package and the Rapid City Municipal Code. Changes to the signage which comply with the Rapid City Sign Code shall be permitted. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Planned Development. The addition of electronic or LED signage shall

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- require a Major Amendment to the Planned Development. A sign permit is required for each sign;
3. All parking shall continue to comply with the previously approved Major Amendment to the Planned Development, File #08PD004;
  4. All landscaping shall continue to comply with the previously approved Major Amendment to the Planned Development, File #08PD004;
  5. All outdoor lighting shall be designed to reflect within the property boundaries so as to not shine on adjoining properties and rights-of-way and not be a hazard to the passing motorist or constitute a nuisance of any kind;
  6. All applicable provisions of the International Fire Code shall be continually maintained;
  7. All provisions of the General Commercial District shall be continually maintained unless specifically authorized as a stipulation of a subsequent Major Amendment to the Planned Development, and;
  8. The Major Amendment to the Planned Development shall allow an on-sale liquor establishment for beer and wine to be developed in conjunction with a full service restaurant. All permitted uses in the General Commercial District shall be permitted. All conditional uses in the General Commercial District shall require a Major Amendment to the Planned Development.

**GENERAL COMMENTS:** The applicant is requesting a Major Amendment to the Planned Development to allow an on-sale liquor establishment in conjunction with a full service restaurant to be located in the Rushmore Crossing commercial development. On March 27, 2008, the Planning Commission approved a Major Amendment to the Planned Development for Phase II of the "Softpower" portion of the Rushmore Crossing Planned Commercial Development (File #08PD010). Phase II encompasses the eastern-most portions of the development. Some portions of Phase II were not constructed until recently. The applicant proposes to open a full service restaurant to be known as "Hu Hot Mongolian Grill" in one of the newly constructed suites and would like to serve beer and wine. As such, the applicant has submitted this Major Amendment to the Planned Development.

The property is located at 1745 Eglin Street, Suite 990, at the eastern-most end of the Rushmore Crossing Planned Development. Additional suites for an existing strip mall development are currently under construction on the site.

**STAFF REVIEW:** Staff has reviewed the application according to the requirements of Rapid City Municipal Code Chapter 17.50.185 regarding on-sale liquor establishments. The requirements are as follows:

1. *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:*

The property is located in a General Commercial District currently undergoing development. Property in the area continues to develop with a variety of commercial and retail uses. The proposed restaurant is not located within 500 feet of any place of religious worship, school, park, playground, or similar use.

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

Property to the north, south, east and west are zoned General Commercial District and are located within a Planned Development. There are no residentially zoned districts in the vicinity of the proposed use. The requested Major Amendment to the Planned Development will not adversely affect any 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:*

Property in the vicinity of the proposed full service restaurant continues to develop with commercial uses. Fuji Japanese Steakhouse and Q'doba Mexican Grill to the west are both on-sale liquor establishments for beer and wine in conjunction with full service restaurants. Famous Dave's and Longhorn Steakhouse, both located to the north of the proposed full service restaurant, are also on-sale liquor establishments in conjunction with full service restaurants. A Perfect 10 Salon, located immediately west of the proposed restaurant, is an on-sale liquor establishment for beer and wine in conjunction with a salon and spa. The General Commercial District is intended to provide a location for the personal and business services and general retail business of the city, including businesses with alcohol sales. The proposed on-sale alcohol use is proposed as an accessory to the primary restaurant use proposed for the property. In addition, the applicant is proposing to serve beer and wine only, and is not seeking a full liquor license. It does not appear that the proposed use will create an undue concentration of similar uses, so as to cause blight, deterioration, or substantially diminish or impair property values.

4. *The proposed use complies with the standards of 5.12.140 and 17.54.030 of this code:*

The criteria for review of a Conditional Use Permit per Chapter 17.54.030 of the Rapid City Municipal Code are included below. The proposed use complies with the standards of the Code.

Criteria for Review: Rapid City Municipal Code Chapter 17.54.030.E sets the criteria required in reviewing a Conditional Use Permit. In reviewing applications for a Conditional Use Permit, due consideration shall be given to the following:

1. *The location, character, and natural features of the property:*

The property is located on Eglin Road, at the eastern end of the Rushmore Crossing strip mall development. The proposed restaurant, to be known as "Hu Hot Mongolian Grill", will be located within one suite of the strip mall. The suite is currently under construction. Commercial and retail uses in the area continue to expand.

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

The area is developing as a commercial district with retail shops and services. Other

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retail businesses located within the eastern portions of the Rushmore Crossing development include A Perfect 10 Salon, Q'Doba Mexican Grill, Cherry Berry, The Family Dollar, The Man Salon, and Fuji Japanese Steakhouse.

3. *Proposed fencing, screening, and landscaping:*

A Major Amendment to the Planned Development (File #08PD004) was approved by Planning Commission at the April 4, 2008 Planning Commission meeting for the parking and landscaping in the Rushmore Crossing commercial development. The landscaping for all portions of Rushmore Crossing located within the boundaries of the Planned Development has been installed. The proposed restaurant does not trigger that any additional landscaping be provided. All landscaping must continue to comply with the previously approved Major Amendment to the Planned Development.

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

All grading and drainage improvements for the Rushmore Crossing development have been installed. The Public Works department has not identified any issues with the drainage or grading of the area.

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

A Major Amendment to the Planned Development (File #08PD004) was approved by Planning Commission at the April 4, 2008 Planning Commission meeting for the parking and landscaping in the Rushmore Crossing commercial development. All parking and uses within the boundaries of the Planned Development are calculated at the shopping center rate of 4.5 per 1,000 SFGFA. The proposed restaurant with an on-sale liquor use will utilize the parking approved as a part of the Major Amendment. All parking must continue to comply with the previously approved Major Amendment to the Planned Development.

Sidewalks are installed along Eglin Street and in front of the strip mall. Interior pedestrian circulation connecting Eglin Street and the storefront sidewalks is also provided.

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

Eglin Street is classified as a collector street on the City's Major Street Plan, suitable for accommodating the higher traffic volumes associated with a commercial development. It is not anticipated that the proposed on-sale alcohol use for beer and wine will create issues with traffic on Eglin Street.

7. *Proposed signs and lighting:*

Submitted plans show two wall signs are being proposed for the proposed full service

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restaurant. The first faces to the north and measures 15 feet 8 inches long by 8 feet 1.5 inches tall, totaling 127.32 square feet of signage. The second sign faces the east and measures 10 feet long by 5.175 feet tall, totaling 51.875 square feet of signage. A total of approximately 180 square feet of signage are proposed for the restaurant. The proposed signage is in compliance with Chapter 17.50.080 of the Rapid City Municipal Code.

All signage must comply with Chapter 17.50.080 of the Rapid City Municipal Code. Any changes to the original sign package which the Director of Community Planning and Development Services determines is consistent with the original approved sign package may be allowed as a Minimal Amendment to the Planned Development. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Planned Development. The addition of electronic signage will require a Major Amendment to the Planned Development. A sign permit is required for each sign.

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

The property is served by Rapid City water and sewer services. Public Works staff has noted that existing utilities appear sufficient to accommodate the proposed on-sale liquor establishment for beer and wine.

All applicable provisions of the currently adopted International Fire Code must be continually met.

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

The Future Land Use designation for this property is commercial. The property is zoned General Commercial District with a Planned Development. The proposed use on the property complies with the Comprehensive Plan and the Zoning Ordinance.

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

Submitted plans show that the property meets all the setback requirements of the General Commercial District. In addition, the proposed structure is one story tall and approximately 4,480 square feet of space. The suite is located on a lot comprising approximately 2.41 acres. The property meets all the land use regulations of the General Commercial District.

*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 orientations:*

The proposed on-sale liquor use for beer and wine is located entirely on the inside of the suite and is accessory to the primary use. The Planned Development will allow for development of the property as a full service restaurant with the sale and service of beer and wine as an accessory to the primary use. No outdoor seating is being proposed. It does not appear that the request will create excessive noise, odor, smoke, dust, air, or

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water pollution.

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

The on-sale alcohol use for beer and wine on the property must comply with the hours/days/holiday restrictions that apply for the type of license secured. The stipulations of approval of this Planned Development will serve as the tool to ensure that the proposed use will maintain parking, sufficient buffering from neighboring business, and not create additional light or noise that may have an adverse impact on adjacent uses. The proposed on-sale alcohol use is an accessory to the primary restaurant use. The General Commercial District is viewed as the appropriate zoning classification for on-sale alcohol uses, especially as an accessory to other primary uses. In addition, the applicant is proposing the sale and service of beer and wine only, and is not proposing the sale of liquor. The proposed restaurant is located in one suite of a strip mall meeting all the requirements of the Rapid City Municipal Code. Parking and landscaping meet the requirements of the Rapid City Municipal Code and the approved Major Amendment to the Planned Development. For these reasons, staff recommends that the Major Amendment to the Planned Development to allow an on-sale liquor establishment for beer and wine in conjunction with a full service restaurant be approved with the stipulations outlined above.

Notification Requirements: The first class mailings have not been returned to Community Planning and Development Services for mailing. The sign has been picked up; however, as of this writing, staff has not confirmed that the sign has been posted on the property. Staff will notify the Planning Commission at the July 3, 2013 Planning Commission meeting if these requirements have not been met.