

STAFF REPORT  
August 8, 2013

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**No. 13PD029 - Final Planned Development Expand an On-Sale Liquor Establishment**      **ITEM 15**

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GENERAL INFORMATION:

APPLICANT	Paul Bradsky - Atlantis, LLC
AGENT	Janelle Finck - Fisk Land Surveying & Consulting Engineers
PROPERTY OWNER	Atlantis LLC
REQUEST	<b>No. 13PD029 - Final Planned Development to Expand an On-Sale Liquor Establishment</b>
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 District (Planned Development Initial)
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	Box Elder
South:	General Commercial District - Office Commercial (Planned Development)
East:	General Commercial District
West:	General Commercial District (Planned Development)
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	July 12, 2013
REVIEWED BY	Robert Laroco / Brandon Quiett

RECOMMENDATION:

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

1. The previously approved Exception to increase the maximum permitted building height from 45 feet to 80 feet is hereby acknowledged;
2. An Exception to reduce the required amount of off-street parking from 453 to 359 is hereby granted. All parking shall comply with the requirements of the Rapid City Parking

STAFF REPORT  
August 8, 2013

---

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---

- Ordinance and the submitted site plan;
3. An Exception to permit a 7 foot screening fence in lieu of the maximum permitted 6 foot screening fence along the south side of the property is hereby granted;
  4. Prior to issuance of a building permit, final construction plans signed and sealed by a registered professional engineer shall be submitted for review and approval;
  5. Prior to issuance of a building permit, an Air Quality Construction Permit shall be obtained;
  6. Prior to issuance of a Certificate of Occupancy, permanent or temporary erosion and sediment control shall be achieved;
  7. Prior to issuance of a Certificate of Occupancy, all parking and landscaping shall be completed;
  8. A building permit is required prior to construction. A Certificate of Occupancy is required prior to occupancy;
  9. A minimum of 284,514 points of landscaping shall be provided. All landscaping shall be installed and maintained in compliance with the Rapid City Landscaping Ordinance and the submitted landscaping plan;
  10. 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;
  11. Future signage located within the City of Rapid City may be approved as a Minimal Amendment to the Planned Development. All signage shall comply with the submitted sign package and the Rapid City Sign Code. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Final Planned Development. The addition of electronic or LED signage shall require a Major Amendment to the Planned Development. A sign permit is required for each sign;
  12. All applicable provisions of the International Fire Code shall be maintained;
  13. The Final Planned Development shall comply with all the requirements of the General Commercial District unless specifically stipulated as a part of this Final Planned Development or a subsequent Major Amendment to the Planned Development, and;
  14. This Final Planned Development shall allow for the expansion of an on-sale liquor establishment. All uses permitted in the General Commercial District shall be permitted contingent upon provision of sufficient parking. All conditional uses in the General Commercial District shall require a Major Amendment to the Planned Development.

**GENERAL COMMENTS:** The applicant has submitted a Final Planned Development to allow the expansion of an existing on-sale liquor establishment. The Watiki waterpark and hotel complex is located both in Rapid City and in Box Elder. A previously approved Conditional Use Permit (File #10UR030) allowed an on-sale liquor establishment to be located within sections of the waterpark/hotel complex located in Rapid City. On February 21, 2013, the Planning Commission approved an Initial Planned Development (File #13PD002) to allow expansion of the existing waterpark/hotel complex. The Initial Planned Development granted an Exception to increase the maximum permitted height from 45 feet to 80 feet to accommodate an architectural feature of the waterpark. The applicant has now submitted the Final Planned Development for the proposed expansion. It should be noted that the applicant has proposed a Marriot Residence Inn and a Convention Center to be located in the portions of the project located in Box Elder. A building permit is required prior to construction of any portions of the development located in Rapid City.

STAFF REPORT  
August 8, 2013

---

**No. 13PD029 - Final Planned Development Expand an On-Sale Liquor Establishment**      **ITEM 15**

---

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 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 the city limits of Rapid City. The location of this development within the jurisdiction of two cities 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;*

An Exception to increase the maximum permitted height from 45 feet to 80 feet was approved as a part of the Initial Planned Development. The Exception for height is to allow for an architectural feature that will accommodate the proposed waterslide design.

On June 10, 2013, the Mayor of Rapid City signed a Cross-Use Agreement on behalf of the City Council to allow for common and shared access, parking, landscaping, and storm water development with those portions of the development located in Box Elder. A minimum of 453 parking spaces are required for the newly proposed waterpark expansion, hotel and conference center. Submitted plans also show a total of 359 additional parking spaces proposed, all located within Box Elder. The applicant has requested an Exception to reduce the number of required off-street parking spaces from 453 to 359. The applicant has indicated that while the waterpark is open to the public, most customers will also be patrons of the hotel and convention center. The waterpark will serve primarily to an amenity to hotel and convention center patrons. In addition, the developer has indicated past experience

STAFF REPORT  
August 8, 2013

---

**No. 13PD029 - Final Planned Development Expand an On-Sale Liquor Establishment**      **ITEM 15**

---

with the parking needs for the proposed uses show that 359 additional parking spaces will suffice to meet the needs of the proposed uses. Based on the accessory nature of the waterpark to the hotel and convention center staff recommends that the requested Exception to reduce the required parking from 453 to 359 parking spaces be approved. All parking must comply with the Rapid City Parking Ordinance and the submitted site plan.

Submitted plans also show a proposed 7 foot high wooden screening fence to be located along the exterior patio on the south side of the proposed expansion, adjacent to the railroad right-of-way. The proposed fence will provide privacy and serve as a buffer to the railroad right-of-way as well as provide restricted access to the patio. Based on these reasons, staff recommends that the Exception to allow a 7 foot tall screening fence in lieu of the maximum permitted 6 foot tall screening fence 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: Plans show that Rapid City utilities are servicing only those portions of the development located within Rapid City. All Box Elder utilities are servicing those portions of the development located within Box Elder.

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 minimum of 284,514 points of landscaping are required for the proposed development. A landscaping plan has been submitted for review and approval showing a minimum of 285,320 points being proposed. As such, the proposed landscaping plan meets the requirements of the Rapid City Municipal Code.

A minimum of 284,514 points of landscaping must be provided. All landscaping must be installed and maintained in compliance with the Rapid City Landscaping Ordinance and the submitted landscaping plan.

Signage: A sign package has been submitted identifying that no additional signage for those portions of the development located within the Rapid City limits is being proposed. Future signage located within the City of Rapid City may be approved as a Minimal Amendment to the Planned Development. All signage must comply with the submitted sign package and the Rapid City Sign Code. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Final Planned Development. The addition of electronic or LED

STAFF REPORT  
August 8, 2013

---

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---

signage will require a Major Amendment to the Planned Development. 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 maintained.

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. Prior to issuance of a building permit, final construction plans signed and sealed by a registered professional engineer must be submitted. Permanent erosion and sediment control must be achieved prior to occupancy. All parking and landscaping must be complete 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, off-street parking requirements, and a proposed 7 foot tall screening fence. The Final Planned Development will comply with all requirements of the General Commercial District unless specifically stipulated as a part of this 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 Exceptions for height, off-street parking, and the proposed screening fence 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, parking, and the proposed screening fence 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.

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;*

STAFF REPORT  
August 8, 2013

---

**No. 13PD029 - Final Planned Development Expand an On-Sale Liquor Establishment**      **ITEM 15**

---

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 an on-sale liquor establishment, especially an establishment operating in conjunction with another 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;*

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. Staff recommends that the Final Planned Development to allow expansion of an existing on-sale liquor use be approved with the stipulations outlined above.

Notification Requirements: The letters have been returned to Community Planning and Development Services for mailing. The required notification sign has been picked up; however, at this time staff cannot confirm that the sign has been posted on the property. Staff will inform the Planning Commission at the August 8, 2013 Planning Commission if this requirement has not been met. As of this writing, there have been no inquiries into the proposed Final Planned Development.