

STAFF REPORT  
September 5, 2013

---

**No. 13PD034 - Final Planned Development to allow an on-sale liquor establishment as part of a water park and hotel complex**      **ITEM 6**

---

GENERAL INFORMATION:

APPLICANT	Robert W. Akers
AGENT	Renee Catron - Renner & Associates, LLC
PROPERTY OWNER	Mall Land Company LLC
REQUEST	<b>No. 13PD034 - Final Planned Development to allow an on-sale liquor establishment as part of a water park and hotel complex</b>
EXISTING LEGAL DESCRIPTION	Lots 1R2 and 2R2 of Block 1 of East Mall Business Center Subdivision and Tract H of Marshall Heights Subdivision #2, all located in Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 12.69 acres
LOCATION	815 East Mall Drive and 620 East Disk Drive
EXISTING ZONING	General Commercial District - General Commercial District (Planned Development)
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District - General Commercial District (Planned Development) - Light Industrial District (Planned Development)
East:	General Commercial District
West:	General Commercial District (Planned Development)
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	August 16, 2013
REVIEWED BY	Robert Laroco / Brandon Quiett

RECOMMENDATION:

Staff recommends that the Final Planned Development to allow an on-sale liquor establishment as part of a water park and hotel complex be approved with the following stipulations:

1. The previously granted Exception to increase the maximum permitted building height from 45 feet to 76 feet is hereby acknowledged;

STAFF REPORT  
September 5, 2013

---

**No. 13PD034 - Final Planned Development to allow an on-sale liquor establishment as part of a water park and hotel complex**      **ITEM 6**

---

2. A building permit is required prior to any construction. A Certificate of Occupancy is required prior to occupancy;
3. Prior to issuance of a building permit, all redlined comments shall be addressed. All redlined comments shall be returned to Community Planning and Development Services;
4. Prior to issuance of a building permit, final construction plans signed and sealed by a registered professional engineer shall be submitted. In particular, plans shall show that handicap accessibility is being provided for all areas requiring accessibility at all times. In addition plans shall be revised to show the location of all areas reserved for the removal and storage of snow;
5. Prior to issuance of a building permit, plans shall be submitted showing that the required maximum sanitary sewer release rates from the pool, as determined by City staff, will not be exceeded;
6. Prior to issuance of a building permit, the Traffic Impact Study shall be approved by Public Works staff and recommendations for improvements identified in the approved Traffic Impact Study shall be reflected in the final construction plans;
7. Prior to issuance of a building permit, plans shall be revised to include structural calculations signed and sealed by a registered professional engineer for all retaining walls over 4 feet in height;
8. Prior to issuance of a building permit, documents securing City access to the curb-stop shall be recorded. A copy of the recorded access document shall be submitted for review and approval;
9. Prior to issuance of a building permit, an Exception shall be obtained for storm water facility slopes greater than the 4:1 ratio as per the Infrastructure Design Criteria Manual or plans shall be revised showing that the slopes meet the minimum criteria as identified in the Infrastructure Design Criteria Manual. If the Exception is approved, plans shall be revised showing that additional stabilization measures are being installed as necessary;
10. Prior to issuance of a building permit, a Parking/Access Agreement shall be entered into which includes the City as party to the agreement or a Developmental Lot Agreement which developmentally ties the lot to the rest of the development shall be secured. A copy of the signed Parking/Access Agreement or the recorded Developmental Lot Agreement shall be submitted to Community Planning and Development Services;
11. Prior to issuance of a Certificate of Occupancy, temporary or permanent site stabilization shall be achieved. In addition, all parking and landscaping shall be installed. Hard surfacing shall be provided for all parking at all times, including temporary occupancy and temporary events/uses;
12. Prior to issuance of a building permit, all necessary approvals shall be obtained for existing signage. 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 shall be required for each sign;
13. A minimum of 695 parking spaces shall be provided. A minimum of 14 of the parking spaces shall be handicap accessible. A minimum of 2 of the handicap accessible parking spaces shall be "van accessible". All parking shall comply with the requirements of the Rapid City Parking Ordinance and the submitted site plan;
14. A minimum of 510,044 points of landscaping shall be provided. All landscaping shall be installed and maintained in compliance with the submitted landscaping plans and the

STAFF REPORT  
September 5, 2013

---

**No. 13PD034 - Final Planned Development to allow an on-sale liquor establishment as part of a water park and hotel complex**      **ITEM 6**

---

- Rapid City Landscaping Ordinance;
15. All lighting shall be designed and installed to reflect within the property boundaries so as to not shine on adjoining properties and rights-of-way and not be a hazard to traffic or constitute a nuisance of any kind;
  16. All provisions of the International Fire Code shall be maintained;
  17. All provisions of the General Commercial District shall be maintained unless specifically authorized as a stipulation of this Final Planned Development or a subsequent Major Amendment, and;
  18. This Final Planned Development will allow an on-sale liquor establishment as a part of a hotel and water park complex. Any change in use permitted in the General Commercial District shall be permitted with an approved building permit and contingent upon the provision that sufficient parking can be provided. 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 Final Planned Development.

**GENERAL COMMENTS:** The applicant has submitted a Final Planned Development to allow an on-sale liquor establishment as a part of a water park and hotel complex. In particular, the applicant is proposing a 100 room hotel, a restaurant, and an approximate 54,000 square foot facility to be known as the “Rippin’ Rapids” water park. Submitted plans show that the hotel currently located on the property, known as the Hilton Garden Inn, and the existing restaurant will remain on the property as a part of the hotel/water park complex. On June 20, 2013, the Planning Commission approved an Initial Planned Development (File #13PD016) to allow a water park and hotel complex in the General Commercial District. The applicant did not propose to sell alcohol as a part of the Initial Planned Development. Now, the applicant has submitted the Final Planned Development for the proposed water park and hotel complex and is proposing to serve alcohol on the premises.

As a part of the Initial Planned Development, the applicant requested and obtained an Exception to increase the permitted height of the building from 45 feet to 76 feet to allow for a seven story hotel as well as architectural features within the water park. No additional Exceptions have been requested as a part of the Final Planned Development.

One of the stipulations of approval for the Initial Planned Development requires that prior to submittal of a Final Planned Development, easements must be vacated where construction is proposed. On August 19, 2013, a Vacation of Easement application (File #13VE019) was approved vacating all easements located where construction is proposed on the site. On August 23, 2013, a Lot Line Adjustment application (File #13PL088) was submitted to relocate a lot line between the two lots to the east side of the development. The existing lot line separates the existing restaurant property from the property to the north. Proposed construction crosses the existing lot line. The requested adjustment will put the existing Hilton Garden Inn on a separate lot from the rest of the proposed construction. The application is currently under review.

The property is located southeast of the intersection of La Crosse Street and East Mall Drive. The proposed development is comprised of three separate properties under the same ownership. Currently, one property is developed as a restaurant, one property is developed as a Hilton Garden Inn, and the third property remains undeveloped.

STAFF REPORT  
September 5, 2013

---

**No. 13PD034 - Final Planned Development to allow an on-sale liquor establishment as part of a water park and hotel complex**      **ITEM 6**

---

STAFF REVIEW: Staff has reviewed the proposed Final Planned Development to allow an 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 property is comprised of approximately 14.2 acres of land zoned General Commercial District located south of East Mall Drive, east of La Crosse Street. There are no certain conditions pertaining to this particular piece of property due to its size shape, or topography.

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

The original Planned Development approved for the property (File #1121A) was revoked at the request of the property owner on December 16, 1996. Existing development on the property meets all the requirements of the General Commercial District. A Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a full service restaurant was approved for Tract H on April 3, 2000 (File #00UR006). The approved Initial Planned Development noted that an on-sale liquor use was not being requested as a part of the submitted application, and that if an on-sale use was going to be submitted for the property, it may be submitted as a part of the Final Planned Development or a subsequent Major Amendment to the Planned Development. The application of these regulations does not create a practical 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;*

Submitted plans show that the proposed water park facility is 60 feet tall while the hotel is 76 feet high. An Exception to increase the maximum permitted height from 45 feet to 76 feet was approved as a part of the Initial Planned Development. It should be noted that the portions of the hotel which are 76 feet high face to the northwest, away from Interstate 90. Due to changes in the topography, the portions of the complex facing south toward Interstate 90 are a maximum 60 feet high. A variance to increase the maximum permitted height from 45 feet to 64 feet 1 inch was approved for the north side of the Hilton Garden Inn located immediately east of the proposed construction at 815 East Mall Drive. The Hilton Garden Inn will become a part of this water park/hotel complex through this Planned Development. No other Exceptions to the land area regulations of the General Commercial District have been requested. All other provisions of the General Commercial District must be continually met unless specifically authorized as a stipulation of the Initial Planned Development, this Final Planned Development or a subsequent Major Amendment. This Final Planned Development will allow an on-sale liquor establishment as a part of a hotel and water park complex. Any change in use permitted in the General Commercial District will be permitted with an approved building permit and contingent upon the provision that sufficient parking can be provided. 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

STAFF REPORT  
September 5, 2013

---

**No. 13PD034 - Final Planned Development to allow an on-sale liquor establishment as part of a water park and hotel complex** **ITEM 6**

---

the Final Planned Development.

*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;*

This Final Planned Development will serve as the tool to ensure that any adverse impacts of the proposed development will be mitigated. Submitted plans show that the proposed structure meets all the requirements for setbacks and lot coverage in the General Commercial District. A building permit is required prior to any construction. A Certificate of Occupancy is required prior to occupancy. Prior to issuance of a building permit, all redlined comments must be addressed and all redlined comments must be returned to Community Planning and Development Services. In addition, prior to issuance of a building permit, final construction plans signed and sealed by a registered professional engineer must be submitted.

*Public Works comments:* It should be noted that prior to submittal of this Final Planned Development application, staff was contacted by an area resident in opposition to the proposed water park and hotel complex due to concerns that the water usage for the project would be too high, and place excessive pressure on the regional water supply. The resident has submitted a letter in opposition to the Final Planned Development. One additional letter in opposition to the Final Planned Development has also been submitted with similar concerns. It should be noted that Public Works has examined the anticipated water usage proposed for the development and has noted that prior to issuance of a building permit, plans must be submitted showing that the required maximum sanitary sewer release rates from the pool, as determined by City staff, will not be exceeded.

During the review of the Initial Planned Development, Public Works staff has noted that the proposed development would require a Traffic Impact Study per the requirements of the Infrastructure Design Criteria Manual. The required Traffic Impact Study was submitted as a part of the Final Planned Development submittal materials. However, due to an expedited review time for the submitted application, comments regarding the content of the submitted Traffic Impact Study have not been returned to Community Planning and Development Services. Prior to issuance of a building permit application, the Traffic Impact Study must be approved by Public Works staff and recommendations for improvements identified in the approved Traffic Impact Study must be reflected in the final construction plans.

Public Works staff has noted that plans show several retaining walls are being proposed as a part of this development. Prior to issuance of a building permit, plans must be revised to include structural calculations signed and sealed by a registered professional engineer for all retaining walls over 4 feet in height. Prior to issuance of a building permit, documents securing City access to the curb-stop must also be recorded. A copy of the recorded access document must be submitted for review and approval. Prior to issuance of building permit,

STAFF REPORT  
September 5, 2013

---

**No. 13PD034 - Final Planned Development to allow an on-sale liquor establishment as part of a water park and hotel complex** **ITEM 6**

---

an Exception must be obtained for the storm water facility slopes greater than the 4:1 ratio as per the Infrastructure Design Criteria Manual or plans must be revised showing that the slopes meet the minimum criteria as identified in the Infrastructure Design Criteria Manual. If the Exception is approved, plans must be revised showing that additional stabilization measures are being installed as necessary.

*Building Inspections comments:* Building Inspections staff has noted that temporary or permanent site stabilization must be achieved prior to occupancy of the structures. In addition, all parking and landscaping must be installed. Hard surfacing must be provided for all parking at all times, including temporary occupancy and temporary events/uses. Handicap accessibility must be provided to all areas requiring accessibility at all times. Staff has noted that the location of areas reserved for storage of snow removal have not been identified on the submitted plans. The applicant is encouraged to revise plans to include the location of all areas reserved for the removal and storage of snow with the submittal of a building permit application. However, the identification of the snow removal areas are not required as a part of this Final Planned Development review.

*Parking:* The submitted Lot Line Adjustment application, if approved, will move the existing lot line located between Tract H and Lot 2R2 to the east, separating the existing Hilton Garden Inn onto its own lot, with the water park, restaurant, and hotel located on a separate lot. In addition, Lot 1R2 located on the western edge of the development is being proposed as parking. If the lot were developed separately in the future, the proposed water park/ hotel complex would not have sufficient parking. As such, prior to issuance of a building permit, a Parking/Access Agreement shall be entered into which includes the City as party to the agreement or a Developmental Lot Agreement which developmentally ties the lot to the rest of the development must be secured. A copy of the signed Parking/Access Agreement or the recorded Developmental Lot Agreement must be submitted to Community Planning and Development Services.

A minimum of 695 parking spaces must be provided for the development. A minimum of 14 of those parking spaces must be handicap accessible. A minimum of 2 of the handicap spaces must be "van accessible". Submitted plans show that a total of 740 parking spaces are being proposed, with a minimum of 20 of the parking spaces being handicap accessible. It appears sufficient parking is being provided for the development. A minimum of 695 parking spaces must be provided. A minimum of 14 of the parking spaces must be handicap accessible. A minimum of 2 of the handicap accessible parking spaces must be "van accessible". All parking must comply with the requirements of the Rapid City Parking Ordinance and the submitted site plan.

*Landscaping:* A minimum of 510,044 points of landscaping are required for the proposed development per the approved Initial Planned Development. A landscaping plan has been submitted showing a total of 511,375 points of landscaping are being provided. As such, the proposed landscaping plan meets the requirements of the Rapid City Municipal Code. A minimum of 510,044 points of landscaping must be provided. All landscaping must be installed and maintained in compliance with the submitted landscaping plans and the Rapid City Landscaping Ordinance.

STAFF REPORT  
September 5, 2013

---

**No. 13PD034 - Final Planned Development to allow an on-sale liquor establishment as part of a water park and hotel complex** **ITEM 6**

---

*Signage:* A sign package has been submitted identifying 1,698 square feet of ground signage and 1,080 square feet of wall signage is being proposed for the development. Submitted plans show that a maximum of 4,650 square feet of ground signage and 4,650 square feet of wall signage would be permitted for the property. The submitted sign package appears to meet the requirements of the Rapid City Sign Code. Existing signage for the existing restaurant is also being removed and replaced. Prior to issuance of a building permit, all necessary approvals must be obtained for existing signage. 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 signage will require a Major Amendment to the Planned Development. A sign permit is required for each sign.

*Lighting:* All lighting must be designed and installed to reflect within the property boundaries so as to not shine on adjoining properties and rights-of-way and not be a hazard to traffic or constitute a nuisance of any kind.

*Fire Department comments:* The Rapid City Fire Department has noted that all issues identified as a part of the Initial Planned Development have been addressed. All applicable provisions of the International Fire Code must be maintained.

*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;*

Hotels and their accessory uses, including pools and restaurants, are permitted uses in the General Commercial District. Development of the property through the Planned Development process will serve as a tool to ensure that the property will meet the development standards set forth by the Zoning Ordinance and will be consistent with development in the area. The proposed height will be mitigated by the topography of the property and is consistent with variances for height previously granted on the property. The requested exception to the underlying zoning will allow the development of the property to take advantage of the existing topography of the site and provide an alternative that reasonably achieves the objective of the existing standard sought to be modified.

On-Sale Liquor Use: 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;*

There are no places of religious worship, schools, or parks located within 500 feet of the property. 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;*

STAFF REPORT  
September 5, 2013

---

**No. 13PD034 - Final Planned Development to allow an on-sale liquor establishment as part of a water park and hotel complex**      **ITEM 6**

---

There are no residential districts located near the proposed use. Property to the southeast of the subject property is zoned Light Industrial District. Property in all other directions is zoned General Commercial District.

*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 on-sale liquor establishment is an expansion of an existing on-sale liquor use currently approved for the restaurant located on the property. The proposed on-sale liquor use is 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 550 feet to the northwest, on the west side of North La Crosse Street. The on-sale liquor establishment is operated in conjunction with a full-service restaurant and is the location of the TGI Fridays. The Outback Steakhouse, another on-sale liquor establishment operating in conjunction with a full-service restaurant, is located approximately 650 feet to the south. The General Commercial District is viewed as the appropriate zoning district for an on-sale liquor establishment, especially an establishment operating in conjunction with a full service restaurant. 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;*

With the exception of the building height, the proposed use complies with the standards of the Code. The General Commercial District is seen as the appropriate zoning district for an on-sale liquor establishment, especially when proposed as accessory to other primary uses. The requirement of Public Works staff that the applicant demonstrate that sanitary sewer flow calculations are within the limitations determined by the Infrastructure Design Criteria Manual will ensure that the water usage of the development falls within City guidelines. Based on these reasons, staff recommends that the Final Planned Development to allow an on-sale liquor use in conjunction with a water park and hotel complex 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 placed on the property. As of this writing, there have been two letters submitted in opposition to the proposed Final Planned Development to allow an on-sale liquor establishment in conjunction with a water park and hotel complex.