

STAFF REPORT  
December 5, 2013

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**No. 13PD045 - Major Amendment to a Planned Development to allow an on-sale liquor establishment in conjunction with a restaurant**

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**ITEM 10**

GENERAL INFORMATION:

APPLICANT	Autumn Hills Properties, LLC
AGENT	Steve Colgan - NWE Management
PROPERTY OWNER	Autumn Hills Properties and Stoney Creek Plaza LLC
REQUEST	<b>No. 13PD045 - Major Amendment to a Planned Development to allow an on-sale liquor establishment in conjunction with a restaurant</b>
EXISTING LEGAL DESCRIPTION	Lots 1B, 2 and 3 of Block 1 of Stoney Creek South Subdivision, located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 9.85 acres
LOCATION	5734 Sheridan Lake Road, Suites 202 and 203
EXISTING ZONING	General Commercial (Planned Development)
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	General Commercial (Planned Development)
South:	General Commercial (Planned Development)
East:	General Commercial (Planned Development)
West:	General Commercial (Planned Development)
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	November 1, 2013
REVIEWED BY	Fletcher Lacock / Brandon Quiett

RECOMMENDATION:

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

1. A building permit shall be obtained prior to any construction;
2. Upon submittal of a building permit, plans shall be prepared and stamped by a licensed Architect or Professional Engineer as per SDCL 36-18A;
3. Upon submittal of a building permit, an erosion and sediment control plan shall be submitted for review and approval;

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4. Upon submittal of a building permit, a signed and sealed stormwater report by a professional engineer demonstrating that quantity and quality control of stormwater have been met shall be submitted for review and approval;
5. Upon submittal of a building permit, a grading plan shall be submitted for review and approval;
6. Prior to issuance of a building permit, a shared parking agreement shall be recorded and submitted for review and approval;
7. All provisions of the General Commercial District shall be met unless otherwise specifically authorized as a stipulation of this Major Amendment to the Planned Development or a subsequent Major Amendment;
8. A minimum of 188 parking spaces shall be provided. In addition, six of the parking spaces shall be handicap accessible. One of the handicap spaces shall be "van accessible." All provisions of the Off-Street Parking Ordinance shall be continually met;
9. A minimum of 224,750 landscaping points shall be provided on Lot 1B. In addition, a minimum of 104,035 shall continue to be provided on Lot 2 and Lot 3. All provisions of Section 17.50.300, the Landscaping Regulations of the Rapid City Municipal Code shall be continually met. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
10. 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;
11. All signage shall continually conform to the Sign Code. No new electronic signs are being approved as a part of this Major Amendment to the Planned Development. Changes to the proposed sign package, which the Community Planning and Development Services Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Planned Development. All signage not in conformance with the Sign Code shall require a Major Amendment to the Planned Development. 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;
12. An Air Quality Construction Permit shall be obtained prior to any surface disturbance of one acre or more;
13. All applicable provisions of the adopted International Fire Code shall continually be met; and,
14. The Major Amendment to the Planned Development shall allow for an on-sale liquor establishment in conjunction with a restaurant for Suites 202 and 203. Any expansion to the on-sale liquor use in conjunction with a restaurant 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. All conditional uses 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 restaurant. In particular, the applicant is

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proposing to open a small casual neighborhood restaurant with approximately 40 seats. The hours of operation will be from 5:00 p.m. to 10 p.m. Tuesday through Saturday. In addition, the applicant is proposing to expand the boundary of the Planned Development to include Lot 1B where the applicant is proposing to construct 58 parking spaces. Lot 1B is also the location of a volleyball court.

On January 10, 2013, the Planning Commission approved a Major Amendment to the Planned Development (File #12PD038) to allow an on-sale liquor establishment in conjunction with a fitness center.

The property is located on the east side of Sheridan Lake Road approximately 530 feet south of the intersection of Catron Boulevard and Sheridan Lake Road. Currently, there are two one-story commercial strip malls located on the properties.

**STAFF REVIEW:**

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

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. The property is located in a commercial corridor that abuts Sheridan Lake Road. The City’s Major Street Plan identifies Sheridan Lake Road as a principal arterial street. The existing commercial development is part of a developing commercial node serving that area of the City. 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 restaurant.

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

Sheridan Lake Road and Catron Boulevard are both identified as principal arterial streets on the City’s adopted Major Street Plan and provide a natural buffer between the commercial development on the east side of Sheridan Lake Road and the residential uses on the west side of Sheridan Lake Road. Additional commercial development, a major drainage easement, and topography provide a buffer between existing commercial development and the multi-family housing located to the east of this development. Commercial development also extends east along Catron Boulevard and provides a buffer to the residential development north of Catron Boulevard. Property to the south of the development is zoned General Commercial District, and is developed with professional offices. It appears the requested use is sufficiently buffered with respect to neighboring 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.”*

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Currently, there are two on-sale liquor establishments operating in conjunction with full service restaurants and an on-sale liquor establishment operating in conjunction with a fitness center located within the existing commercial development. The applicant is proposing to allow an additional on-sale liquor establishment in conjunction with a restaurant. The applicant's operational plan states the proposed restaurant will be open from 5:00 p.m. to 10:00 p.m. Tuesday through Saturday. Based on the fact that the primary purpose of the establishment is not the on-sale use and that the operational time is limited, it does not appear that the proposed use causes an undue concentration of similar uses in the neighborhood.

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 proposed on-sale liquor establishment in conjunction with a restaurant is located at 5734 Sheridan Lake Road, Suites 202 and 203. Currently, there are two one-story commercial strip malls located on the above legally described properties. The applicant is proposing to construct 58 parking spaces on Lot 1B which is currently devoid of any structural development. The site plan identifies an existing volleyball court located on Lot 1B. The applicant has indicated that the volleyball court is a temporary use that will cease when the property is developed in the future. The owner should be aware that the on-sale liquor use is not allowed on the volleyball court. A Major Amendment to the Planned Development would be required in order to allow that use. A major drainage easement buffers the commercial use on the east, and Sheridan Lake Road buffers the commercial development to the west. Commercial development has recently been expanding in the area.

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

Sheridan Lake Road to the west of the property is classified as a principal arterial on the City's Major Street Plan and serves to separate the residential development to the west and the commercial development to the east. A major drainage easement approximately 200 feet wide provides a natural buffer between the residential uses to the east and the commercial development to the west. Commercial development continues to the north and south along Sheridan Lake Road and is developing to the east along Catron Boulevard.

3. *Proposed fencing, screening and landscaping:*

The applicant is not proposing any additional fencing or screening. Lot 2 and Lot 3 are currently developed and the applicant is not proposing any further structural development. Since none of the adjacent properties are zoned residential, a screening fence is not required. Staff recommends that a minimum of 104,035 landscape points

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be continually provided. The applicant is proposing to construct 58 parking spaces on Lot 1B. A minimum of 224,750 landscape points must be provided on Lot 1B. The applicant has submitted a plan that identifies that the remainder of the lot will be grassed other than the existing volleyball court. The proposed grass area provides 572,360 landscape points. The proposed landscaping plan is in compliance with Chapter 17.50.300 of the Rapid City Municipal Code. 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 on Lot 2 and Lot 3. The applicant is proposing to construct 58 parking spaces on Lot 1B. Public Works staff has identified additional information that must be submitted with a building permit. In particular, upon submittal of a building permit, a grading plan must be submitted for review and approval. In addition, a signed and sealed stormwater report by a professional engineer demonstrating that quantity and quality control of stormwater have been met must be submitted and an erosion and sediment control plan for review and approval.

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

Property line sidewalk is located along Sheridan Lake Road on the west side of the property. Vehicular access is from Sheridan Lake Road which is identified as a Principal Arterial Street on the City's Major Street Plan.

The proposed on-sale liquor establishment in conjunction with a restaurant will increase the minimum required parking for the existing commercial development from 169 parking spaces to 188 parking spaces. Six of the parking spaces must be handicap accessible with one being "van accessible". The applicant has submitted a site plan showing 169 parking spaces located on Lot 2 and Lot 3. The applicant is proposing to construct an additional 58 parking spaces on Lot 1B for a total of 227 parking spaces. In addition, eight of the parking spaces are handicap accessible with one being "van accessible". The proposed parking plan is in compliance with Chapter 17.50.270 of the Rapid City Municipal Code. The applicant should be aware that a shared parking agreement must be recorded prior to issuance of a building permit.

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

The proposed 3,180 square foot restaurant will generate approximately 29 trips per weekday peak hour and 35 trips per Saturday peak hour.

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*7. Proposed signs and lighting:*

The applicant has not submitted a sign package for the proposed restaurant. A sign package has previously been approved for the commercial strip mall. All signage must continually conform to the Sign Code. No new electronic signs are being approved as a part of this Major Amendment to the Planned Development. Changes to the proposed sign package, which the Community Planning and Development Services Director determines to be consistent with the original approved sign package and complies with the Sign Code, may be allowed as a Minimal Amendment to the Planned Development. All signage not in conformance with the Sign Code or consistent with the approved sign package will require a Major Amendment to the Planned Development. 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 restaurant 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. To ensure this objective, the Comprehensive Plan encourages commercial development along major streets and that a sufficient separation and buffering be provided between residential areas. This site meets both of these objectives.

The proposed on-sale liquor establishment in conjunction with a restaurant is located in a commercial corridor located adjacent to Sheridan Lake Road which is identified as a Principal Arterial Street on the City's Major Street Plan. A major drainage easement approximately 200 feet wide provides a natural buffer between the residential uses to the

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east and the commercial development to the west.

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

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 restaurant 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 restaurant for Suites 202 and 203. Any expansion to the on-sale liquor use in conjunction with a restaurant 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 restaurant.

Building Permit: A building permit must be obtained prior to any construction. Upon submittal of a building permit, plans must be prepared and stamped by a licensed Architect or Professional Engineer as per SDCL 36-18A. An Air Quality Construction Permit must be obtained prior to any surface disturbance of one acre or more.

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 mailings and sign have been picked up. The mailings have been returned to Community Planning and Development Services for posting. Staff has not confirmed that the sign has been posted on the property. Staff will notify the Planning Commission

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at the December 5, 2013 Planning Commission meeting if this requirement has been met.