

STAFF REPORT
January 9, 2014

No. 13PD051 - Final Planned Development Overlay to allow an on-sale liquor establishment and to allow storage in excess of 5,000 square feet

ITEM 19

GENERAL INFORMATION:

APPLICANT	Pat Hall
AGENT	42nd Street Design Studio
PROPERTY OWNER	MG Oil Company
REQUEST	No. 13PD051 - Final Planned Development Overlay to allow an on-sale liquor establishment and to allow storage in excess of 5,000 square feet
EXISTING LEGAL DESCRIPTION	Lots 1 thru 5 of Block 1 of Rainbow Addition, Section 11 and the north 90 feet of Lots 15 and 16 of Block 16 of South Boulevard Subdivision and the south 50 feet of Lots 15 and 16 of Block 16 of South Boulevard Subdivision, Section 12, all located in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.53 acres
LOCATION	2202 Mount Rushmore Road
EXISTING ZONING	General Commercial District
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	Shopping Center 1 District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	December 12, 2013
REVIEWED BY	Fletcher Lacock / Brandon Quiett

RECOMMENDATION:

Staff recommends that the Final Planned Development Overlay to allow an on-sale liquor establishment and to allow storage in excess of 5,000 square feet be approved with the following stipulations:

1. An Exception is hereby granted to allow 6,955 square feet of storage in lieu of the

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- maximum allowed 5,000 square feet. Any change in use from storage shall require a Major Amendment to the Planned Development;
2. An Exception is hereby granted to allow 25 parking spaces in lieu of the minimum required 31 parking spaces. One of the parking spaces shall be handicap "van accessible". All provisions of the Off-Street Parking Ordinance shall be continually met;
 3. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
 4. All provisions of the General Commercial District shall be met unless otherwise specifically authorized as a stipulation of this Final Planned Development Overlay or a subsequent Major Amendment;
 5. 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;
 6. All signage shall continually conform to the Sign Code. No new electronic signs are being approved as a part of this Final 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;
 7. All applicable provisions of the adopted International Fire Code shall continually be met; and,
 8. The Final Planned Development shall allow for an on-sale liquor establishment and storage area of 6,955 square feet is size for the property. Any expansion to the on-sale liquor use shall require a Major Amendment to the Planned Development. Any change in use that is a permitted use in the General Commercial District in compliance with the minimum requirements of the Zoning Ordinance shall require the review and approval of a Minimal Amendment. All conditional uses or uses that do not comply with the minimum requirements of the Zoning Ordinance shall require the review and approval of a Major Amendment to the Planned Development.

GENERAL COMMENTS:

The applicant has submitted a Final Planned Development Overlay application to allow an on-sale liquor establishment and to allow storage in excess of 5,000 square feet. In particular, the applicant is proposing to renew the liquor licenses currently on the property. The basement of the former restaurant has historically been a bar of approximately 2,875 square feet in size. The applicant is also proposing to designate the remainder of the two structures as storage and as such, is requesting to allow 6,955 square feet of storage in lieu of the maximum allowed 5,000 square feet. In addition, the applicant is requesting a reduction in the minimum required parking from 31 parking spaces to 25 parking spaces.

The property is located on the southeast corner of the intersection of Mount Rushmore Road and Flormann Street. Currently, there are two commercial structures located on the

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property connected by an awning. This is the former location of the "Rhodeway Inn" registration office and restaurant.

STAFF REVIEW:

Staff has reviewed the Initial Planned Development Overlay with respect to Chapter 17.50.050(F)5 and has noted the following considerations:

1. *There are certain conditions pertaining to the particular piece of property in question because of its size, shape, or topography:*

The property is approximately 0.53 acres in size and is located on the southeast corner of the intersection of Mount Rushmore Road and Flormann Street. Currently, the property is fully developed with two commercial structures connected by a canopy. The property is the location of the former offices, restaurant and bar of the "Rhodeway Inn".

2. *The application of these regulations to this particular piece of property would create a practical difficulty or undue hardship:*

The applicant is proposing to allow an on-sale liquor establishment on the property in order to renew the liquor licenses currently on the property. The previous on-sale liquor use on the property was established prior to February 17, 1992 when on-sale liquor establishments became a Conditional Use. The on-sale use has ceased to exist for a period of over one year and as such, the legal non-conforming use is no longer allowed on the property.

The proposed on-sale use requires that the property be brought into compliance with the Parking Ordinance, Chapter 17.50.270 of the Rapid City Municipal Code. The basement location of the former bar is approximately 2,875 square feet in size. The applicant has indicated that the remainder of the buildings will be designated as storage. The minimum required parking for the proposed uses is 31 parking spaces. The applicant has submitted a site plan that identifies 25 existing parking spaces on the property and is requesting a reduction in the minimum required parking. The applicant has stated that there are two existing on-street parking spaces along Flormann Street as well as a parking agreement for the use of six parking spaces with the property to the east. In addition, the proposed on-sale liquor use is for an area that was previously used as a bar. Based on the parking agreement securing six additional parking spaces, staff recommends that the Exception to allow 25 parking spaces in lieu of the minimum required 31 parking spaces be granted. One of the parking spaces must be handicap "van accessible". All provisions of the Off-Street Parking Ordinance must be continually met.

All provisions of the General Commercial District must be met unless otherwise specifically authorized as a stipulation of this Final Planned Development Overlay or a subsequent Major Amendment. The Final Planned Development will allow for an on-sale liquor establishment and storage area of 6,955 square feet in size for the property. Any expansion to the on-sale liquor use will require a Major Amendment to the Planned

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Development. Any change in use that is a permitted use in the General Commercial District in compliance with the minimum requirements of the Zoning Ordinance will require the review and approval of a Minimal Amendment. All conditional uses or uses that do not comply with the minimum requirements of the Zoning Ordinance will require the review and approval of a Major Amendment to the Planned Development.

3. *Exceptions to the underlying zoning district, if granted, would not cause undue hardship to the public good or impair the purposes and intent of these regulations:*

As noted above, the proposed on-sale liquor use is for a bar in the basement of the former restaurant known as "Rhodeway Inn". The grandfathered on-sale liquor use has ceased for a period of more than two years. As such, a Conditional Use Permit is required in order to reuse the bar area. The existing on-street parking and parking agreement should mitigate any negative impacts of the proposed uses. In addition, the applicant is proposing to designate the remainder of the existing structures as storage. Any change in use or expansion to the on-sale liquor use will require that the minimum parking requirement be met.

4. *A literal interpretation of this chapter would deprive the applicant of rights that others in the same district are allowed:*

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

5. *Any adverse impacts will be reasonably mitigated:*

In addition to the proposed on-sale liquor use, the applicant is requesting an Exception to allow storage in excess of 5,000 square feet. The on-sale liquor use will be located in the basement of the former "Rhodeway Inn" restaurant and is approximately 2,875 square feet in size. The applicant has stated that the remainder of the existing structures will be designated as storage. The total storage area is approximately 6,955 square feet in size. The applicant is proposing to designate the remainder of the structures as storage to reduce the minimum parking requirement for the property. For these reasons, staff recommends that the Exception to allow 6,955 square feet of storage in lieu of the maximum allowed 5,000 square feet be granted. Any change in use will require a Major Amendment to the Planned Development.

The applicant should be aware that any building permit will require the installation of a fire sprinkler protection system. In addition, a building permit must be obtained prior to any construction and a Certificate of Occupancy must be obtained prior to occupancy.

6. *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:*

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As noted above, the applicant is requesting an Exception to reduce the minimum required parking from 31 parking spaces to 25 parking spaces. In addition, the applicant is requesting an Exception to allow 6,955 square feet of storage area in lieu of the maximum allowed 5,000 square feet. The proposed on-sale liquor use is located in the basement of the former "Rhodeway Inn" restaurant. The applicant should be aware that any expansion to the proposed on-sale liquor use or any change in use for the remainder of the building will increase the minimum parking requirement and will require approval of a Major Amendment to the Planned Development.

Staff has also reviewed the Final Planned Development Overlay with respect to Chapter 17.50.185 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 Mount Rushmore Road to the west and Flormann Street to the north. The City's Major Street Plan identifies Mount Rushmore Road as a principal arterial street and Flormann Street is identified as a Collector Street. The request is not anticipated to have any "adverse affect" on any place used for religious worship, school, park or playground.

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

Mount Rushmore Road is identified as a Principal Arterial Street and Flormann Street is identified as a Collector Street on the City's Major Street Plan. The properties to the east, west and south are zoned General Commercial District and developed with commercial uses. In addition, the property to the north is zoned Neighborhood Shopping Center 1 and is the location of a grocery store. The closest property zoned Residential is located approximately 300 feet to the west on the west side of Mount Rushmore Road. 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."*

Currently, there are multiple on-sale liquor uses located along Mount Rushmore Road. "Happy Jacks" Casino is located on the west side of Mount Rushmore Road directly across the street from the proposed on-sale liquor use. On the northwest corner of the intersection of Mount Rushmore Road and Flormann Street is the former location of "Sam and Louie's Pizza". "Perkins" is located approximately 150 feet to the southwest. "Pizza Hut" is located approximately 525 feet to the north. Mount Rushmore Road is identified as a Principal Arterial Street on the City's Major Street Plan and is an established commercial corridor. It does not appear that the proposed on-sale liquor use will create an undue concentration causing blight or deterioration or diminish the land values in the surrounding area.

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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 property is approximately 0.53 acres in size and is located on the southeast corner of the intersection of Mount Rushmore Road and Flormann Street. Currently, the property is fully developed with two commercial structures connected by a canopy. The property is the location of the former offices, restaurant and bar of the "Rhodeway Inn".

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

The property to the east is zoned General Commercial District and is developed with three two-story apartment buildings. The structures were formerly the hotel units associated with the "Rhodeway Inn". The property to the north is zoned Neighborhood Shopping Center District and is the location of a "Safeway" grocery store. The properties to the west and south are zoned General Commercial District and are developed with one-story commercial structures.

3. *Proposed fencing, screening and landscaping:*

The proposed on-sale liquor use does not trigger the requirement to come into compliance with the Landscaping Ordinance, Chapter 17.50.300 of the Rapid City Municipal Code. The applicant has submitted a site plan that identifies the existing landscaping on the property. A minimum of 13,256 landscaping points would be required. The site plan identifies 4,230 landscaping points being provided. The applicant should be aware that any redevelopment of the site will require that the landscaping come into compliance with Chapter 17.50.300 of the Rapid City Municipal Code.

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

There will be no changes in impervious surfaces, topography or drainage.

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 Mount Rushmore Road and Flormann Street. Vehicular access is from Mount Rushmore Road which is identified as a Principal Arterial Street on the City's Major Street Plan.

As noted previously, the applicant is requesting a reduction in the minimum required parking from 31 parking spaces to 25 parking spaces. The applicant should be aware that any expansion of the on-sale liquor use or any change in use not in compliance with

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the Zoning Ordinance will require a Major Amendment to the Planned Development.

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

The proposed 2,875 square foot restaurant will generate approximately 45 peak hour trips.

7. *Proposed signs and lighting:*

The applicant has submitted a sign package identifying two existing pole signs located along Mount Rushmore Road. The applicant is not proposing to add any new signage. All signage must continually conform to the Sign Code. No new electronic signs are being approved as a part of this Final 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, will be allowed as a Minimal Amendment to the Planned Development. All signage not in conformance with the Sign Code 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 Final Planned Development Overlay application. 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 is a conditional use in the General Commercial District. 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 ensure 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.

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The proposed on-sale liquor establishment is located in a commercial corridor located adjacent to Mount Rushmore Road which is identified as a Principal Arterial Street on the City's Major Street Plan. Properties to the south, east and west are zoned General Commercial District. The property to the north is zoned Neighborhood Shopping Center District.

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

The existing development on the property is legal non-conforming as to the setbacks from Mount Rushmore Road and Flormann Street. In addition, the existing landscaping is legal non-conforming. The applicant is not proposing any new construction and as such, does not trigger that the setbacks or landscaping be brought into compliance with the Zoning Ordinance. The applicant should be aware that any future development of the property will need to be constructed in compliance with the minimum requirements of the Zoning Ordinance. All provisions of the General Commercial District must be met unless otherwise specifically authorized as a stipulation of this Final Planned Development or a subsequent Major Amendment.

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 Final Planned Development Overlay will serve as a tool to ensure that the proposed on-sale liquor use is operated in compliance with the International Fire Code and the City's Sign Code. In addition, any expansion of the on-sale liquor use or any change in use for the designated storage area will require that a Major Amendment to the Planned Development be obtained.

Building Permit: A building permit must be obtained prior to any construction.

Fire Department: The applicant should be aware that any building permit will require the installation of a fire sprinkler protection system. All applicable provisions of the adopted International Fire Code must continually be met.

Notification: The mailings and sign have been picked up. In addition, 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 at the January 9, 2014 Planning Commission meeting if this requirement has been met.

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