

STAFF REPORT
January 22, 2015

**No. 14UR024 - Major Amendment to the Conditional Use Permit to
allow structures in the Flood Hazard District**

ITEM 3

GENERAL INFORMATION:

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| APPLICANT | Destination Rapid City |
| AGENT | Pat Wyss - Wyss Associates, Inc. |
| PROPERTY OWNER | City of Rapid City |
| REQUEST | No. 14UR024 - Major Amendment to the Conditional Use Permit to allow structures in the Flood Hazard District |
| EXISTING LEGAL DESCRIPTION | Tract 20 less Lot H1 of the Rapid City Greenway Tract, located in Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE | Approximately 9.46 acres |
| LOCATION | Legacy Commons at Memorial Park |
| EXISTING ZONING | Flood Hazard District |
| FUTURE LAND USE DESIGNATION | Parks and Greenway |
| SURROUNDING ZONING | |
| North: | Civic Center District |
| South: | General Commercial District |
| East: | Flood Hazard District |
| West: | Flood Hazard District |
| PUBLIC UTILITIES | Rapid City water and sewer |
| DATE OF APPLICATION | December 23, 2014 |
| REVIEWED BY | Robert Laroco / Ted Johnson |

RECOMMENDATION:

Staff recommends that the Major Amendment to the Conditional Use Permit to allow structures in the Flood Hazard District be approved with the following stipulations:

1. Prior to issuance of a building permit, a Flood Plain Development Permit shall be obtained for the area of construction;
2. Prior to issuance of a building permit, all redline comments shall be addressed and all drawings shall be returned to Community Planning and Development Services;
3. Prior to issuance of a building permit, the applicant shall submit proof of concurrence for the project plans to Community Planning and Development Services from the Rapid City

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- Parks and Recreation Department;
4. Prior to issuance of a building permit, final construction plans shall be submitted for the proposed restrooms. Plans shall provide all design information and details for all proposed utility work, as well as all proposed mechanical and plumbing equipment. All utility improvements shall be in compliance with the Rapid City Infrastructure Design Criteria Manual. In addition, all facilities shall be modifiable for the winter season as necessary;
 5. A building permit shall be obtained prior to construction. A certificate of Occupancy shall be obtained prior to occupancy;
 6. Erosion and sediment control measures shall be installed and maintained as necessary;
 7. All landscaping shall continue to comply with the requirements of the Rapid City Landscaping Ordinance;
 8. Any future signage shall comply with the requirements of the Rapid City Sign Code. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Conditional Use Permit. The addition of LED signage shall require a Major Amendment to the Conditional Use Permit. A sign permit is required for each sign;
 9. All lighting shall be designed to preclude shining on adjacent properties and/or rights-of-way, so as not to create a nuisance of any kind to passing traffic or neighboring properties;
 10. All requirements of the International Fire Code shall be continually maintained;
 11. All requirements of the Flood Hazard District shall be continually maintained, and;
 12. This Major Amendment to the Conditional Use Permit shall allow for the construction of restrooms as part of the park amenities for Legacy Commons. Uses permitted within the Flood Hazard District shall be permitted contingent upon provision of sufficient parking. Conditional uses shall require a Major Amendment to the Conditional Use Permit.

GENERAL COMMENTS: The applicant has submitted a request to allow construction of public restrooms as a part of the on-going Legacy Commons/Memorial Park Promenade development. The proposed restrooms will be located on the western end of the Legacy Commons and will provide two gender specific, ADA accessible restroom facilities with baby changing stations to be located in one structure. Submitted plans show that the restroom will measure approximately 34 feet long by 24 feet wide and include a 12 foot deep shelter on the front of the structure. The restrooms will comprise approximately 528 total square feet.

On March 6, 2014, the Planning Commission approved a Major Amendment to the Conditional Use Permit (File #14UR003) to allow park amenities, to be known as Legacy Commons, on the south side of Rapid Creek, west of the Promenade. The proposed design of the Legacy Commons project includes landscaping islands, educational signage, playground/activity pods, bicycles racks and a variety of seating for public use.

On October 4, 2012, the Planning Commission approved a Conditional Use Permit (File #12UR018) to allow structures in the Flood Hazard District as a part of the Memorial Park Promenade. The request created a public walkway with landscaped planting beds, park amenities, lighting, and signage that would connect the Rapid City Civic Center and the downtown. The applicant obtained two Minimal Amendments to the Conditional Use Permit (File #12UR018A and File #12UR018B) to allow minor changes to the approved plans. In

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particular, the Minimal Amendments expanded the Promenade project along the south side of Memorial Pond and revised plans to include the draining, dredging, and rehabilitation of Memorial Pond.

The property is located north of Omaha Street, between Mount Rushmore Road and Fifth Street. The property is developed with the Memorial Park Promenade and the Legacy Commons playground.

STAFF REVIEW: Staff has reviewed the request for a Conditional Use Permit to allow structures in the Flood Hazard District according to the requirements of Section 17.54.030 of the Rapid City Municipal Code and has noted the following considerations:

Criteria for Review: In reviewing applications for a conditional use permit, due consideration must be given to the following:

The location, character, and natural features of the property;

The property is a part of the Rapid City Greenway Tracts and Memorial Park. Rapid Creek runs from west to east through the property, and is currently crossed by a pedestrian and bicycle bridge. Memorial Pond is located to the north of the existing development, on the north side of Rapid Creek. The property is located in the Flood Hazard District. As such, prior issuance of a building permit, a Flood Plain Development Permit obtained and/or revised to include the areas proposed for construction.

The location, character, and design of adjacent buildings;

The Rapid City Civic Center borders the property to the north. The City band shell is located on the east side of the Promenade, immediately south of the Civic Center. Legacy Commons is located east of the proposed restrooms and is designed as a part of the Memorial Park Promenade connecting the Civic Center campus to downtown Rapid City.

Proposed fencing, screening, and landscaping;

No additional fencing, screening, or landscaping is being proposed as a part of the project. The construction of the restrooms will result in a decrease in the total number of landscaping points required for the development. All landscaping must continue to comply with the requirements of the Rapid City Landscaping Ordinance.

Proposed vegetation, topography, and natural drainage;

Submitted plans show that portions of the primary bicycle and pedestrian path located along the north side of the proposed development are located in the hydraulic floodway. However, the restroom does not appear to be located within the hydraulic floodway. Public Works staff has not noted concerns with the grading and drainage of the site.

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

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Legacy Commons is not open to vehicular traffic and does not require parking. However, it should be noted that the design of the Promenade and the Legacy Commons project areas will allow access by the Rapid City Police Department and the Rapid City Parks and Recreation Department for maintenance and emergency access. In addition, submitted plans show that a twelve foot wide bicycle and pedestrian path is provided throughout the Legacy Commons development.

Existing traffic and traffic generated by the proposed use;

The proposed Legacy Commons project is intended for use by pedestrians and bicycle traffic only. As such, the existing vehicular traffic and traffic generated by the proposed use should be minimal.

Proposed signs and lighting;

No additional signage from that originally approved is being proposed as a part of this Major Amendment. All future signage must comply with the requirements of the Rapid City Sign Code. The addition of electronic signage will require a Major Amendment to the Conditional Use Permit. All lighting must be designed to preclude shining on adjacent properties and/or street(s) so as not to become a nuisance to passing traffic or neighboring properties.

The availability of public utilities and services;

Public Works staff has noted that final construction plans must provide design information and details for tapping into an existing Rapid City public sewer main. All utility work must comply with the requirements of the Rapid City Infrastructure Design Criteria Manual. In addition, the applicant must provide final construction plans which include complete mechanical and plumbing plans and details on the winterization of the facility. Redline comments have been submitted to the applicant for review. Prior to issuance of a building permit, all redlined comments must be addressed. All redlined plans must be returned to Community Planning and Development Services.

The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein;

The Future Land Use Plan designates this property as Parks and Greenway. The property is currently developed as a part of the City parks and trail system. The Flood Hazard District does permit development with structures as a conditional use. The proposed development will serve as amenities for the parks and trail system. The requested Major Amendment to the Conditional Use Permit complies with the objectives of the adopted comprehensive plan. It should be noted that the applicant has been working with Parks and Recreation Department staff on the development of the project. Prior to issuance of a building permit, the applicant must submit proof of concurrence for the project plans to Community Planning and Development Services from the Rapid City Parks and Recreation Department.

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

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The requested Major Amendment to the Conditional Use Permit does not require that additional parking be provided. Rapid City Municipal Code Chapter 17.28 regarding the Flood Hazard District does not include land area regulations for height, setbacks, or density.

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;

An air quality permit must be obtained prior to disturbance of one acre or more of earth. All erosion and sediment control measures must be installed as necessary. The property is not adjacent to, nor does it abut a residential district.

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

The stipulations of approval for this Major Amendment to the Conditional Use Permit will serve as a tool to ensure that potential adverse impacts of the proposed restrooms will be mitigated. Adjacent uses to the property are commercial or a part of the Rapid City Parks system. The site is sufficiently buffered from adjacent uses. As such, staff recommends that the Major Amendment to the Conditional Use Permit to allow restrooms to be constructed in the Flood Hazard District as a part of Legacy Commons be approved with the stipulations outlined above.

Notification Requirements: The required notification sign has been posted on the property. The notification letters have been submitted to Community Planning and Development Services for mailing. As of this writing, there have been no inquiries into the proposed Major Amendment.