

STAFF REPORT
March 26, 2015

No. 15PD005 - Final Planned Development Overlay to allow an on-sale liquor establishment in conjunction with a restaurant

ITEM 13

GENERAL INFORMATION:

APPLICANT	Colin Hofer - Dakota Wingmen LLC
AGENT	Janelle Finck - Fisk Land Surveying & Consulting Engineers
PROPERTY OWNER	CPP Rushmore II LLC
REQUEST	No. 15PD005 - Final Planned Development Overlay to allow an on-sale liquor establishment in conjunction with a restaurant
EXISTING LEGAL DESCRIPTION	<p>A portion of Lot 7A of Block 3 of Rushmore Crossing, located in the Southeast One Quarter of the Southwest One-Quarter (SE ¼ SW ¼) of Section Twenty Nine (29) of Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian (BHM), Rapid City, Pennington County, South Dakota, more fully described as follows: Beginning at the southwest corner of Lot 7A of Block 3 of Rushmore Crossing, located in the Southeast One Quarter of the Southwest One Quarter (SE ¼ SW ¼) of Section Twenty Nine (29) of Township Two North (T2N), Range Eight East (R8E) of the Black Hills Meridian (BHM), Rapid City, Pennington County, South Dakota as shown on the plat document filed on December 23, 2014 and recorded as document number A201416616, said point is located on the north line of Eglin Street right-of-way and coincident with the southeast corner of Lot 6 of Block 3 of Rushmore Crossing; thence, northeasterly on the westerly line of said Lot 7A of Block 3 of Rushmore Crossing and on the easterly line of said Lot 6 of Block 3 of Rushmore Crossing, North 33 degrees 01 minutes 14 seconds East, a distance of 40.00 feet more or less; thence, continuing northeasterly on the westerly line of said Lot 7A of Block 3 of Rushmore Crossing and on the easterly line of said Lot 6 of Block 3 of Rushmore Crossing, North 28 degrees 47 minutes 27 seconds East a distance of 223.40 feet more or less to the northwest corner of said Lot 7A of Block 3 of Rushmore Crossing, said point being located on the south line of Interstate 90 right-of-way and coincident with the northeast corner of said Lot 6 of Block 3 of Rushmore Crossing; thence, southeasterly on the north line of said Lot 7A of Block 3 of Rushmore Crossing and on the south line of Interstate 90 right-of-</p>

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way, South 61 degrees 11 minutes 54 seconds East a distance of 119.61 feet more or less; thence, continuing southeasterly on the north line of said Lot 7A of Block 3 of Rushmore Crossing and on the south line of Interstate 90 right-of-way, curving to the right on a curve with a radius of 862.93 feet, a delta of 4 degrees 16 minutes 48 seconds an arc length of 64.46 feet, a chord bearing of South 59 degrees 03 minutes 30 seconds East and a chord distance of 64.44 feet more or less; thence, South 28 degrees 49 minutes 28 seconds West a distance of 189.41 feet more or less; thence, South 50 degrees 50 minutes 06 seconds West a distance of 86.72 feet more or less; thence, South 41 degrees 55 minutes 31 seconds East a distance of 22.94 feet more or less; thence South 48 degrees 02 minutes 28 seconds West a distance of 20.23 feet more or less to a point on the south line of said Lot 7A of Block 3 of Rushmore Crossing and on the north line of Eglin Street right-of-way; thence northwesterly and on the south line of said Lot 7A of Block 3 of Rushmore Crossing and on the north line of Eglin Street right-of-way, curving to the left on a curve with a radius of 650.00 feet; a delta of 15 degrees 17 minutes 38 seconds, an arc length of 173.50 feet; a chord bearing of North 49 degrees 19 minutes 53 seconds West and a chord distance of 172.99 feet more or less, to the point of beginning

PARCEL ACREAGE	Approximately 1.14 acres
LOCATION	North side of Eglin Street in Rushmore Crossing
EXISTING ZONING	General Commercial District (Planned Development)
FUTURE LAND USE DESIGNATION	Mixed Use Commercial
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District (Planned Development)
East:	General Commercial District (Planned Development)
West:	General Commercial District (Planned Development)
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	February 27, 2015

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REVIEWED BY

Fletcher Lacock / Ted Johnson

RECOMMENDATION:

Staff recommends that the Final Planned Development Overlay 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 structural construction and a Certificate of Occupancy shall be obtained prior to occupancy;
2. Upon submittal of a Building Permit, a drainage summary and calculations shall be submitted for review and approval. In addition, documentation identifying the parties responsible for the perpetual maintenance of on-site stormwater quality improvements shall be submitted;
3. Upon submittal of a Building Permit, the applicant shall address redlined comments and return the redlined plans to Community Planning and Development Services;
4. Upon submittal of a Building Permit, plans shall be prepared and stamped by a licensed Architect or Professional Engineer as per SDCL 36-18A;
5. Prior to issuance of a Building Permit, the owner shall dedicate a utility access easement to the City to allow access to the water shut-off valve;
6. Temporary or permanent site stabilization shall be achieved prior to issuance of a Certificate of Occupancy;
7. A minimum of 60 parking spaces shall be provided. In addition, three 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;
8. A minimum of 43,681 landscaping points shall be provided 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;
9. 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;
10. 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;
11. An Air Quality Construction Permit shall be obtained prior to any surface disturbance of one acre or more;
12. All signage shall comply with the submitted sign package and the Rapid City Municipal Code. Changes to the signage which comply with the Rapid City Sign Code shall be permitted. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this 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;
13. All applicable provisions of the adopted International Fire Code shall continually be met; and,
14. The Final Planned Development Overlay shall allow for an on-sale liquor establishment in conjunction with a restaurant. 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 and in compliance with the Parking Ordinance shall require the review and approval of a Minimal Amendment. All conditional uses in

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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 Final Planned Development Overlay to allow an on-sale liquor establishment in conjunction with a restaurant. In particular, the applicant is proposing to construct a 5,408 square foot restaurant with a 605 square foot patio. The proposed restaurant is called "Native New Yorker Grill and Wings".

The property is located on the north side of Eglin Street approximately 700 feet northwest of the intersection of Eglin Street and East North Street. Currently, the property is void of any structural development.

STAFF REVIEW:

Staff has reviewed the Final 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 49,662 square feet in size and is located approximately 700 feet northwest of the intersection of Eglin Street and East North Street. Currently, the property is void of any structural development.

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

The property is zoned General Commercial District. The applicant is not requesting any Exceptions from the area regulations of the underlying zoning district.

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 applicant is not requesting any Exceptions from the area regulations of the General Commercial District.

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:*

The applicant is proposing to operate an on-sale liquor establishment in conjunction with a restaurant. The property is located in the "Rushmore Crossing" commercial corridor on the north side of Eglin Street which is identified as a Collector Street on the City's Major Street

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Plan. It does not appear that the proposed on-sale liquor use in conjunction with a restaurant will have a negative impact on the area.

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:*

As noted above, no Exceptions are being requested.

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 Eglin Street. The City’s Major Street Plan identifies Eglin Street 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.*

Eglin Street is identified as a Collector Street on the City’s Major Street Plan. The property is located in the “Rushmore Crossing” commercial corridor. The closest residential property is the “Meadowlark Mobile Home Park” located approximately 3,000 feet to the southwest. It appears the requested use is sufficiently buffered with respect to 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.”*

There are five on-sale liquor establishments located within 500 feet of the property. Located on the property to the south are: “HuHot Mongolian Grill”, “Qdoba Mexican Grill”, “A Perfect 10 Nail and Beauty Bar”, and “Fuji Japanese Steakhouse”. Located approximately 200 feet west of the subject property is “Famous Dave’s Bar-B-Que”. Eglin Street is a commercial corridor and is identified as a Collector Street on the City’s Major Street Plan. It does not appear that the proposed on-sale liquor establishment in conjunction with a restaurant will create an undue concentration.

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:

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1. *The location, character and natural features of the property:*

Currently, the property is void of any structural development. The property is approximately 49,694 square feet in size and is located approximately 700 feet northwest of the intersection of Eglin Street and East North Street.

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

U.S. Interstate 90 is located along the north side of the property. A gas station will be constructed to the east of the property on the northwest corner of the intersection of Eglin Street and East North Street. The property to the east is developed with a strip commercial building. The property to the south is also a strip commercial structure with a variety of uses. The property is located in the "Rushmore Crossing" commercial corridor.

3. *Proposed fencing, screening and landscaping:*

The surrounding properties are commercial and the Zoning Ordinance does not require that screening be provided.

A minimum of 43,681 landscaping points must be provided for the proposed development. The applicant has submitted a landscape plan showing a total of 45,740 landscape points. The proposed landscape plan is in compliance with Chapter 17.50.300 of the Rapid City Municipal Code.

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

The applicant has not submitted stormwater calculations or documentation of perpetual maintenance. As such, upon submittal of a Building Permit, a drainage summary and calculations must be submitted for review and approval. In addition, documentation identifying the parties responsible for the perpetual maintenance of on-site stormwater quality improvements must be submitted.

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

The site plan shows sidewalk along Eglin Street providing pedestrian access. The proposed 6,013 square foot restaurant with an on-sale liquor establishment requires that a minimum of 60 parking spaces be provided. The site plan identifies 68 parking spaces with three of the parking spaces being handicap accessible. The parking plan is in compliance with Chapter 17.50.270 of the Rapid City Municipal Code.

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

Currently, the property is void of any structural development. The proposed restaurant should generate approximately 60 trips per peak hour.

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7. Proposed signs and lighting:

The applicant has submitted a sign package identifying wall signs on the north, south, and east faces of the restaurant and a proposed monument sign on the south side of the property adjacent to Eglin Street. The proposed ground sign measures 10 feet wide by 5 feet 3 inches high and reads "Native New Yorker". The proposed wall signs on the south and east elevations will measure 5 feet high by 10 feet 6 inches wide. The proposed sign on the north elevation measures 2 feet 7 inches high by 7 feet 7 inches wide. All of the wall signs read "Native New Yorker Grill and Wings". It appears that all proposed signage complies with the requirements of the Rapid City Sign Code. All signage must comply with the requirements of the Rapid City Sign Code.

The applicant has submitted elevations, plans, and specifications on wall sconces and parking lot lighting. 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 served by Rapid City sewer and water. Prior to issuance of a Building Permit, the owner must enter into a utility access easement with the City to allow access to the water shut-off valve. The applicant should be aware that the existing service stubs to the property may not align with the future re-platting of the property.

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. 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.

The proposed on-sale liquor establishment is located in a commercial corridor located adjacent to Eglin Street which is identified as a Collector Street on the City's Major Street Plan. The property is located in the established "Rushmore Crossing" commercial corridor and the closest residential property is located approximately 3,000 feet to the southwest. It appears that the proposed uses meet the objectives of the adopted comprehensive plan.

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

The proposed restaurant structure is in compliance with the minimum required area regulations of Chapter 17.18 of the Rapid City Municipal Code.

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 Building Code.

Notification: 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 March 26, 2015 Planning Commission meeting if this requirement has not been met.