

STAFF REPORT

March 6, 2003

No. 03UR001 - Conditional Use Permit to allow an On-Sale Liquor Establishment **ITEM 46**

GENERAL INFORMATION:

PETITIONER	Northcott Company for Perkins Restaurant and Bakery
REQUEST	No. 03UR001 - Conditional Use Permit to allow an On-Sale Liquor Establishment
EXISTING LEGAL DESCRIPTION	Lot 11R of Lot K-3 of Marshall Heights Tract, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 4.03 acres
LOCATION	1715 North LaCrosse Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	Low Density Residential District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	01/27/2003
REPORT BY	Jeff Marino

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an On-Sale Liquor establishment be approved with the following stipulations:

Engineering Division Recommendations:

1. A screening fence shall be installed in a manner that does not obstruct or divert drainage from the west;

Fire Department Recommendations:

2. The structure shall be maintained in compliance with all applicable Fire Codes at all times;
3. The fire sprinkler system shall be in compliance with all applicable code requirements at all times;
4. All systems shall be maintained in compliance at all times;

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Urban Planning Division Recommendations:

5. The applicant shall submit a revised site plan showing a screening fence abutting all residential zoning districts for review and approval prior to Planning Commission. The fence shall be installed prior to the initiation of the on-sale liquor use or the applicant shall obtain a variance waiving the screening requirement; and
6. The On-Sale Liquor Establishment shall be operated in conjunction with a full service restaurant.

GENERAL COMMENTS: (Updates to the staff report are shown in bold.) This request was continued from the February 23, 2003 Planning Commission meeting to allow the applicant time to resolve any issues with the property owner. The applicant is applying for a Conditional Use Permit to allow an "On-sale liquor establishment" at the site. In 1984, a building permit was issued for Perkins Restaurant on the site. The Perkins Restaurant at this location is attached to a Ramada Inn, which has a full scale bar, "Cheers", in the establishment.

The applicant is proposing a malt beverage license, in order to allow its patrons to smoke in the dining area. Due to South Dakota State Law, restaurants without a liquor license cannot allow their patrons to smoke while dining at its establishment. The applicant applied for a similar request in May, 2002. However, the request was withdrawn by the applicant.

STAFF REVIEW: Staff has reviewed this request with respect to the four criteria established for On-Sale Liquor establishments identified in Section 17.50.185:

1. *The request will not "adversely affect" the use of any place used for religious worship, school, park, playground or similar use within a five hundred (500) foot radius.*

There are no places of religious worship or schools located within a five hundred foot radius of the subject property. The properties to the west are zoned Low Density Residential; however, there are no places for religious worship or schools. Knollwood Heights School is located just over 500 feet to the west. To the north, south and east the properties are zoned General Commercial. The subject property is located in a corridor of existing commercial uses. Staff's review of the proposed on-sale liquor establishment operated in conjunction with a full service restaurant would appear to have no significant adverse effect on the surrounding area.

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

There is a Low Density Residential Zoning District located on the lot to the west. However, the City of Rapid City Municipal Code requires an opaque ornamental screening fence between six feet and five feet high between a commercial business and a residential zoning district to minimize the adverse affects to the abutting residential areas. By installing this opaque screening fence, the adverse impacts will be minimized.

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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."*

The proposed on-sale liquor use will be accessory to the principal use of the restaurant. The provision of on-sale liquor to restaurant patrons as an accompaniment to meals would not appear to alter the nature of the restaurant business. Staff does not find this request for on-sale liquor use in conjunction with a full service restaurant to constitute an undue concentration which would cause blight or deterioration or diminish land values in the surrounding area.

4. *The proposed use has been reviewed under the Section 17.54.030 (E)*

Staff has reviewed the proposed use with respect to Section 17.18.080 of the Rapid City Municipal Code and notes that the submitted site plan does not show a screening fence between the abutting Low Density Residential Zoning District and the General Commercial Zoning District. The City of Rapid City Municipal Code requires an ornamental opaque screening fence between five feet and six feet high between residential zoning districts and General Commercial Zoning Districts. This will reduce the impacts on the abutting residential zoning districts.

Staff has reviewed this project with regard to the criteria in Section 17.54.030 (E) of the Rapid City Municipal Code and finds it to be in compliance with the Code. As of this writing, the receipts from the certified mailings **have been returned**. The Use on Review sign has been posted on the property. Staff has not received any calls or inquiries regarding this issue at the time of this writing.