

STAFF REPORT
July 23, 2009

No. 09UR019 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 48**

GENERAL INFORMATION:

APPLICANT	Troy Erickson for M.G. Oil Co.
PROPERTY OWNER	Tom Letner
REQUEST	No. 09UR019 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lot 1 of Tract A of Block 1 of Northern Heights Subdivision, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.59 acres
LOCATION	Southwest corner of the intersection of Lindbergh Avenue and Haines Avenue
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	6/26/2009
REVIEWED BY	Travis Tegethoff / Mary Bosworth

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be approved with the following stipulations:

1. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
2. A minimum of 74 parking spaces shall be provided and one of the parking spaces shall be a handicap accessible space. All provisions of the Off-Street Parking Ordinance shall be continually met and shall be constructed in accordance with the approved plan;
3. A minimum of 51,486 landscaping points shall be provided. The landscaping plan shall comply with all requirements of the Zoning Ordinance and shall be installed in accordance with the approved plan. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;

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4. All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Conditional Use Permit. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Conditional Use Permit. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The 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;
5. The lighting shall be designed to be reflected within the property boundaries so as not to 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. The currently adopted International Fire Code shall be continually met;
7. All provisions of the General Commercial Zoning District shall be met unless an exception is specifically authorized as a stipulation of this Major Amendment to a Conditional Use Permit application or a subsequent Major Amendment; and,
8. The Conditional Use Permit shall expire if the use is not undertaken within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years.

GENERAL COMMENTS:

The applicant has submitted a request for a Conditional Use Permit to allow an on-sale liquor establishment at the southwest corner of the intersection of Lindbergh Avenue and Haines Avenue for a video lottery casino. The property is currently zoned General Commercial District. Currently a 10,084 square foot commercial structure is being constructed on the property. The applicant is proposing to use approximately 1,875 square feet of the building for a video lottery casino. The remaining portion of the building will have 2,230 square feet of restaurant space and 5,979 square feet of office/retail space.

STAFF REVIEW: Staff has reviewed this request for a Conditional Use Permit to expand an on-sale liquor establishment as it relates to the applicable provisions of Section 17.54.030 of the Rapid City Municipal Code and has noted the following issues:

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

There are no places of religious worship, schools, playgrounds, parks, or similar use located within 500 feet. This request for an on-sale liquor use does not appear to have any significant adverse effects on any place of religious worship, school, playground, park, or areas of similar use.

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

The property is currently zoned General Commercial and is surrounded by property zoned General Commercial. Runnings Farm and Fleet is located to the south of this site, a strip mall is being developed to the east of this site, a convenience store is located north of this site and

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Goodwill is constructing a store west of this property. There is a mobile home park located approximately 200 feet northwest of this proposed development across Lindbergh Avenue and single family homes are located approximately 700 feet west of the proposed development. The property appears to be sufficiently buffered from residential areas by the surrounding properties.

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 is one video lottery casino that is located approximately 470 feet to the north of this property. It does not appear that this request for on-sale liquor use will 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 Chapter 17.54.030 (E) Criteria for Review.*

Building Uses: Currently a 10,084 square foot commercial structure is being constructed on the property. The applicant is proposing to use approximately 1,875 square feet of the building for a video lottery casino. The remaining portion of the building will have 2,230 square feet of restaurant space and 5,979 square feet of office/retail space.

Building Permits: Staff noted that a Building Permit must be obtained prior to any construction and a Certificate of Occupancy obtained prior to occupancy.

Parking: Staff noted that the parking plan was previously approved as part of the building permit for this property and that it appears to comply with all applicable provisions of the Rapid City Municipal Code. The applicant has submitted a site plan as part of this application showing 76 parking spaces, including five accessible handicap spaces. The minimum number of off street parking required for the proposed uses for this property is 74 parking spaces, including four handicap spaces based on the identified uses. The submitted parking plan exceeds the required parking; as such, staff recommends that the Conditional Use Permit be approved with the above mentioned stipulations.

Landscaping: Staff noted that the landscape plan was previously approved as part of the building permit for this property and that it appears to comply with all applicable provisions of the Rapid City Municipal Code. The applicant has submitted a landscaping plan showing 51,930 landscape points as part of this application. A minimum of 51,486 landscape points is required. As such, staff recommends that the Conditional Use Permit be approved with the above mentioned stipulations.

Signage: Staff noted that a sign package was submitted with the application showing two wall signs located on the building totaling 52 square feet in size.

Staff recommends that all signage conform to the design, color and location as shown in the sign package submitted as a part of the Conditional Use Permit. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, may be allowed as a Minimal Amendment to the Conditional Use

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Permit. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The 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.

Fire Code: Staff noted that all applicable provisions of the International Fire Code shall be continually met.

Notification: As of this writing, the required sign has not been posted on the property and the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the July 23, 2009 Planning Commission meeting if this requirement has not been met. Staff has not received any objections regarding the proposed Conditional Use Permit at the time of this writing.

Staff is recommending that the Conditional Use Permit be approved with the previously stated stipulations.