

STAFF REPORT  
July 7, 2011

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**No. 11UR014 - Conditional Use Permit to allow an On-Sale Liquor Establishment**      **ITEM 11**

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GENERAL INFORMATION:

APPLICANT	Steve Wynia and Damon Reel
AGENT	Kent Kennedy for Kennedy Design Group, Inc.
PROPERTY OWNER	Reel Wynia, LLC
REQUEST	<b>No. 11UR014 - Conditional Use Permit to allow an On-Sale Liquor Establishment</b>
EXISTING LEGAL DESCRIPTION	Lots 1, 2, 3 and 4 of Block 26 of South Boulevard Addition located in Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.32 acres
LOCATION	703 and 705 Indiana Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	Low Density Residential District
West:	General Commercial District
PUBLIC UTILITIES	City
DATE OF APPLICATION	6/8/2011
REVIEWED BY	Fletcher Lacock / Karley Halsted

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an On-Sale Liquor Establishment be denied.

GENERAL COMMENTS:

The applicant has submitted a Conditional Use Permit to allow an on-sale liquor establishment on the property at 703 and 705 Indiana Street. In particular the applicant is proposing to construct a 3,960 square foot commercial strip mall to include a 1,980 square foot on-sale liquor establishment with video lottery and 1,980 square feet of general commercial space for lease.

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On January 12, 2006 the Planning Commission denied a Conditional Use Permit (File# 05UR021) to allow an on-sale liquor establishment at the above property. On March 6, 2006, the City Council denied the applicant's appeal. On June 10, 2010, the Planning Commission denied a Conditional Use Permit (File# 10UR013) to allow an on-sale liquor establishment at the same location.

The property is located southwest of the intersection of Indiana Street and 7<sup>th</sup> Street. The property is currently undeveloped.

STAFF REVIEW: Staff has reviewed the Conditional Use Permit request with respect to the four criteria 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 (500) foot radius.*

There are no places of religious worship, schools or playgrounds within a five hundred foot radius of the subject property. Saint John's Orthodox Church is located approximately 775 feet to the northeast and Our Lady of Perpetual Help is located approximately 725 feet to the northeast. Saint Elizabeth Seton School is located approximately 1,200 feet to the southeast. Wilson Park is located approximately 2,400 feet to the northwest.

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

The property is zoned General Commercial District and commercial uses are adjacent to the property to the north, south and west. The properties to the east and northeast are zoned residential and have been developed with single family residential homes. The currently adopted Zoning Ordinance requires that a screening fence be provided along the adjacent property line when a commercial lot abuts a residential lot. The applicant is proposing to install a vegetative screen on the east edge of the property along 7<sup>th</sup> Street. However, the proposed screening does not sufficiently buffer the adjacent residential development from the negative effects of an increase in noise, light and traffic nuisances that may be created by the proposed use.

3. *The proposed use will not create an undue concentration of similar uses, so as to cause "blight, deterioration, or substantially diminished or impair property values."*

The on-sale liquor establishment is proposed in conjunction with a video lottery casino to be located on the property. An existing on-sale liquor establishment with video lottery, Toby's Casino South, is located on the adjacent property to the south, northwest of the intersection of 7<sup>th</sup> Street and Cleveland Street. The Colonial House Restaurant and Bar is located on Mount Rushmore Road approximately 500 feet to the west of the proposed on-sale liquor establishment. In addition, there are several other on-sale liquor establishments along Mount Rushmore Road including: the Roadway Inn, Eighth Street Lounge and Casa Real. A concentration of similar uses exists within the 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 located southwest of the intersection of 7<sup>th</sup> Street and Indiana Street and is zoned General Commercial District. There are no existing structures on the property.

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

The properties to the north, west and south of the property have been constructed with one story commercial structures. The properties to the east and northeast have been constructed with one story single family residential structures. The proposed structure is a one story commercial structure.

3. *Proposed fencing, screening and landscaping:*

The site plan indicates that a total of 11,220 landscape points will be provided on the property. Based on the developed area of the property in relation to the lot size, 11,040 landscape points are required. As per Chapter 17.18.080 of the Rapid City Municipal Code, the property is adjacent to a residential district and will require a 5 to 6 foot ornamental screening fence be provided along the east lot line. The applicant is proposing to install a vegetative screen on the east edge of the property along 7<sup>th</sup> Street. However, the proposed screening does not sufficiently buffer the adjacent residential district from the negative effects of an increase in noise, light and traffic nuisances which may be created by the proposed use.

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

The applicant has submitted an Erosion and Sediment Control Plan and taken the appropriate measures to address existing violations. The topography of the site causes drainage to flow from west to east. There is currently no vegetation on the site with evidence of significant sediment erosion. A drainage plan must be submitted for review and approval indicating that discharge from the proposed development will not exceed pre-development flow rates or local detention facilities shall be provided as a part of the future development of the site.

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 that the applicant is proposing to close two existing driveways in compliance with Section 8.2.1(H) of the Street Design Criteria Manual. In addition, the

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applicant is proposing to create a new driveway on Indiana Street and to pave the alley to the south of the property. The proposed approach is located approximately 38 feet from the intersection of Indiana Street and 7<sup>th</sup> Street. As such, the applicant must revise the site plan or seek an Exception from Section 8.2.3 of the Street Design Criteria Manual which requires a minimum corner clearance of no less than 50 feet. The site plan shows that 29 parking spaces will be provided with two spaces being handicap accessible. The applicant should be aware that any change in proposed uses may trigger that additional parking may be necessary.

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

Seventh Street separates the proposed on-sale liquor establishment from existing residential development to the east. Traffic from an on-sale liquor establishment may negatively impact residential traffic in the area.

7. *Proposed signs and lighting:*

The site plan shows that a sign will be located on the northeast corner of the property. The proposed signage will be elevated 15 feet above ground level and will not encroach in the pedestrian site triangle. The applicant has provided 2 choices, one measuring 12 feet by 8 feet and the other measuring 12 feet by 10 feet. The proposed sign will be illuminated.

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 general commercial uses. The proposed video casino and office space are permitted uses in the General Commercial District and the proposed on-sale liquor establishment is a conditional use in the General Commercial District. One of the goals of the Comprehensive Plan's Future Land Use Plan Overview is to maintain a commitment to neighborhoods by implementing appropriate policies that preserve and improve the quality and character of the community's established neighborhoods by protecting stable neighborhoods to prevent encroachment of incompatible commercial uses. To allow the proposed on-sale liquor establishment next to an established residential district is not in compliance with the adopted comprehensive plan.

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

The proposed development on the property is in compliance with density, yard and height requirements of the General Commercial District.

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*11. The effects of noise, odor, smoke, dust, air, and water pollution and the degree of control through which clarifiers, screening, setbacks and orientation:*

The proposed structure and uses including an on-sale liquor establishment will increase the amount of traffic that the site generates. This increase in traffic, noise and light nuisances will not be sufficiently buffered from the adjacent residential district along 7<sup>th</sup> Street. In particular, the street separation between the proposed on-sale liquor establishment and the existing residential development does not serve as a sufficient buffer.

*12. The degree to which conditions imposed will mitigate any probably adverse impacts of the proposed use on existing adjacent uses:*

As per Chapter 17.18.080 of the Rapid City Municipal Code since the property is adjacent to a residential district, a 5 to 6 foot ornamental screening fence is required along the adjacent lot line. The site plan shows that the applicant proposes to install a vegetative buffer along 7<sup>th</sup> Street. It does not appear that this buffer will be sufficient to mitigate the negative impacts of an increase in traffic, noise or light nuisances from an on-sale liquor establishment.

Notification: As of this writing, the white slips and green cards have not been returned nor has the required sign been posted on the property. Staff will notify the Planning Commission at the July 7, 2011 Planning Commission meeting if these requirements have not been met.

The applicant has proposed similar Conditional Use Permit requests to allow an On-Sale Liquor Establishment on two previous occasions. On both occasions the permit was denied. There have been no changing conditions in the neighborhood to support approving the request at this time.