

STAFF REPORT

January 4, 2001

**UOR #00UR041 - Major Amendment to a Use on Review
to allow an on-sale liquor establishment**

ITEM 41

GENERAL INFORMATION:

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| PETITIONER | Shooters, Inc. |
| REQUEST | UOR #00UR041 - Major Amendment to a Use on Review to allow an on-sale liquor establishment |
| LEGAL DESCRIPTION | Tract 2, Arches Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE | Approximately 1.4 Acres |
| LOCATION | 2650 Mount Rushmore Road |
| EXISTING ZONING | General Commercial District |
| SURROUNDING ZONING | |
| North: | General Commercial District |
| South: | General Commercial District |
| East: | High Density Residential District |
| West: | General Commercial District (PCD) |
| PUBLIC UTILITIES | City water and sewer |
| REPORT BY | Lisa Seaman |

RECOMMENDATION: Staff recommends that the Major Amendment to a Use on Review to allow an on-sale liquor establishment be denied without prejudice at the applicant's request.

GENERAL COMMENTS: The applicant is requesting Use on Review approval to locate an on-sale liquor establishment in conjunction with an existing fast food restaurant. The existing restaurant, "Bullets", is located within the same building as a "Common Cents" convenience store and gas station. Currently the convenience store and restaurant have a common front entrance.

On June 17, 1996, the City Council approved a Use on Review to allow a car wash on this property with eight stipulations.

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 five hundred (500) feet radius.

STAFF REPORT

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**UOR #00UR041 - Major Amendment to a Use on Review
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ITEM 41

The Cathedral of Our Lady of Perpetual Help Catholic Church is located less than 500 feet from the subject property. St. Elizabeth Seton Elementary and Middle School and St. Thomas More High School are within 1200 feet of the subject property. Staff's review of the proposed on-sale liquor establishment finds that, due to its close proximity of a church and schools, the proposed use will have an adverse effect on the surrounding area.

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

The property adjacent to the rear lot line of the subject property is zoned High Density Residential. This residential property is owned by the Pennington County Housing and Redevelopment Commission and is the location of a 97 unit public housing apartment complex. This apartment complex provides housing for elderly and disabled persons. Additionally, within 350 feet of the subject property is a Low Density Residential neighborhood. Staff anticipates that the proposed on-sale liquor use will have a significant negative impact on the surrounding 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."

Staff has noted that there are several on-sale liquor establishments currently located in the area. The Colonial House Restaurant and Bar (2501 Mt. Rushmore Road), Lucky Annies Casino (2425 Mt. Rushmore Road), Rodeway Inn (2208 Mt. Rushmore Road), Regency Lounge (2202 Mt. Rushmore Road), 8th Street Lounge (2201 Mt. Rushmore Road) and Casa Del Rey (1902 Mt. Rushmore Road) are all located in close proximity to the subject property.

Staff does not believe that this proposed use will create an undue concentration of similar uses in this area. Further, since the on-sale liquor establishment is only allowed in conjunction with a restaurant, staff does not believe the concentration of on-sale liquor establishments in the area would cause blight, deterioration or diminish land values of the surrounding properties.

4. The proposed use complies with the standards of Sections 5.12.140 and 17.54.030 of the Rapid City Municipal Code..

Staff has reviewed the proposed use with respect to Section 17.54.030 (E) and finds the proposed use to be in compliance with the 12 criteria for Use on Reviews. However, Section 5.12.140 states "It is unlawful for a licensee or his employees to offer for sale alcoholic beverages to be consumed on the licensed premises, if motor fuel is also sold to motor vehicles engaged in intrastate or interstate transportation on the same licensed premises, unless the structure or building in which the alcoholic beverages are sold and consumed is separated by at least one hundred feet from the building or structure where motor vehicle fuel

STAFF REPORT

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ITEM 41

is sold". As noted previously the Bullets restaurant and the Common Cents convenience store are located in the same building and share a front entrance. Therefore, the required one hundred foot separation is not provided.

Based on lack of conformance with the criteria of Section 5.12.140 of the Rapid City Municipal Code the applicant has requested that this request for a Major Amendment to a Use on Review to allow an on-sale liquor establishment be denied without prejudice.