

STAFF REPORT

January 10, 2002

**UOR #01UR034 - Use on Review to allow an On-Sale
Liquor Establishment including an outdoor concert
facility**

ITEM 33

GENERAL INFORMATION:

PETITIONER	Harland Danielsen
REQUEST	UOR #01UR034 - Use on Review to allow an On-Sale Liquor Establishment including an outdoor concert facility
LEGAL DESCRIPTION	Lot 8 of Tract "B" of SW1/4 NE1/4; Lot 2 of Tract E of SE1/4 NW1/4 of Meadowwood Subdivision and Lot 3 of Lot 88A of Pine Hills Subdivision, all located in Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 6.13 acres
LOCATION	4095 Sturgis Road
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	General Commercial District
East:	Medium Density Residential District
West:	Office Commercial District
PUBLIC UTILITIES	Private well and septic
DATE OF APPLICATION	6/5/2001
REPORT BY	Lisa Seaman

RECOMMENDATION: Staff recommends that the Use on Review to allow an On-Sale Liquor Establishment including an outdoor concert facility be **denied without prejudice at the request.**

GENERAL COMMENTS: (Updates to the staff report are shown in bold.) This item was continued from the December 6, 2001 Planning Commission meeting. At the December 6, 2001 Planning Commission meeting the Planning Commission noted that this request had been continued for several months and advised staff to recommend that the request be denied without prejudice if the applicant did not provide the required information prior to the January 10, 2002 Planning Commission meeting. To date, the applicant has not submitted a parking plan that provides sufficient parking stalls for

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the on-sale liquor establishment or the outdoor concert event, a landscaping plan that complies with all requirements of the Landscaping Ordinance and written documentation of the number of additional staff that will be hired to provide security for the outdoor concert events. Therefore, staff is recommending that the Use On Review request to allow an On-Sale Liquor Establishment including a concert facility be denied without prejudice. The applicant is requesting Use On Review approval to operate an on-sale liquor establishment on the subject property. In addition the applicant is proposing to host outdoor concert events during the week of the Sturgis Rally, August 6 through August 11, 2001. Pennington County records indicate that the existing building was constructed in 1952. The property was annexed into the Rapid City Corporate Limits on November 2, 1982 and operated as a legal nonconforming use until 1994 when a Building Permit was issued to add a patio to the existing structure. The patio addition expanded the use of the property by more than 20 percent triggering compliance with the zoning requirements of the General Commercial Zoning District. The property is currently zoned General Commercial and an on-sale liquor establishment requires a Use On Review in the General Commercial Zoning District.

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.

There are no places of religious worship, schools, parks or playgrounds within a 500 foot radius of the subject property.

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

There are single family residences located north of the property. The property has been operating as an on-sale liquor establishment for many years with no apparent adverse effect to the residential properties to the north. However, the proposed temporary outdoor concert facility may have a negative impact on the residential area. Therefore, staff is requiring that the applicant provide detailed information with regard to hours of operation, security, and a detailed site plan including the location of any proposed tents, seating and lighting. The applicant has indicated that the outdoor concerts will end at 11:00 p.m. and the revised site plan indicates the location of portable toilets, a stage, light poles and fencing to be provided during the outdoor concert events. Staff is requesting that the applicant provide written documentation of the number of additional staff that will be hired to provide security for the outdoor concert events.

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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 only other on-sale liquor establishment located within 500 feet of the proposed use is the Shrine Club which is located at 4091 Sturgis Road. Staff does not find this request for an on-sale liquor use 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 17.54.030(E) of the Rapid City Municipal Code and has indicated to the applicant that additional information is required prior to providing a recommendation to the Planning Commission. The Fire Department staff is requesting specific details with regard to the type of fencing that will be used to enclose the temporary use area. The revised site plan shows that the applicant intends to provide five foot high cattle fence panels with two gates to enclose the temporary use area. The Fire Department has indicated that this type of fencing is acceptable for the concert event area.

The Engineering Division staff has requested a specific plan identifying the extent and type of barrier that will be utilized to ensure that uncontrolled access to the property from Highway 79 does not occur. In addition, the provision of adequate chemical toilets and drinking water for the proposed temporary use must be identified. The revised site plan submitted by the applicant shows the location of the temporary barriers and the portable chemical toilets.

The Planning Department has also requested a revised site plan to include a landscaping and parking plan including a site plan of the adjacent property where the applicant has indicated that a shared parking agreement has been obtained. The applicant has submitted a revised site plan including the location of lighting, parking, portable chemical toilets for the outdoor event and additional details about the proposed fencing to be used for the outdoor event. However, a landscaping plan has not yet been provided. A landscaping plan has been submitted and reviewed for compliance with the requirements of the Landscaping Ordinance. The plan shows that an adequate amount of landscaping material is located on the property however, fifty percent of the landscaping material is not located within the parking lot or within twenty feet of the parking area. This requirement may be met if the applicant expands the parking area to accommodate the required number of parking spaces.

The applicant has also indicated that a variance to reduce the required number of parking stalls has been requested. On November 20, 2001 the Zoning Board of Adjustment denied the applicant's request for a variance to reduce the required number of parking stalls from 49 stalls to 30 stalls for the 4,828 square foot structure. The Zoning Board of Adjustment also denied the applicant's request for a variance to reduce the required number of spaces for the temporary use from 197 spaces to 74 spaces. Therefore, staff is recommending that this item

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be continued to the January 10, 2002 Planning Commission meeting to allow the applicant time to provide a parking plan that complies with the requirements of the Off-Street Parking Ordinance.

As of this writing, the receipts from the certified mailings have been returned and the Use On Review sign has been posted on the property. Staff has received one inquiry regarding this request.