

STAFF REPORT

July 10, 2003

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**No. 03UR009 - Conditional Use Permit to allow an On-Sale Liquor Establishment in a General Commercial Zoning District**      **ITEM 39**

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GENERAL INFORMATION:

PETITIONER	Li Zhu for the Hong Kong Buffet
REQUEST	<b>No. 03UR009 - Conditional Use Permit to allow an On-Sale Liquor Establishment in a General Commercial Zoning District</b>
EXISTING LEGAL DESCRIPTION	Tract K of S1/2 NE1/4 SE1/4 less a parcel 80 feet by 131 feet and less Lot H1; Lot 2 Revised of Tract A of Feigel Subdivision #1, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 15.93 acres
LOCATION	927 E. North Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District / Light Industrial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City Sewer and Water
DATE OF APPLICATION	06/03/2003
REPORT BY	Jeff Marino

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an On-Sale Liquor Establishment in a General Commercial Zoning District be approved with the following stipulations:

Fire Department Recommendations:

1. The applicant shall submit additional information which shows the dining area is less than 3000 square feet or if the dining is not separated from the kitchen area by a one hour fire wall then the business shall be fully fire sprinklered as per the 1997 UFC amended section reference assemblies serving alcohol prior to Planning Commission approval;
2. The applicant shall verify that an occupancy sign has been posted prior to Planning Commission approval;

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#### Urban Planning Division Recommendations:

3. The applicant shall submit an application signed by the property owner prior to Planning Commission approval; and
4. The On-Sale Liquor Establishment shall be operated in conjunction with a full service restaurant at all times.

GENERAL COMMENTS: The applicant is applying for a Conditional Use Permit to allow an "On-sale liquor establishment" at the site. The site is located on the south side of North Street in the shopping center where "K-mart" is located.

The applicant is the proprietor of Hong Kong Buffet. The applicant is proposing to obtain a malt beverage and wine license, in order to allow its patrons to drink beer and wine while dining within the full service restaurant.

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 is a school property within 500 feet of the subject property. The E.B. Bergquist Public Elementary School is located at 725 E. Philadelphia Street. There appear to be two other businesses serving alcohol located within this area. Staff is unaware of any significant adverse affects on the school resulting from the two existing on-sale liquor establishments. The properties are located within 500 feet of each other; however, due to traffic networking and natural barriers, which includes a stream, the uses appear to have adequate separation. The properties to the north, south, east, and west of the subject property are zoned general commercial and light industrial. 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 effects on the surrounding areas.

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

The subject property is surrounded by General Commercial and Light Industrial Zoning Districts for the most part. There are residential areas located within 500 feet of the subject property; however, none of these residential areas are abutting or adjacent to the subject property, and these properties appear to be sufficiently buffered from the proposed On-sale Liquor Establishment. This buffer helps prevent any significant "adverse affects" that the requested Conditional Use Permit may have.

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."*

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There are other uses of a similar nature in the surrounding area; however, these uses are concentrated in the commercial districts and do not appear to cause blight, deterioration, or substantially diminish or impair property values. This concentration does not appear to be undue, and it does not appear that the granting of the conditional use permit will cause deterioration, if approved. 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 significantly alter the nature of the restaurant business.

*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 it appears the submitted site plan is in compliance with the City of Rapid City Municipal Codes. In addition, it does not appear the proposed Conditional Use Permit will generate any additional impacts. 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 applicable section of the Municipal Code. Staff recommends approval of the Conditional Use Permit to allow an On-Sale Liquor Establishment in a General Commercial Zoning District with the stated stipulations.

As of this writing, the receipts from the certified mailings have not been returned. The Conditional Use Permit sign has not been posted on the property. Staff has not received any calls or inquiries regarding this issue at the time of this writing.