

STAFF REPORT

January 22, 2004

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**No. 03UR020 - Conditional Use Permit to allow an On-Sale Liquor Establishment in a General Commercial Zoning District**      **ITEM 36**

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GENERAL INFORMATION:

|                            |  |
|----------------------------|--|
| PETITIONER                 | Henriksen, Inc. for TREA Northgate Bingo   |
| REQUEST                    | <b>No. 03UR020 - Conditional Use Permit to allow an On-Sale Liquor Establishment in a General Commercial Zoning District</b> |
| EXISTING LEGAL DESCRIPTION | Tract A of SW1/4 NE1/4 and NW1/4 SE1/4 located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota      |
| PARCEL ACREAGE             | Approximately 2.0 acres  |
| LOCATION                   | 1981 East Centre Street  |
| EXISTING ZONING            | General Commercial District  |
| SURROUNDING ZONING         |  |
| North:                     | Public District  |
| South:                     | Public District  |
| East:                      | Light Industrial District  |
| West:                      | Light Industrial District  |
| PUBLIC UTILITIES           | City water and sewer   |
| DATE OF APPLICATION        | 12/22/2003   |
| REPORT BY                  | Todd Tucker  |

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:

1. Prior to removal of the existing structure a Demolition Permit must be obtained;
2. Prior to initiation of construction of any signs on the property, a Sign Permit must be obtained;
3. Prior to issuance of a Sign Permit a site plan must be submitted indicating the location of the sign;
4. An amendment to the existing Air Quality Permit must be obtained to cover additional disturbance caused during Phase Three of the project; and,
5. Prior to issuance of a Certificate of Occupancy, a post construction survey of the property shall be performed to verify that the structure is located in accordance with the approved plans.

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#### GENERAL COMMENTS:

The applicant is requesting approval of a Conditional Use Permit to locate an on-sale liquor establishment in conjunction with a bingo hall on the above legally described property. The property is located on the south side of Centre Street near the intersection of Centre Street and East Highway 44. Currently the applicant occupies a 6,350 square foot building on the property. The existing structure is used as an on-sale liquor establishment in conjunction with a bingo hall.

The applicant was issued a building permit for a 14,264 square foot building for the property. The construction project for the new structure will be carried out in three phases. Phase One of the construction project was site grading. This has been completed. Phase Two of the project is the construction of the new structure, this is currently in progress. Phase Three of the project includes the removal of the existing structure and construction of that portion of the parking lot where the existing structure is currently located.

#### 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 of the Rapid City Municipal Code:

*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 foot radius.*

The properties to the north and south of the project are zoned Public Zoning District. The Western Dakota Technical Institute is located directly north of the subject property on the north side of East Highway 44, approximately 150 feet away. Located directly to the south of the subject property is the Star of the West softball complex. The remainder of the adjacent properties are zoned Light Industrial. The proposed on-sale liquor establishment is not a new use for the site. Staff is unaware of any adverse effects currently resulting from the existing on-sale liquor establishment.

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

A small parcel of land zoned Medium Density Residential is located approximately 325 feet to the east of the subject property on the north side of East Highway 44. No other residential areas are located within 500 feet of the proposed site. Staff believes that South Dakota Highway 44 provides an adequate buffer insuring that there is no adverse affect on any residential development within the area.

*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."*

On-sale malt beverages are available at the adjacent softball complex during events. The subject property is currently being used as a bingo hall with on-sale liquor. The existing use has not had any apparent adverse affects on the surrounding properties. No other on-sale liquor

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establishments are located within the area. Staff does not find this request for an on-sale liquor use in conjunction with a bingo hall 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 Section 17.54.030 (E) Criteria for Review.*

There are 12 criteria used in reviewing applications for a Conditional Use Permit. Due consideration was given to all 12; however, only those five listed below have major impacts on this project.

#### Parking:

Staff has reviewed the proposed use with respect to Section 17.50.270 of the Rapid City Municipal Code and notes that the parking plan submitted shows adequate parking, including parking for persons with disabilities. The 14,264 square foot structure requires a minimum of 106 parking spaces. The applicant's site plan identifies 111 parking spaces requiring that a minimum of five spaces be accessible by persons with disabilities. One accessible space must be van accessible. The applicant's parking plan meets the minimum parking requirements established by the Rapid City Parking Regulations.

Staff noted that numerous complaints have been received from the property owner on the north side of Center Street regarding vehicles parking on private property. The location of the new structure as well as the increase in off-street parking provided on site should eliminate any off site parking problems.

#### Landscaping:

Staff has reviewed the proposed use with respect to Section 17.50.300 of the Rapid City Municipal Code and notes that the landscaping plan submitted shows adequate landscaping provided. The site requires a minimum of 71,624 landscaping points. The applicants landscaping plan identifies 71,730 landscaping points provided. The applicant's landscaping plan meets the minimum landscaping requirements established by the Rapid City Municipal Code.

#### Access:

Currently an approximate 28 foot wide paved driveway extending south from Center Street serves as access to the property. An approximate 24 foot wide paved driveway extending south from Center Street is proposed to serve as access to the property. Staff noted that an additional Demolition Permit is required for Phase Three of the construction project. Prior to removal of the existing structure a Demolition Permit must be obtained.

#### Signage:

Staff noted that a Sign Permit must be obtained prior to initiation of construction of any signs on the property. Staff also noted that the submitted site plan does not indicate the proposed location of the sign. Prior to issuance of a Sign Permit a site plan must be submitted indicating the location of the sign.

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Air Quality:

Staff noted that an amendment to the existing Air Quality Permit must be obtained to cover additional disturbance caused during Phase Three of the project.

Structure Location:

Staff noted that the location of the new structure may not be in the location specified on the approved plans. Prior to issuance of a Certificate of Occupancy, a post construction survey of the property must be performed to verify that the structure is located in accordance with the approved plans as per Section 108.1 of the Uniform Building Code. If the post construction survey identifies the structure was not built to the specifications of the approved plans a Major Amendment to this Conditional Use Permit may be required.

The receipts from the certified mailings have been returned, and a sign stating that a Conditional Use Permit has been requested is posted on the property. Staff has not received any comments regarding the proposed use.

Staff has reviewed this project with regard to the criteria in Sections 17.50.185 and 17.54.030 (E) of the Rapid City Municipal Code and finds it to be in compliance with the Codes. Staff is recommending that this item be approved with the above stated stipulations.