

STAFF REPORT
July 8, 2004

No. 04UR007 - Conditional Use Permit to allow an On-Sale Liquor Establishment in a General Commercial Zoning District **ITEM 32**

GENERAL INFORMATION:

PETITIONER	Tom Bradsky and Pat Vidal for Wal-East Development, Inc.
REQUEST	No. 04UR007 - Conditional Use Permit to allow an On-Sale Liquor Establishment in a General Commercial Zoning District
EXISTING LEGAL DESCRIPTION	Lot A of Lot 7 of Lot K-3 Marshall Heights Tract, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.16 acres
LOCATION	1415 North LaCrosse Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District w/PCD
West:	Low Density Residential District / Medium Density Residential District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	06/08/2004
REVIEWED BY	Todd Tucker / Sig Zvejnieks

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 issuance of a Building Permit, the site plan shall be revised to show the required screening fence in accordance with Section 17.18.080 of the Rapid City Municipal Code to minimize any adverse effects to the abutting residential areas;
2. Prior to initiation of construction, a Building Permit shall be obtained, and a Certificate of Occupancy shall be obtained prior to occupancy of the suite;
3. The on-sale liquor establishment shall be operated in conjunction with a full service restaurant;
4. All applicable provisions of the Uniform Fire Codes shall be continually met;
5. The parking plan shall continually comply with all requirements of the Zoning Ordinance;

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6. The landscaping plan shall continually be maintained in a live vegetative state and replaced as necessary; and,
7. The Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years.

GENERAL COMMENTS: The subject property is located on the west side of North LaCrosse Street between East Anamosa Street and Interstate 90. The existing structure currently has four suites. Three suites are currently occupied with two restaurants and a photo processing establishment. The applicant is requesting approval of a Conditional Use Permit to allow an "On-sale liquor establishment" and video lottery at the site in the vacant suite.

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.*

There are no places of religious worship or schools located within a 500 foot radius of the subject property; however, Knollwood Heights Park is located within 500 feet of the subject property. The properties located to the north, south, and east are zoned General Commercial. 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 effect on the surrounding area.

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

The subject property is currently zoned General Commercial. There are single family residences located in a Low Density Residential Zoning District on the lots to the west of the subject property. Section 17.18.080 requires that a an opaque ornamental screening fence not less than five nor more than six feet in height shall be constructed along the adjacent property lines when a general commercial zoning district is adjacent to a residential district. As of this writing, the required screening fence has not been installed. Upon submittal of a Building Permit, the required screening fence must be shown on the site plan in accordance with Section 17.18.080 of the Rapid City Municipal Code to minimize any adverse effects to the abutting 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."*

The proposed on-sale liquor use will be associated with the food service establishment located in the adjacent suite to the north. The provision of on-sale liquor to restaurant patrons as an accompaniment to meals would appear to be consistent with what the City has supported in the past. Currently, there are three other on-sale liquor establishments in

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the immediate area. Staff does not find this request for on-sale liquor use in conjunction with a food service establishment 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 Chapter 17.54.030 (E) Criteria for Review.

Staff has reviewed the proposed use with respect to Chapter 17.18 of the Rapid City Municipal Code and notes that the submitted site plan is in compliance with the Parking and Landscaping requirements. However, as previously indicated, the property is not in compliance with Section 17.18.080 regarding the required screening fence to be located on the west property line.

As of this writing, the Conditional Use Permit sign has been posted on the property. However, the receipts from the required certified mailings have not been returned. Staff will notify the Planning Commission at the July 8, 2004 if this requirement has not been met.