

STAFF REPORT
July 22, 2004

No. 04UR009 - Conditional Use Permit to allow an on-sale liquor establishment in the General Commercial Zoning District **ITEM 43**

GENERAL INFORMATION:

PETITIONER	Kelly Cotton for Kelly's Sports Lounge, Inc.
REQUEST	No. 04UR009 - Conditional Use Permit to allow an on-sale liquor establishment in the General Commercial Zoning District
EXISTING LEGAL DESCRIPTION	Tract 1 of Lot 3, Dow Tract, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .52 acres
LOCATION	825 Jackson Boulevard
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	06/16/2004
REVIEWED BY	Todd Tucker / Sig Zvejnieks

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment in the General Commercial Zoning District be approved with the following stipulations:

1. All applicable provisions of the Uniform Fire Codes shall be continually met;
2. The parking plan shall continually comply with all requirements of the Zoning Ordinance;
3. The landscaping plan shall continually be maintained in a live vegetative state and replaced as necessary;
4. Prior to Planning Commission approval, a sign package shall be submitted for review and approval, and all illegal signs shall be removed from the premises;
5. Prior to issuance of a Building Permit, that portion of the utility easement that will be encroached upon by the proposed construction shall be vacated; and,
6. 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.

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GENERAL COMMENTS: The subject property is located on the north side of Jackson Boulevard between Mountain View Road and West Kansas City Street. In 1976, a Building Permit was issued for the original structure on the subject property. The intent of the original structure was a restaurant. In 1985, a Building Permit was issued to convert the structure into a restaurant and lounge. In 1988 and 1992, Building Permits were issued to make additions to the original structure. All construction and expansions were completed prior to the existing ordinance requiring on-sale liquor establishments to obtain a Conditional Use Permit. The applicant is now proposing to expand the existing structure requiring that the site be brought into compliance with the Zoning Ordinance. The applicant is requesting approval of a Conditional Use Permit to allow an "On-sale liquor establishment" 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 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, schools or parks located within a 500 foot radius of the subject property. The surrounding properties are zoned General Commercial. The subject property is located in an area of existing commercial uses. Staff's review of the proposed on-sale liquor establishment suggests that the proposed expansion 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 no single family residences located in the general vicinity of the subject property.

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."*

Currently, there are three other on-sale liquor establishments located in the immediate area. Staff does not find that the proposed expansion constitutes 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. The applicant is required to provide a minimum of 68 off-street parking stalls. The applicant's site plan shows 27 on-site parking stalls with two of those being handicapped accessible and one of those, being "van accessible". The applicant provides an additional 46 off-street parking through leased parking agreements with surrounding property owners.

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Staff noted that the subject property is not in compliance with the Sign Code. There are excessive banners located on the property which exceed the allowable square footage for wall signs. The allowable square footage for wall signs for the subject property is 170 square feet. Prior to Planning Commission approval, a sign package shall be submitted for review and approval, and the illegal signs shall be removed.

Staff noted that there is an existing utility easement located on the west property line that is in conflict with the proposed addition. Prior to issuance of a Building Permit, that portion of the utility easement that will be encroached upon by the proposed construction shall be vacated.

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 22, 2004 Planning Commission meeting if this requirement has not been met.