

STAFF REPORT
July 22, 2004

No. 04UR012 - Conditional Use Permit to allow an On-Sale Liquor Establishment in a General Commercial Zoning District **ITEM 44**

GENERAL INFORMATION:

PETITIONER	Tom Lehmann for Uncle Tom's Rib Shack
REQUEST	No. 04UR012 - Conditional Use Permit to allow an On-Sale Liquor Establishment in a General Commercial Zoning District
EXISTING LEGAL DESCRIPTION	Lots 13 and 14, Block 7, Schnasse Addition, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .24 Acres
LOCATION	208 East North Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	06/25/2004
REVIEWED BY	Todd Tucker / David L. Johnson

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. The on-sale liquor establishment shall be operated in conjunction with a full service restaurant;
2. All applicable provisions of the Uniform Fire Codes shall be continually met;
3. The parking plan shall continually comply with all requirements of the Zoning Ordinance;
4. The landscaping plan shall continually be maintained in a live vegetative state and replaced as necessary;
5. "Entrance Only" and "Exit Only" signs shall be installed for the existing driveways;
6. The outdoor meat smoker located on the property shall not create an excessive amount of smoke, to ensure that the surrounding residential uses are not adversely impacted by any smoke created by the use; 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.

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GENERAL COMMENTS: The subject property is located on the north side of East North Street between Herman Street and Milwaukee Street. In 1947 a Building Permit was issued for a single family residence on the property. In 1971 a Building Permit was issued for the structure located near East North Street. The original intent of that structure was to be used as a commercial building. In 1992 a Building Permit was issued to convert the commercial structure into a restaurant. Recently a Building Permit was issued for the canopy covering the meat smoker located on the subject property. There is an existing restaurant located on the subject property. The applicant is requesting approval of a Conditional Use Permit to allow an "On-sale liquor establishment" at the site.

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:

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 properties located to the south, west 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 north 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 located adjacent to a residential district. There is currently a five foot high opaque screening fence located along the north property line where it abuts the residential zoning district.

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 on the subject property. 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 two other on-sale liquor establishments in the immediate area, both within the 200 block of East North Street. Staff does not find this request for on-sale

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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, due to the close proximity of the existing structure to the front property line, staff recommends that "Entrance Only" and "Exit Only" signs be installed for the existing driveways.

As previously indicated there is an outdoor meat smoker located on the subject property. Staff noted that the smoke created by the meat smoker is very minimal. Staff recommends that the outdoor meat smoker located on the property not create an excessive amount of smoke, to ensure that the surrounding residential uses are not adversely impacted by any smoke created by the use.

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.