

STAFF REPORT  
September 9, 2004

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**No. 04UR014 - Conditional Use Permit to allow an on-sale liquor establishment in the General Commercial Zoning District**      **ITEM 38**

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GENERAL INFORMATION:

PETITIONER	Colleen Oslund for CEC Entertainment, Inc.
REQUEST	<b>No. 04UR014 - Conditional Use Permit to allow an on-sale liquor establishment in the General Commercial Zoning District</b>
EXISTING LEGAL DESCRIPTION	the West 1/2 of Lot K-1 of Marshall Heights Tract, City of Rapid City, in the Southeast Quarter (SE1/4) of Section Twenty-five (25), Township Two North (T2N), Range Seven East (R7E) of the Black Hills Meridian, excepting therefrom Lots K1-A, K1-B, K1-C, K1-DR, K1-E, K1-FR and Lot K1-G of said Lot K-1, also excepting thereout and therefrom the 60 foot public street right-of-way adjoining said Lot K1-B, as shown on the plat recorded in Book 12 of Plats on Page 213 in the Office of the Register of Deeds, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.375 Acres
LOCATION	30 Knollwood Drive
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Shopping Center-2 District
South:	General Commercial District/Medium Density Residential District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	8/13/2004
REVIEWED BY	Todd Tucker / David L. Johnson

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. 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;

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3. The required five to six foot high ornamental screening fence shall be installed along the entire south property line of the subject property;
4. The parking plan shall continually comply with all requirements of the Zoning Ordinance;
5. The landscaping plan shall continually comply with all provisions of the Zoning Ordinance and be maintained in a live vegetative state and replaced as necessary; 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.

GENERAL COMMENTS: The subject property is located on the north side of Knollwood Drive between North Maple Street and North Haines Avenue. In 2004 a Building Permit was issued for a structure containing offices and a restaurant. The proposed building is located on the same property as the new Karl's furniture and electronics store on Knollwood Drive. The restaurant is a Chuck-E-Cheese's, which primarily serves pizza. The applicant is now proposing to offer on site alcohol sales in the restaurant. The applicant is now 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 as 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 is one place of religious worship and two schools within a 500 foot radius of the subject property. 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 multi-family residences located in a Medium Density Residential Zoning District on the lots to the south 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. The original site plan for the property indicated that an ornamental screening fence would be located along the south property line. The applicant has now requested a variance to wave the requirement to install that fence. That variance request will be heard at the September 7, 2004 Zoning Board of Adjustment meeting.

Staff noted that the need for the fence is relative to the possible adverse impacts an on-sale liquor establishment may have on adjacent residential properties. The City has received complaints from residential property owners located adjacent to similar on-sale liquor

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establishments associated with full service restaurants located on North LaCrosse Street. The complaints were relative to noise, and activities of the patrons. To reduce the possible adverse impacts of the on-sale liquor establishment on the adjacent residential properties staff is recommending that the required five to six foot high ornamental screening fence be installed along the south property line 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."*

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 three other on-sale liquor establishments in the immediate area, all on the north side of Interstate 90. 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, particularly if adequate screening is provided for the adjacent residential land uses.

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.

As of this writing, the required Conditional Use Permit sign has not been posted on the property nor have the receipts from the required certified mailings been returned. Staff will notify the Planning Commission at the September 9, 2004 Planning Commission meeting if these requirements have not been met.

Staff is recommending approval of the Conditional Use Permit to allow an on-sale liquor establishment with the previously stated stipulations.