

STAFF REPORT  
December 9, 2004

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**No. 04UR017 - Conditional Use Permit to allow an on-sale liquor establishment**      **ITEM 61**

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GENERAL INFORMATION:

PETITIONER	CCKT, Inc., D/B/A King of Hearts Casino
REQUEST	<b>No. 04UR017 - Conditional Use Permit to allow an on-sale liquor establishment</b>
EXISTING LEGAL DESCRIPTION	Lots 17 thru 21, Block 15, Green Acres Subdivision, Section 34, T2N, R7E, BHM. Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .36 acres
LOCATION	3030 West Main Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	No Use
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	11/12/2004
REVIEWED BY	Vicki L. Fisher / Curt Huus

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an on-sale liquor (malt beverage) establishment be approved with the following stipulations:

1. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
2. The on-sale liquor establishment shall comply with the International Fire Code;
3. The on-sale liquor establishment shall comply with the International Building Code. In particular, the on-sale liquor establishment shall be sprinklered and a second access door shall be provided. In addition, a separate building permit shall be obtained for the sprinkler system;
4. A minimum of 21 parking spaces shall be provided with two handicap accessible spaces. One of the handicap spaces shall be "van" accessible. In addition, all provisions of the Off-Street Parking Ordinance shall be continually met;
5. A minimum of 11,819 landscaping points shall be provided. In particular, two large deciduous trees shall be located in the Vale Street boulevard and the West Main Street

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- boulevard, respectively. The landscaping plan shall comply with all requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
6. All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Conditional Use Permit. In particular, the eight (8) existing two foot by four foot wall signs and the large banner shall be removed from the building. In addition, a sign permit shall be obtained for any new constructed or placed signs on the property. Off-premise signs and/or temporary signs shall not be allowed;
  7. The on-sale liquor establishment shall not exceed the 1,521 square foot area as shown on the applicant's site plan. Any expansion of the on-sale liquor establishment shall require the review and approval of a Major Amendment to the Conditional Use Permit; and,
  8. The Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by the City Council, or if the use as approved has ceased for a period of two years.

**GENERAL COMMENTS:**

The applicant has submitted a Conditional Use Permit request to allow an on-sale liquor establishment on the above legally described property. The applicant has indicated that the license is described as an on-sale malt beverage and lottery license.

Currently, a 4,056 square foot commercial structure is located on the property. "Thrifty Smoke Shop" is located within the structure as well as a 1,560 square foot storage area. The applicant's site plan identifies that the on-sale liquor establishment will be located in a 1,521 square foot area directly adjacent to "Thrifty Smoke Shop".

**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 along W. Main Street. 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 residences located along the north side of the block; however, all of these properties are also zoned General Commercial District. The existing building is constructed along the north lot line of the property and serves as a buffer to the residence(s) located directly north of the subject

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property. As a part of the Conditional Use Permit review and approval to allow an on-sale liquor establishment on the subject property, staff is recommending that improvements be made to the property to enhance the site which will be beneficial to the existing residential use 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."*

The adjacent "Thrift Smoke House" has an off-sale liquor license. In addition, a convenience store located directly west of the property has an off-sale malt beverage liquor license. There are no existing on-sale liquor establishments located within 500 feet of the subject property. However, the West Main Square Casino is located approximately 550 feet southwest of the subject property. In addition, Shot Gun Willie's and the Uncle Sam's Casino are located approximately 1,250 feet east of the property. The Wolff's Den is located approximately 2,000 feet south of the subject property in the National Guard Camp and also has an on-sale liquor license. As previously noted, none of these facilities are located within 500 feet of the subject property. As such, 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 the following:

Parking: The existing and proposed use(s) on the subject property require a minimum of 21 parking spaces. The applicant has submitted a parking plan providing 26 parking spaces with two of the spaces being handicap accessible. In addition, one of the handicap spaces is "van" accessible. The applicant's parking plan also identifies curb stops along the parking spaces between the subject property and Taco John's located directly east of the property to serve as a barrier between the parking lots. Staff is recommending that the parking area be constructed in compliance with the submitted site plan.

Signage: A sign package has been submitted showing a total of 489.2 square foot area of wall mounted signs along the south, west and east sides of the commercial structure. In addition, the sign package identifies a total of 70 square foot area of ground signage. The Sign Code allows a maximum of 504 square foot area of wall mounted signs and a maximum of 504 square foot area of wall mounted signs. The proposed sign package is in compliance with the City's Sign Code. However, a site inspection identified that eight (8) existing two foot by four foot wall signs and a large banner are located along the east side of the building. Sign permits were not obtained for these signs. Staff is recommending that all signage conform to the design, color and location as shown in the sign package submitted as a part of the Conditional Use Permit. In particular, the eight (8) existing two foot by four foot wall signs and the large banner must be removed from the building. In addition, a sign permit must be obtained for any new constructed or placed signs on the property. Off-premise signs and/or temporary signs are not allowed.

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Landscaping: A minimum of 11,819 landscaping points are required. The applicant's site plan identifies that 12,250 points are being provided. In particular, the landscaping plan identifies two large deciduous trees located in the Vale Street boulevard and the W. Main Street boulevard, respectively. The Beautification Committee reviewed the landscaping plan and supports the placement of the deciduous trees in the boulevards as proposed since there is a lack of landscaping along these two streets within this area. Staff is recommending that the landscaping comply with the type and location of the landscaping plan submitted as a part of the Conditional Use Permit. In addition, all landscaping must be continually maintained in a live vegetative state and replaced as necessary.

Fire and Building Code: Staff is recommending that the on-sale liquor establishment comply with the International Fire Code and the International Building Code. In particular, the on-sale liquor establishment must be sprinklered and a second access door must be provided. In addition, a building permit must be obtained prior to any construction and a Certificate of Occupancy must be obtained prior to occupancy. Please note that a separate building permit must be obtained for the sprinkler system.

As of this writing, the Conditional Use Permit sign has not been posted on the property. In addition, the receipts from the required certified mailings have not been returned. Staff will notify the Planning Commission at the December 9, 2004 Planning Commission meeting if this requirement has not been met.