

STAFF REPORT

June 8, 2006

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**No. 06UR013 - Conditional Use Permit to allow an on-sale liquor establishment      ITEM 40**

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GENERAL INFORMATION:

PETITIONER	Tracy Comp and Mike Johnson for Two Lefties and Ponchos Mexican Grill
REQUEST	<b>No. 06UR013 - Conditional Use Permit to allow an on-sale liquor establishment</b>
EXISTING LEGAL DESCRIPTION	Lot 2, Plaza Subdivision, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 3.626 acres
LOCATION	1301 West Omaha Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Flood Hazard District
South:	Light Industrial District
East:	General Commercial District - Light Industrial District
West:	General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	5/2/2006
REVIEWED BY	Travis Tegethoff / Emily Fisher

RECOMMENDATION:

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

1. A certificate of occupancy shall be obtained prior to occupancy;
2. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;
3. The landscape plan shall continually comply with all requirements of the Zoning Ordinance and the approved landscape plan;
4. All applicable provisions of the International Fire Codes shall be continually met; and,
5. 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 applicant is requesting approval of a Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant. The restaurant is

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currently under construction and is located west of 12<sup>th</sup> Street and south of Omaha Street on the same lot as the Omaha Plaza office and retail center.

On December 4, 2000, City Council approved a Conditional Use Permit for an on-sale liquor establishment with stipulations for the subject property. That Conditional Use Permit expired since the use was not undertaken and completed within two years of approval by City Council.

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:

*1. The request will not "adversely affect" the use of any place used for religious worship, school, park, playground, or similar use within five hundred (500) feet radius.*

There are no places of religious worship, schools, or playgrounds located within a five hundred foot radius of the subject property. Tract 17 of the Rapid City Greenway Tracts is located 100 feet north of the subject property, across Omaha Street. The Rapid Trout sculpture and volleyball courts are located in Tract 17. Currently Omaha Street is a five lane principal arterial street. Staff believes that Omaha Street provides a sufficient buffer between the Greenway Tract and the proposed use. Haley Park is located approximately five hundred feet away from the subject property. Zoning Districts surrounding the subject property include light industrial, commercial and flood hazard. Staff's review of the proposed on-sale liquor establishment finds that, due to its being allowed in conjunction with a full service restaurant, the proposed use should have no adverse effect on the surrounding area.

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

There are no residential zoning districts in the area. Staff does not anticipate that the proposed on-sale liquor use will have a significant negative impact on any residences if conducted in conjunction with a full service restaurant.

*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."*

Staff has noted that there are four other on-sale liquor establishment and one off-sale liquor establishment currently located in the area. The Executive Municipal Golf Course located on the north side of Omaha Street, Happy Jacks Casino and Ichiban located on the east side of 12<sup>th</sup> Street, and The Breakroom located along 11<sup>th</sup> Street have on-sale liquor licenses. The Common Cents located across 12<sup>th</sup> Street has an off-sale liquor license.

Staff does not believe that this proposed use will create an undue concentration of similar uses in this area. Further, since the on-sale liquor establishment is in conjunction with a restaurant, staff does not believe the concentration of on-sale liquor establishments in the area would cause blight, deterioration or diminish land values of the surrounding properties.

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*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 issues:

Building Permits: Staff noted that a building permit has been obtained for this building and a certificate of occupancy shall be obtained prior to occupancy.

Parking: Staff noted the parking plan was approved during the building permit process. Staff also noted that 283 parking spaces are required per Section 17.50.270 of the Rapid City Municipal Code and that 333 parking spaces are provided. The site plan meets all the requirements of Section 17.50.270 of the Rapid City Municipal Code.

Landscaping: Staff noted the landscape plan was approved during the building permit process. Staff noted that 129,535 landscape points are required and that 130,630 landscape points are provided. The landscape plan meets all the requirements of Section 17.50.300 of the Rapid City Municipal Code.

Fire Code: Staff noted that all applicable provisions of the International Fire Code shall be continually met.

Engineering: Staff noted that the site development has been reviewed and approved during the previous building permit submittal.

Notification: As of this writing, the required sign has been posted on the property and the receipts from the certified mailing have been returned

Staff is recommending that the Conditional Use Permit to allow an on-sale liquor establishment in the General Commercial Zoning District be approved with the previously stated stipulations.