

STAFF REPORT

July 6, 2006

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**No. 06UR0017 - Major Amendment to a Conditional Use Permit to ITEM 37  
correct the boundaries of the Conditional Use Permit**

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GENERAL INFORMATION:

PETITIONER City of Rapid City

REQUEST **No. 06UR017 - Major Amendment to a Conditional Use Permit to correct the boundaries of the Conditional Use Permit**

EXISTING

LEGAL DESCRIPTION

A portion of Lot B of Lot 3 of Tract D of the SW1/4 of the SW1/4, Section 5, T1N, R8E, B.H.M., Rapid City, Pennington County, South Dakota. More fully described as follows: Commencing at the southwesterly corner of said Lot B of Lot 3 of Tract D of the SW1/4 of the SW1/4 of Section 5: Thence, N10°21'12"E, a distance of 182.39 feet, to a point on the westerly wall of the existing building, common to the southwesterly corner of the License Area, and the Point of Beginning; Thence, first course: N00°08'01"E, along the westerly edge of the westerly wall of said building, a distance of 29.33 feet, to the northwesterly corner of the License Area; Thence, second course: S89°51'59"E, along the northerly edge of a common wall, a distance of 40.50 feet, to a corner of said License Area; Thence, third course: S45°54'46"E, along the northerly edge of a common wall, a distance of 22.57 feet, to the northeasterly corner of said License Area; Thence, fourth course: S00°08'01"W, along the easterly edge of a common wall, a distance of 9.00 feet, to a corner of said License Area; Thence, fifth course: N89°51'59"W, along the southerly edge of a common wall, a distance of 6.00 feet, to a corner of said License Area; Thence, sixth course: S00°08'01"W, along the easterly edge of a common wall, a distance of 13.00 feet, to the southeasterly corner of said License Area; Thence, seventh course: N89°51'59"W, along the southerly edge of a common wall, a distance of 22.00 feet, to a corner of said License Area; Thence, eighth course: N00°08'01"E, along the westerly edge of a common wall, a distance of 8.33 feet, to a corner of said License Area; Thence, ninth course: N89°51'59"W, along the southerly edge of a common wall, a distance of 28.75 feet, to a point on the westerly wall of the existing building, common to the southwesterly corner of the License Area, and the Point of Beginning

PARCEL ACREAGE

Approximately 0.039 acres

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LOCATION	1624 East St. Patrick Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Light Industrial District
South:	General Commercial District
East:	Light Industrial District
West:	Light Industrial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	6/14/2006
REVIEWED BY	Travis Tegethoff / Bob Dominicak

**RECOMMENDATION:**

Staff recommends that the Major Amendment to a Conditional Use Permit to correct the boundaries of the Conditional Use Permit be approved with the following stipulations:

1. A building permit shall be obtained prior to any construction on the tenant space and a certificate of occupancy shall be obtained prior to occupancy;
2. A sign permit shall be obtained prior to installation of any signage;
3. Any additional signage must meet all Sign Code regulations and will require a Minimal Amendment to the Conditional Use Permit;
4. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;
5. The landscape plan shall continually comply with all requirements of the Zoning Ordinance and the approved landscape plan;
6. All applicable provisions of the International Fire Codes shall be continually met; 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.

**GENERAL COMMENTS:** The subject property is located east of Creek Drive and north of East Saint Patrick Street at 1624 East Saint Patrick Street. A retail building is currently under construction on the subject property. The applicant is requesting approval of a Conditional Use Permit to allow an "on-sale liquor establishment" at the site. The subject property is zoned General Commercial District. The properties north and east of the subject property are zoned Light Industrial District. The properties located south and west of the subject property are zoned General Commercial District.

This application was approved at the April 6, 2006 Planning Commission meeting but it was later determined that the legal description acted on by Planning Commission incorporated the entire commercial development site. Since the legal description of the request as approved by Planning Commission incorporated a larger area than intended by the

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applicant, staff has processed the request with the revised legal description.

STAFF REVIEW: Staff has reviewed this request for a Conditional Use Permit to allow an on-sale liquor establishment as it relates to the applicable provisions of Section 17.54.030 of the Rapid City Municipal Code and has noted the following issues:

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.*

The bike path is located adjacent to the north and east property lines of the subject property. The west edge of the Star of the West Sports Complex is located within 500 feet of the subject property. There are no other places of religious worship, schools or parks located within a 500 foot radius of the subject property. It appears the proposed use will be buffered from the bike path by future development on the subject property and the Star of the West Sports Complex is buffered from the subject property by Rapid Creek. Staff does not find this request for an on-sale liquor use to constitute an adverse affect on these recreational areas.

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 District. The subject property is located adjacent to existing commercial uses. Residential structures are located southwest of the subject property across East Saint Patrick Street. East Saint Patrick Street is a five-lane road that serves as a buffer for the residential areas from the subject property and the proposed use.

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 a video lottery casino located on the subject property. No other on-sale liquor establishments are located in the immediate area. Staff does not find this request for an on-sale liquor use to constitute an undue concentration that 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 issues:

Building Permits: Staff noted that a building permit shall be obtained prior to any construction on the tenant space and a certificate of occupancy shall be obtained prior to occupancy.

Sign Permit: Staff noted that a sign permit shall be obtained prior to installation of any signage. The proposed signage must comply with the Sign Code. A wall sign will be

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located on the west and east side of the tenant space. Future wall signage may be required as additional businesses occupy other portions of the building. Any additional signage must meet all Sign Code regulations and will require a Minimal Amendment to the Conditional Use Permit.

Parking: Staff noted that 89 parking spaces are required per Section 17.50.270 of the Rapid City Municipal Code and that 136 parking spaces are provided. Staff also noted that additional parking may be required if more intense uses are added in the future. The site plan meets all the requirements of Section 17.50.270 of the Rapid City Municipal Code.

Landscaping: Staff noted that 68,866 landscape points are required and that 69,000 landscape points are provided. The landscape plan meets all the requirements of Section 17.50.300 of the Rapid City Municipal Code.

Design Features: The building is a one story masonry structure with earth tone colors. The dumpsters will be screened and will not be visible to the adjacent properties.

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 a previous Building Permit submittal.

Legal Description: Staff noted that the current legal description for the application covers the entire 8.34 acres of the subject property. Staff also noted the revised legal description is for only the portion of the subject property that includes the on-sale liquor establishment. Approval of this request will eliminate the applicant from having to go through the amendment process every time a change occurs on the larger area. Changes or expansions to the portion of the site associated with the on-sale liquor establishment will still be subject to review.

Notification: The green cards from the required notification of surrounding property owners have been returned and the sign stating that a Conditional Use Permit has been requested has been posted on the property.

Staff is recommending that the Major Amendment to a Conditional Use Permit to correct the boundaries of the Conditional Use Permit be approved with the previously stated stipulations.