

STAFF REPORT
August 10, 2006

No. 06UR019 - Conditional Use Permit to allow an on-sale liquor establishment ITEM 56

GENERAL INFORMATION:

PETITIONER	Black Hills Coffee Company
REQUEST	No. 06UR019 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lot E, located in the SW1/4 SW1/4, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.38 acres
LOCATION	5955 South Highway 16
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District (Planned Development Designation)
South:	General Commercial District
East:	General Commercial District (Planned Development Designation)
West:	Office Commercial District (Planned Development Designation)
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	6/30/2006
REVIEWED BY	Karen Bulman / Mary Bosworth

RECOMMENDATION:

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

1. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;
2. The landscape plan shall continually comply with all requirements of the Zoning Ordinance and the approved landscape plan;
3. All applicable provisions of the International Fire Codes shall be continually met;
4. A Building Permit shall be obtained for the fire sprinkler system and all plans shall be stamped by a Registered Professional Engineer and/or Architect per SDCL 36-18A;
5. The on-sale alcohol use will be limited to Suite G and a 380 square foot portion of the adjacent outside patio until 10 pm. No video lottery will be associated with this use. Other permitted general commercial uses are allowed in the balance of the property; and,

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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: This staff report has been revised as of August 1, 2006. All revised and/or added text is shown in bold print. This application was continued at the July 27, 2006 Planning Commission meeting at the applicant's request. 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 currently operating as Black Hills Coffee Company and is open during the day. The hours of operation may be extended until 10 pm in the near future. No video lottery or casino will be associated with this on-sale liquor establishment. The subject property is located west of U.S. Highway 16 and north of Catron Boulevard at 5955 South Highway 16.

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. A dentist office and retail stores are located within this complex. U.S. Highway 16, a four lane principal arterial street on the City's Major Street Plan, is adjacent to the subject property. Zoning Districts surrounding the subject property include General Commercial and Office Commercial Districts. Currently, A Rapid City Fire Station is located west of the complex. The property directly adjacent to the subject property is undeveloped. Further development in the area is located over 1000 feet from the subject property. Sodak Gaming is located north of the subject property and The Ranch is located south of Golden Eagle Drive and south of the subject property. Property across US Highway 16 is undeveloped. Staff's review of the proposed on-sale liquor establishment finds that the proposed use should have no significant adverse effect on the surrounding uses.

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 adjacent to the subject property. West of the subject property and west of the Fire Station is property zoned General Agriculture and has a residential structure. Staff does not anticipate that the proposed on-sale liquor use will have a significant negative impact on any residences.

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."

Currently, there are no on-sale liquor establishments within 1000 feet of the subject property. Staff does not believe that this proposed use will create an undue concentration

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of similar uses in this area. Further, since the on-sale liquor establishment is proposed to operate in conjunction with a restaurant, staff does not believe the concentration of the on-sale liquor establishment in the area would cause blight, deterioration or diminish land values of the surrounding properties.

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:

Land Use: The applicant has indicated that the on-sale alcohol use in conjunction with the restaurant will be located within Suite G (2,380 square feet) of the existing structure and a portion of the adjacent patio (380 square feet). The patio area will be in use during the summer months and will be fenced with a wrought iron fence. The restaurant is currently open during the day, but will be expanded to remain open until 10 pm in the near future. There will be no video lottery associated with this land use. A retail store, a dentist office and other permitted general commercial land uses are allowed in the balance of the building at 5955 S. Highway 16.

Parking: Staff noted the parking plan was approved during the building permit process. Staff also noted that 46 parking spaces are required per Section 17.50.270 of the Rapid City Municipal Code and that 65 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 49,622 landscape points are required and that 54,160 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. If this business is determined to be an assembly occupancy of 50 or more occupant load, then it will be required to be fully fire sprinklered as per the 2003 International Fire Code. The original plans required it to be fully fire sprinklered with an underground fire service line. The suites are separate, therefore not requiring the fire sprinkler system, but the underground fire service line is installed. It is determined that the building shall be fire sprinklered as the occupant load is over 50 in an establishment serving alcohol. Plans for the sprinkler system, stamped by a Registered Professional Engineer or Architect as per SDCL 36-18A, shall be submitted prior to occupancy as an on-sale liquor use and a building permit shall be obtained.

Notification: As of this writing, the required rezoning sign has been posted on the property but the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the **August 10**, 2006 Planning Commission meeting if this requirement has not been met. Staff has received one inquiry but no objections regarding the proposed Conditional Use Permit at the time of this writing.

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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.