

STAFF REPORT
October 26, 2006

No. 06UR020 - Amendment to the Conditional Use Permit to expand an on-sale liquor establishment **ITEM 55**

GENERAL INFORMATION:

PETITIONER	Shiba Investments - Radisson Rapid City
REQUEST	No. 06UR020 - Amendment to the Conditional Use Permit to expand an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lots 25 thru 34, Block 72, the east 450 feet of Tract A, Blocks 71 and 72, Original Townsite of Rapid City, and the vacated alley lying between the east 200 feet of Tract A and Lots 25 thru 34, together with the part of the vacated Rapid City street adjoining Tract A which reverted by law pursuant to a Resolution of Vacation recorded June 5, 1981 in Book 16, Page 4681, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 2.07 acres
LOCATION	445 Mount Rushmore Road
EXISTING ZONING	Central Business District - General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	Central Business District
East:	Central Business District
West:	Central Business District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	9/22/2006
REVIEWED BY	Travis Tegethoff / Mary Bosworth

RECOMMENDATION:

Staff recommends that the Amendment to a Conditional Use Permit to expand an on-sale liquor 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 occupying the proposed area;
2. The outdoor seating shall in no way impede emergency access to the existing structure or hinder emergency access to any firefighting equipment or appliances;
3. All applicable provisions of the International Fire Code shall be continually met;
4. That the outdoor on-sale liquor establishment use and outdoor seating shall be restricted

STAFF REPORT
October 26, 2006

No. 06UR020 - Amendment to the Conditional Use Permit to expand an on-sale liquor establishment **ITEM 55**

- to the fenced area;
5. The hours of operation shall be from 6:00 a.m. until 10:00 p.m.;
 6. That the applicant shall provide security to check identification of patrons entering the fenced area and to ensure that the consumption of alcoholic beverages occurs only within the fenced area; and,
 7. That the Conditional Use Permit approval shall expire if the use is not undertaken and completed within two years of the date of approval by Planning Commission, or if the use as approved has ceased for a period of two years;

GENERAL COMMENTS: The applicant is requesting approval of an Amendment to a Conditional Use Permit to expand an on-sale liquor establishment on the above legally described property. The Radisson Hotel is currently located on the property. The Dublin Square Pub is located within the Radisson Hotel on the south of the building and the Enigma Restaurant is located within the Radisson Hotel on the north side of the building.

On June 20, 2002 a Conditional Use Permit for an On-Sale Liquor Establishment was approved with stipulations by the Planning Commission for the subject property.

The applicant is now proposing to expand the on-sale liquor establishment by constructing a 520 square foot outdoor patio on the north side of the building in conjunction with the existing restaurant.

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 or schools within a 500 foot radius of the subject property. Memorial Park is located approximately 700 feet north; however, the Omaha Street right of way provides a significant buffer between the on-sale liquor establishment and the park.

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

There are no residences located in the general area of the proposed on-sale liquor establishment. The surrounding properties are zoned General Commercial or Central Business District.

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 identified that several on-sale liquor establishments currently exist in close proximity to the subject property. Murphy's Restaurant and Bar (510 9th Street) is located across from the subject property on the south side of Main Street and Teddy's (826 Main) is

STAFF REPORT
October 26, 2006

No. 06UR020 - Amendment to the Conditional Use Permit to expand an on-sale liquor establishment **ITEM 55**

located to the west of the property within the same block. The Firehouse (610 Main), Phatty McGees (321 7th Street), Venue 8 (504 Mount Rushmore Road), The Brass Rail (624 St. Joseph Street), The Oasis (711 Main Street), and the Corn Exchange (727 Main Street) are all located within the downtown area. On July 25, 1975, City Council passed a Resolution establishing a policy on locations of liquor licenses especially in the Central Business District. The resolution stated that the present number of retail liquor establishments was creating a police problem and that they will seriously look at any transfer of an existing license to any other location within the Central Business District or the issuance of any new licenses in the Central Business District. This is an expansion of an existing on-sale liquor establishment and 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 the Section 17.54.030 (E).

Staff has reviewed the proposed use with respect to Chapter 17.16 of the Rapid City Municipal Code and notes the following issues:

Building Permits: Staff noted that a building permit must be obtained prior to any construction and a certificate of occupancy obtained prior to occupancy of the proposed area.

Parking: Staff noted that no off-street parking is required in the Central Business District. However, staff has concerns with the amount of adequate parking provided for the subject property. The addition will eliminate eight parking stalls to the north of the area by converting twelve 90 degree parking stalls to four parallel parking stalls. The revised parking plan meets the minimum required aisle width for parallel parking by providing a 20 foot wide access aisle as per Section 17.50.270 of the Rapid City Municipal Code.

Design Features: Staff noted the 10 foot by 52 foot patio area will be surrounded by a black metal fence to match the existing fence on the south side of the building. The restaurant will be open until 10:00 p.m. Staff also noted that the hotel is located on the south side of the patio area and a parking lot and railroad tracks are located to the north of the patio area so noise and lighting from the outside patio area should not negatively affect the surrounding area. A Historic 11.1 Review was submitted and approved for the subject property on October 6, 2006.

Signage: Staff noted that no sign package was submitted with the application. Any additional signage must meet all Sign Code regulations and will require a Minimal Amendment to the Conditional Use Permit. Staff also noted that the subject property is in a historical district and shall be reviewed and approved by the Historic Sign Review Committee.

Fire Code: Staff noted that all applicable provisions of the International Fire Code shall be continually met. Staff also noted that the outdoor seating shall in no way impede emergency

STAFF REPORT
October 26, 2006

No. 06UR020 - Amendment to the Conditional Use Permit to expand an on-sale liquor establishment **ITEM 55**

access to the existing structure or hinder emergency access to any firefighting equipment or appliances. As previously noted, a 20 foot access aisle will be maintained along the north side of the proposed patio allowing emergency vehicles to access the area.

Police Department: Staff noted that the Police Department did not indicate any violations for the subject property.

As of this writing, the required Conditional Use Permit sign has been posted on the property but the receipts from the required certified mailings have not been returned. Staff will notify the Planning Commission at the October 26, 2006 Planning Commission meeting if this requirement has not been met.

Staff is recommending approval of the Amendment to a Conditional Use Permit to allow its expansion in the Central Business District with the previously stated stipulations.