

STAFF REPORT
December 7, 2006

No. 06UR022 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 50**

GENERAL INFORMATION:

PETITIONER	Frank Morrison
REQUEST	No. 06UR022 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lots 10, 11 and 12 of Block 82 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .16 acres
LOCATION	819 Main Street
EXISTING ZONING	Central Business District
SURROUNDING ZONING	
North:	Central Business District
South:	Central Business District
East:	Central Business District
West:	Central Business District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	11/8/2006
REVIEWED BY	Karen Bulman / Todd Peckosh

RECOMMENDATION:

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

1. A Building Permit shall be obtained prior to any construction and an Occupancy Permit shall be obtained prior to occupancy;
2. Prior to obtaining a building permit, all plans shall be stamped and prepared by a Registered Professional Engineer and/or Architect as per SDCL 36-18A;
3. The structure shall be fully fire sprinklered and fire alarmed/detected and all applicable provisions of the 2003 International Fire Codes shall be continually met;
4. The proposed structure shall conform architecturally to the plans and elevations submitted. Any expansion to the use will require a Major Amendment to the Conditional Use Permit;
5. The on-sale liquor establishment shall be operated in conjunction with a full service restaurant;
6. A Sign Permit shall be obtained prior to any signs being placed on the subject property and shall comply with the Sign Code Regulations. The signs shall meet the site plan as

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- shown and as approved by the Historic Sign Review Committee;
7. No outside patio or open air windows are allowed. Any expansion of the use will require a Major Amendment to a Conditional Use Permit;
 8. The parking lot located west of the building shall be eliminated;
 9. 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 in the Central Business District at 819 Main Street, south of Main Street, east of 9th Street and west of Mt. Rushmore Road. The subject property was the location of a retail business but is currently vacant. The surrounding properties east, west, north and south are also zoned Central Business District. An alcohol establishment is located adjacent to the subject property to the west and an alcohol establishment is located across the street from the subject property. Another alcohol establishment within a hotel is located across the street to the east of the subject property. Two retail structures are located within the block and a parking lot is located east of the subject property at the corner of Mt. Rushmore Road and Main Street.

The applicant is requesting approval of a Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant. The restaurant will have a full kitchen and serve lunch menu items from 11 am to approximately 9 pm. Restaurant tables will be located in the east end of the building. Two pool tables and a dart board will be located in the west end of the building. Video lottery is proposed to be present within this on-sale liquor establishment.

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. There are five similar uses located within a 500 foot radius of the subject property. There have been complaints regarding the noise from the bars in this location, specifically due to the outdoor open air venues. Central Business Zoning Districts surround the subject property. The Police Department does not oppose this application as there is no evidence that this establishment will cause additional adverse affects in the area. Staff's review of the proposed on-sale liquor establishment finds that the proposed use provides a concentration of similar uses within the area but does not appear to have a significant adverse affect 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 as the property is surrounded by Central Business District. There are two residential units located across the

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alley east of the subject property. 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."

In addition to the restaurant, the proposed on-sale liquor use will include video lottery, two pool tables and a dart board. Currently, there are five on-sale liquor establishments within 500 feet of the subject property. In 1975, the City Council passed a resolution establishing a policy on locations of liquor licenses especially in the Central Business District. The resolution stated that the number of liquor establishments was creating a police problem and that the Council would seriously look at any transfer or issuance of any new licenses in the Central Business District. Some of the issues that created this resolution have been eliminated over the years. Staff has some concerns that this proposed use will create a concentration of similar uses in this area. However, the Police Department does not oppose this application as there is no evidence that this establishment will cause additional concerns. In addition, as this on-sale liquor establishment is proposed to operate in conjunction with a restaurant, the effects may be mitigated.

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 will be in conjunction with the restaurant during the hours from 11 am to approximately 9 pm. The applicant plans to apply for a transfer of an on-sale beer and wine license with video lottery. There will be no outside patio or open air windows. Any expansion of the use will require a Major Amendment to a Conditional Use Permit.

Parking: Staff noted that no off-street parking is required in the Central Business District. Currently, a parking lot is located adjacent to the building. As this parking lot does not meet the Parking Code regulations and provide safe access, the parking lot shall be eliminated.

Landscaping: Staff noted that no landscaping is required for the subject property.

Historic Review: The subject property is within the environs of individually nominated historic buildings and as such, the applicant was required to submit building and sign changes to the Historic Preservation Commission and the Historic Sign Review Committee. The applicant has submitted a SDCL 11.1 Review to the Historic Preservation Commission and the application has been approved. The Historic Sign Review Committee has approved a neon wall sign and a pedestrian sign for the subject property.

Fire Code: Staff noted that all applicable provisions of the International Fire Code shall be continually met. The building shall be fully fire sprinklered and fire alarmed/detected as per the 2003 International Fire Code. A revised site plan indicates that the existing ship ladder

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located at the rear of the building will be replaced by an outdoor stairway.

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 December 7, 2006 Planning Commission meeting if this requirement has not been met. Staff has received four objections regarding the proposed Conditional Use Permit at the time of this writing.

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.