

STAFF REPORT  
January 4, 2007

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**No. 06UR025 - Conditional Use Permit to allow an on-sale liquor establishment**      **ITEM 48**

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GENERAL INFORMATION:

PETITIONER	Jim Berger
REQUEST	<b>No. 06UR025 - Conditional Use Permit to allow an on-sale liquor establishment</b>
EXISTING LEGAL DESCRIPTION	Tract A and the south half of the vacated alley adjacent to Tract A of Block 2 of Feigels Subdivision, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .43 acres
LOCATION	1012 East North Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	12/8/2006
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. If occupancy is below 50 seating capacity, the seating shall be fixed and bolted to the floor as proposed by the applicant. If the occupancy exceeds 50 seating capacity, the structure shall be fully fire sprinklered and fire alarmed/detected as per the 2003 International Fire Code or an Exception obtained;
2. All applicable provisions of the 2003 International Fire Codes shall be continually met;
3. 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;
4. Prior to Planning Commission approval, surety shall be posted for the balance of the landscaping requirements not completed. The Landscaping Regulations of the Rapid City Municipal Code shall be continually met and all required landscaping shall be maintained in a live vegetative state;

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5. The on-sale liquor establishment shall be operated only in conjunction with a full service restaurant; 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 subject property is located in the General Commercial Zoning District at 1012 E. North Street, at the northeast corner of E. North Street and Riley Avenue. The subject property is the location of a barbeque restaurant business. The surrounding properties east, west, north and south are also zoned General Commercial District. Three alcohol establishments are located within 500 feet of the subject property along E. North Street to the east and west. A large shopping center, located across E. North Street from the subject property, also has a restaurant with a liquor license.

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 meals from 11 am to approximately 9 pm. The subject property is currently operating as a barbeque 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, schools, or playgrounds located within a five hundred foot radius of the subject property. There are three alcohol establishments located along E. North Street and within a 500 foot radius of the subject property and another restaurant with a liquor license across E. North Street in the shopping center. General Commercial Zoning Districts surround the subject property. Staff's review of the proposed on-sale liquor establishment finds that the proposed use does not appear to have a 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 as the property is surrounded by General Commercial Districts. Portions of a large mobile home park are located north of the subject property and north of a vacant lot. Although the southern boundary of the mobile home park is within the 500 foot radius, the restaurant faces E. North Street and there are no public entrances to the establishment on the north side. 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."*

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Currently, there are three on-sale liquor establishments within 500 feet of the subject property. There is an additional on-sale liquor establishment with a restaurant located across E. North Street within a shopping center. However, as the subject on-sale liquor establishment is proposed to operate in conjunction with a restaurant, the effects may be mitigated. 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 will be in conjunction with a restaurant during the hours from 11 am to approximately 9 pm. The applicant plans to apply for an on-sale beer license. Any expansion of the use will require a Major Amendment to a Conditional Use Permit.

Parking: Staff noted the parking plan was approved during the building permit process. Staff also noted that 47 parking spaces are required per Section 17.50.270 of the Rapid City Municipal Code and that 47 parking spaces are provided and constructed in accordance with the approved plan. The site plan meets all the requirements of Section 17.50.270 of the Rapid City Municipal Code.

Landscaping: Staff noted that 12,231 landscape points are required to meet Section 17.50.300 the Rapid City Municipal Code and the submitted landscape plan indicates 20,064 landscape points are to be provided. However, the plant material in the landscaping island needs to be replanted. Prior to Planning Commission approval, surety shall be posted to complete the landscaping when weather permits. The requirements of Section 17.50.300 of the Rapid City Municipal Code shall be continually met and all required landscaping shall be maintained in a live vegetative state.

Fire Code: The current site plan indicates that the seating capacity will be for 46 persons. The building owner has indicated that plans are to have fixed seating bolted to the floor. If the seating capacity will be 50 or more, the building shall be fully fire sprinklered and fire alarmed/detected as per the 2003 International Fire Code. 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. Staff noted that all applicable provisions of the International Fire Code shall be continually met.

Notification: As of this writing, the required rezoning sign has not been posted on the property and the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the January 4, 2007 Planning Commission meeting if these requirements have not been met. Staff has not received any comments or 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.