

STAFF REPORT
April 26, 2007

No. 07UR004 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 38**

GENERAL INFORMATION:

PETITIONER	At Tatiana's Inc.
REQUEST	No. 07UR004 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lot 3 of Block 2 of Feigels Subdivision, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.41 acres
LOCATION	1118 E North Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Medium Density Residential District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	Public Water and Sewer
DATE OF APPLICATION	3/9/2007
REVIEWED BY	Jonathan Smith / 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 landscape plan shall continually comply with all requirements of the Zoning Ordinance and the approved landscape plan;**
2. **The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;**
3. Prior to the installation of any signs on the subject property the applicant shall obtain a Sign Permit. Any additional signage in the future will require a Major Amendment to the Conditional Use Permit;
4. 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;
5. The on-sale liquor establishment shall be operated in conjunction with a full service restaurant;

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6. The on-sale liquor establishment shall have hours of operation from 11:30 am to 10:30 pm; and
7. The on-sale liquor establishment shall not have any outside service. Any outside service in the future shall require a Major Amendment to the Conditional Use Permit.

GENERAL COMMENTS:

This item was continued at the April 5, 2007 Planning Commission meeting to allow the applicant to submit additional information. This staff report has been revised as of April 17, 2007. All revised and/or added text is shown in bold print.

On April 17, 2007 the applicant submitted a revised site plan and a revised landscape plan drawn to scale. The revised site plan identifies the vacant structure located on the subject property to be 6,245 square feet in area.

The applicant is requesting a Conditional Use Permit to allow for an on-sale liquor establishment at 1118 East North Street. Current zoning of the subject property is General Commercial District. Currently a 7504 square feet vacant structure is located on the subject property. The applicant is requesting approval of a Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant. In particular the applicant wishes to serve beer and wine on site, and provide off-sale service of wine and vodka. Proposed hours of operation are from 11:30 am to 10:00 pm. Currently no outside service is proposed. Any outside service in the future will require a Major Amendment to the Conditional Use Permit.

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 for religious worship, school, park, playground, or similar use within a five hundred foot radius.*

There are no places of religious worship, schools, playgrounds, parks, or areas of similar use located within 500 feet. Staff does not find that this request for an on-sale liquor use to have an adverse effect on any place of religious worship, school, playground, park, or areas of similar use.

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

The subject property abuts residential property on the northern boundary. The subject property is also located in close proximity to a single family residential structure on the eastern boundary. A driveway currently separates the subject property and the lot that the single family residence on the eastern boundary lies on. Currently no landscape buffering, or buffer of land use exists between the proposed commercial use and the existing residential use. Staff does not find the subject property to have sufficient buffering between the proposed use of the property and the existing residential use within the area. Staff recommends that evergreen plantings be placed

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along the northern boundary where the subject property abuts residential property.

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 an on-sale liquor establishment known as "Uncle Sam's Casino" located at 1122 East North Street abuts the subject property. Staff finds that the location of this casino does not constitute an undue concentration of similar uses in the area because the proposed use is on-sale liquor in conjunction with a restaurant service and not an additional video lottery use. In addition the Rapid City Police Department finds no negative activity in this area and recommends approval of the Conditional Use Permit to allow on-sale liquor within a full service restaurant use.

4. *The proposed use has been reviewed under Chapter 17.54.030 (E) Criteria for Review.*

Land Use:

On April 17, 2007 the applicant submitted a landscape plan that identifies 22 evergreen trees placed along the northern boundary where the subject property abuts residential property. Staff finds that the evergreen landscape buffer is adequate.

The applicant is proposing on-sale liquor use in conjunction with a restaurant. The subject property is zoned General Commercial District and abuts a principal arterial street. Similar commercial uses exist in the area. However the subject property abuts residential property. Staff recommends that adequate landscaping be provided to buffer the commercial and residential use.

Parking:

On April 17, 2007 the applicant submitted a revised site plan drawn to scale by a professional draftsman. The revised site plan identifies the structure to be 6,245 square feet in floor area. A restaurant use requires a ratio of 11 spaces per 1,000 square feet of gross floor area. Sixty-three off-street parking spaces are required for a restaurant use, four of which are required to be handicap accessible parking spaces. The applicant's revised site plan identifies 80 parking spaces, four of which are handicap accessible parking spaces, with one of the four being a van accessible handicap parking space. Staff finds the applicant's parking plan to be adequate.

The applicant has provided a site plan identifying 82 existing parking spaces. Table 17.50.270 D outlines parking requirements based on gross square footage of the subject structure. The applicant has provided information that the existing structure measures 7504 square feet in floor area. A restaurant use requires a ratio of 11 spaces per 1000 square feet of gross floor area. Eighty-three parking spaces are required for restaurant use. Of the 83 required parking spaces four are required to be handicap accessible parking spaces. The applicant's site plan does not identify any handicap accessible parking spaces. Staff recommends that prior to Planning Commission approval that the applicant submits for review and approval a revised site plan identifying the required parking spaces, and four handicap accessible parking spaces, one of which being van accessible.

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Landscaping:

On April 17, 2007 the applicant submitted a landscape plan and a site plan drawn to scale. Staff has noted that 54,627 landscape points are required to meet Section 17.50.300 of the Rapid City Municipal Code. In addition Staff is requiring evergreen plantings placed along the northern boundary of the property where the commercial use abuts residential property. The applicant's landscape plan identifies 56,200 landscape points which exceeds the minimal standards set forth by Section 17.50.300 of the Rapid City Municipal Code. In addition the applicant's landscape plan identifies 22 evergreen trees placed along the northern property line where the subject commercial property abuts residential property. Staff finds the applicant's landscape plan to be adequate.

Staff has noted that 44,647 points are required to meet Section 17.50.300 of the Rapid City Municipal Code. At the time of this writing the applicant has not submitted a landscaping plan for review and approval. The requirements of Section 17.50.300 states that all required landscaping shall be maintained in a live vegetative state. Staff recommends that prior to approval by Planning Commission that the applicant submit for review and approval a landscaping plan that meets the required points, and identifies evergreen plantings placed along the northern boundary of the property where the commercial use abuts residential property.

Signage:

On April 9, 2007 the applicant submitted a sign package. The proposed sign package identifies the use of an existing sign pole. The applicant has submitted a sign face that measures 176 square feet in area placed upon the existing pole that measures 45 feet in height. The applicant's sign package meets the standards set forth in section 15.28 of the Rapid City Municipal Code. Prior to the installation of any signs, the applicant shall obtain a sign permit. Any additional signage in the future shall require a Major Amendment to the Conditional Use Permit.

At the time of this writing the applicant has not submitted any sign plans. However the applicant has acknowledged that future signage will consist of the use of an existing pole sign on the premise. Prior to Planning Commission approval a complete sign package shall be submitted for review and approval. The applicant is allowed a maximum square footage of 248 square feet of signage, with a maximum height of 45 feet on the existing sign pole. Any additional signage must meet all Sign Code requirements and will require a Major Amendment to the Conditional Use Permit. Prior to installation of any signs on the subject property the applicant is required to obtain a Sign Permit.

Fire Code: Staff noted that all applicable provisions of the International Fire Code shall be continually met. The structure as shown does require a fire sprinkler system, as well as alarm and detection devices.

Notification:

As of this writing the required receipts of the certified mailings have not been returned to the Growth Management Department. Staff will notify the Planning Commission at the April 5, 2007 meeting if these requirements have not been met. Staff has not received any comments or objections regarding this Conditional Use Permit at the time of this writing. The required sign has

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been posted on the subject property.