

STAFF REPORT
April 10, 2008

No. 08UR001 - Conditional Use Permit to allow an on-sale liquor establishment in the General Commercial Zoning District **ITEM 46**

GENERAL INFORMATION:

APPLICANT/AGENT	Black Hills Coffee Company
PROPERTY OWNER	Jed's Limited Partnership
REQUEST	No. 08UR001 - Conditional Use Permit to allow on-sale liquor establishment in the General Commercial Zoning District
EXISTING LEGAL DESCRIPTION	Lot E, Suite G of 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, Suite G
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District (Planned Commercial Development)
South:	General Commercial District
East:	General Commercial District (Planned Commercial Development)
West:	Office Commercial District / Public District
PUBLIC UTILITIES	City Water/Sewer
DATE OF APPLICATION	3/14/2008
REVIEWED BY	Jared Ball / Karley Halsted

RECOMMENDATION:

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

1. A minimum of 46 parking spaces shall be provided with two of the spaces being handicap accessible. In addition, one of the handicap spaces shall be "Van" accessible;
2. A minimum of 49,622 landscape points shall be provided. In addition, a minimum of one planter island shall be provided within the parking lot. The planter island shall contain a minimum of one hundred square feet, and provide a minimum of one tree with shrubs, groundcover and/or mulch covering at the base. The landscaping shall be planted in compliance with the approved landscaping plan and shall comply with all approved requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary. Any change in the

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- approved landscape plan shall require a Major Amendment to the Planned Commercial Development;
3. All applicable provisions of the International Fire Codes shall be continually met;
 4. The on-sale alcohol use will be limited to Suite G and a 380 square foot portion of the adjacent outside patio until 10:00 P.M. with the exception of special events which will end no later than 12 midnight. No video lottery will be associated with this use. Other permitted general commercial uses are allowed in the balance of the property; 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; and,
 7. Prior to Planning Commission approval, the applicant shall submit elevations for the proposed fence showing the size of the fence and the material to be used in the construction of the fence.

GENERAL COMMENTS: 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 10:00 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 1,000 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. The property located west of the Fire Station and west of this property is currently zoned General Agriculture District. A residential structure is currently located on the property. Staff does

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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 1,000 feet of the subject property. Staff does not believe that this proposed use will create an undue concentration 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 noted 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 and wood fence. The restaurant is currently open during the day, but will be expanded to remain open until 10:00 pm in the near future. The restaurant will occasionally be open no later than 12 midnight during special events. 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 and two ADA spaces are required per Section 17.50.270 of the Rapid City Municipal Code and that 65 parking spaces and 4 ADA spaces are provided. The site plan meets all the requirements of Section 17.50.270 of the Rapid City Municipal Code. Staff recommends that a minimum of 46 parking spaces be provided with two of the spaces being handicap accessible. In addition, one of the handicap spaces must be "Van" accessible.

Landscaping: Staff noted the landscape plan was approved during the building permit process. Staff noted that 49,622 landscape points and one planter island are required and that 54,160 landscape points and 2 planter islands are provided. The landscape plan meets all the requirements of Section 17.50.300 of the Rapid City Municipal Code. Staff recommends that a minimum of 49,622 landscape points be provided. In addition, a minimum of one planter island must be provided within the parking lot. The planter island must contain a minimum of one hundred square feet, and provide a minimum of one tree with shrubs, groundcover and/or mulch covering at the base. The landscaping must be planted in compliance with the approved landscaping plan and shall comply with all approved requirements of the Zoning Ordinance. In addition, all landscaping must be

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continually maintained in a live vegetative state and replaced as necessary. Any change in the approved landscape plan will require a Major Amendment to the Planned Commercial Development.

Fire Code: Staff noted that all applicable provisions of the International Fire Code will be continually met. It is determined that the building will be required to be fire sprinklered as the occupant load is over 50 in an establishment serving alcohol per the 2003 International Fire Code. The applicant and the Fire Department have worked out an agreement that will allow the business three years to install the required sprinkler system. Staff recommends that all applicable provisions of the International Fire Codes be continually met.

Notification: As of this writing, the required Conditional Use Permit sign has been posted on the property and the receipts from the certified mailing have been returned.

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.