

STAFF REPORT
May 8, 2008

No. 07UR011 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 39**

GENERAL INFORMATION:

APPLICANT	Laura A. Hawkins
AGENT	Maple Avenue Development, LLC
PROPERTY OWNER	Maple Avenue Development, LLC
REQUEST	No. 07UR011 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	A portion of the unplatted balance of the NW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Beginning at the southeast corner of Lot 1 of LJS Subdivision, located in the NW1/4 NW1/4, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota as shown on the plat filed September 9, 1999 and recorded in Book 29 of Plats on Page 86 of the office of the Register of Deeds, said corner also being located on the north edge of Maple Avenue right-of-way; thence, northerly along the east line of said Lot 1 of LJS Subdivision, N00°07'31"E, a distance of 250.42 feet more or less; thence, S74°21'24"E, a distance of 200.00 feet more or less; thence, S10°46'22"E, a distance of 145.00 feet more or less; thence, S08°59'42"E, a distance of 55.00 feet more or less to a point on the north line of said Maple Avenue right-of-way; thence, westerly along the north line of said Maple Avenue right-of-way, N89°55'48"W, a distance of 228.84 feet more or less, to the point of beginning
PARCEL ACREAGE	Approximately 1.1 acres
LOCATION	2310 North Maple Avenue
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commerical District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City Water and Sewer

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DATE OF APPLICATION 9/6/2007

REVIEWED BY Jonathan Smith / Mary Bosworth / **Vicki L. Fisher**

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be **denied without prejudice at the applicant's request.**

GENERAL COMMENTS:

(Update April 25, 2008. All revised and/or added text is shown in bold.) This item was continued at the April 24, 2008 Planning Commission meeting to allow the applicant to submit a revised parking plan in compliance with the Parking Regulations. On April 24, 2008, the applicant requested that this item be denied without prejudice. As such, staff is recommending that the Conditional Use Permit request be denied without prejudice at the applicant's request.

(Update April 10, 2008. All revised and/or added text is shown in bold.) This item was continued at the April 10, 2008 Planning Commission meeting to allow the applicant to submit a revised parking plan in compliance with the Parking Regulations. As of this writing, the revised parking plan has not been submitted for review and approval. As such, staff is recommending that this item be continued to the May 8, 2008 Planning Commission meeting to allow the applicant to submit the information.

(Update March 31, 2008. All revised and/or added text is shown in bold.) The property owner has indicated that an updated site plan identifying additional off-street parking would be forthcoming. As of this writing, an updated site plan has not been submitted for review and approval. Staff recommends this item be continued to the April 24, 2008 Planning Commission meeting to allow the applicant time to submit and updated site plan identifying additional off-street parking.

(Update March 16, 2008. All revised and/or added text is shown in bold. The applicant has submitted a building permit application identifying additional restrooms in the building. The property owner has indicated that a site plan identifying additional off-street parking will be submitted for review and approval. As of this writing, a revised site plan identifying the additional parking has not been submitted for review and approval.

In addition, plans prepared and stamped by a licensed architect identifying the building meets the standards for type "A" occupancy have not been submitted for review and approval. The applicant is currently occupying the building without a building permit and the required Certificate of Occupancy.

Staff recommends that this item be continued to the April 10, 2008 Planning Commission meeting to allow the applicant to submit a revised site plan identifying additional off-street parking, and plans prepared by a licensed architect identifying the building meets the standards for type "A" occupancy. In addition, upon approval of the Conditional Use Permit,

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the applicant must obtain a building permit and a Certificate of Occupancy.

(Update February 25, 2008. All revised text is shown in bold). This item was continued at the February 21, 2008 Planning Commission at the request of the applicant. The property owner has indicated that he would be submitting a plan identifying additional parking. As of this writing no new information has been submitted for review and approval. Staff recommends that this item be continued to the March 27, 2008 Planning Commission meeting to allow the applicant time to submit a site plan identifying additional parking.

(Update February 12, 2008. All revised text is shown in bold). This item was continued at the February 7, 2008 Planning Commission meeting. Staff has noted that there are building code issues associated with the property and that the applicant is currently occupying the building. The prior use of the building was retail, which is classified as a type "M" occupancy by the International Building Code. The existing use as a "pool hall" is classified as a type "A" occupancy by the International Building Code. Staff has noted that a change in use/occupancy from type "M" to type "A" for a structure greater than 4,000 square feet requires that a licensed architect prepare plans for review and approval identifying that the building meets the standards for type "A" occupancy. As of this writing, plans have not been submitted to the Growth Management Department for review and approval. In addition, staff has noted that the applicant is currently occupying the building without a building permit and the required Certificate of Occupancy. Staff recommends that the applicant submit for review and approval plans prepared by a licensed architect identifying that the building meets the standards for a type "A" occupancy as defined by the International Building Code. In addition, staff recommends that the applicant obtain a building permit and a Certificate of Occupancy.

On February 12, 2008, the applicant and the property owner met with staff to discuss parking alternatives, and potential building code violations. During the discussion, staff recommended several alternatives to provide additional parking. Also discussed were potential building code issues that need to be addressed. The applicant has requested that this item be continued to the March 6, 2008 Planning Commission meeting to allow the applicant and property owner time to further discuss alternative options to provide additional on-site and/or off-site parking, and to allow the applicant time to apply for a building permit.

(Update January 29, 2008. All revised text is shown in bold). On January 29, 2008 the applicant requested that this item be continued to the February 21, 2008 Planning Commission meeting. Staff recommends that this item be continued to the February 21, 2008 Planning Commission meeting.

(Update January 15, 2007. All revised text is shown in bold). On January 15, 2007 the Zoning Board of Adjustment denied without prejudice the applicant's request for a parking Variance to allow 54 off-street parking spaces in lieu of the required 71 off-street parking spaces and the request to allow a 25 foot drive aisle in lieu of the required 26 feet. The applicant has requested that this item be continued to the February 7, 2008 Planning Commission meeting to allow the applicant time to address the off-street parking requirements.

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(Update December 12, 2007. All revised text is shown in bold). The applicant's associated Variance Request for a reduction of parking was continued to the January 15, 2007 Zoning Board of Adjustment meeting. Staff recommends that this item be continued to the January 24, 2008 Planning Commission to allow the applicant's parking variance request to be heard by the Zoning Board of Adjustment.

(Update November 28, 2007. All revised text is shown in bold). The applicant's Variance Request hearing before the Zoning Board of Adjustment is scheduled for December 4, 2007. Staff will provide a recommendation to the Planning Commission on December 6, 2007 based on the outcome of the applicant's Variance Request hearing.

(Update October 29, 2007. All revised text is shown in bold). On October 29, 2007 the applicant submitted an updated site plan identifying 63 off-street parking spaces including four handicap accessible spaces, and two van accessible spaces. Staff has noted that the applicant is required to provide 71 off-street parking spaces. Currently the applicant is providing 63 off-street parking spaces, eight short of the minimum requirement. Staff has noted that the applicant is requesting a Variance to reduce the minimum number of off-street parking spaces from the Zoning Board of Adjustment. The variance is scheduled for consideration at the December 4, 2007 Zoning Board of Adjustment.

Staff has noted that the applicant has submitted a site plan identifying the water service lines. This information has been reviewed and complies with all applicable City requirements. Staff is recommending that the Conditional Use Permit to allow an on-sale liquor establishment in the General Commercial Zoning District be continued to the December 6, 2007 Planning Commission meeting to allow the Zoning Board of Adjustment to consider the variance request.

(Update October 15, 2007. All revised text is shown in bold). On October 15, 2007 the applicant submitted an updated site plan identifying 41 off-street parking spaces, four of which are handicap accessible spaces, and two of which are van accessible. The applicant has submitted a floor plan identifying 2847 square feet of storage, which requires one off - street parking space, with the remainder of the building (6,954 square feet) being used as a bar/ tavern requiring 70 off-street parking spaces. Staff has noted that the applicant is currently 30 off-street parking spaces short of the required 71 off-street parking spaces.

As of this writing the applicant has not submitted an updated site plan identifying water service lines. Staff recommends that this item be continued to the November 8, 2007 Planning Commission meeting to allow the applicant time to submit an updated site plan identifying the required off-street parking or obtain a variance, and identifying the water service lines.

The applicant is requesting a Conditional Use Permit to allow an on-sale liquor establishment. The property is located at 2310 North Maple Avenue. Currently a 10,000 square foot building is located on the property. Current zoning of the property is General Commercial District. The applicant is proposing to open a business known as "Raxx

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Billiards” in the structure.

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 does not abut residential property. The closest residential property lies 1329 feet north of the property and is separated by vacant land zoned General Commercial District. A commercial structure is located on the property abutting on the western boundary which is also zoned General Commercial District. Property abutting north and east of the structure is currently vacant and zoned General Commercial District. North Maple Avenue abuts on the southern boundary and property lying south of North Maple is currently zoned Shopping Center II District with the abutting lot currently being vacant and void of structural development. Staff does not find that residential areas within the vicinity of the property will be adversely affected by the applicant’s request.

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 noted that the closest on-sale liquor establishments are TGI Friday’s located at 2321 North LaCrosse Street, and Diamond Dave’s located in Rushmore Mall (2200 North Maple Street). These establishments are full service restaurants with accessory on-sale liquor sales. In addition each of these establishments is located over 1000 feet from the property. Staff finds that the proposed use will not create an undue concentration of similar uses.

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

PARKING:

The applicant has submitted a site plan as part of this application identifying 35 parking spaces, two of which are van accessible handicap spaces. The proposed use is classified by Section 17.50.270 as a Bar/Tavern, which requires 10 parking spaces per 1000 square feet of gross floor area for a total of 100 off-street parking spaces. Four of the required off-street parking spaces are required to be handicap accessible spaces, with one of the

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handicap accessible spaces being van accessible. The submitted site plan does not meet the minimum requirements of Section 17.50.270 of the Rapid City Municipal Code. Staff recommends that the applicant revise the site plan to identify 65 additional parking spaces, two of which shall be additional handicap accessible spaces.

LANDSCAPING:

Staff has noted that the applicant is required to have 36,730 landscape points. The applicant has submitted a landscaping plan identifying 37,930 landscape points consisting of large trees, medium trees, small trees, and an area that is planted in grass. Staff has noted that the submitted landscaping plan meets the requirements of Section 17.50.300 of the Rapid City Municipal Code.

DESIGN FEATURES:

The building currently located on this site is a one story metal building. The front façade of the building consists of a parapet wall, columns, and metal awnings. Much of the finish on the front façade is Exterior Insulation Finishing System (synthetic stucco) with metal awnings. Colors of the front façade include earth tone browns and green. The remaining elevations of the building are metal sheeting that is painted white with green accents. Staff has noted that the applicant does not plan to alter the existing elevations.

SIGNAGE:

The applicant has submitted one proposed wall sign. The proposed sign is an internal illuminated sign that will be placed above the front entrance. The proposed sign measures 43 square feet in size. Staff has noted that the proposed signage complies with the Sign Code, however prior to installation of the sign the applicant is required to obtain a Sign Permit. Any additional signage must meet all Sign Code requirements and will require a Major Amendment to the Conditional Use Permit.

WATER SERVICE & FIRE CODE:

Staff has noted that the applicant is required to submit water service information demonstrating that adequate fire and domestic fire flows are provided to the building. Staff has noted that a fire sprinkling system was recently installed within the building and has passed inspection by the Rapid City Fire Department. Staff recommends that the applicant revise the site plan to identify all water service lines to the building. In addition the size of these water service lines shall be identified as well.

NOTIFICATION:

The proper sign has been placed on the property. In addition the green cards and white slips have been returned.