

STAFF REPORT
July 10, 2008

No. 08UR004 - Conditional Use Permit to allow an on-sale liquor establishment

ITEM 64

GENERAL INFORMATION:

APPLICANT/AGENT	Mark Kostenbauer for World Class Golf, Inc.
PROPERTY OWNER	Nancy Bradsky
REQUEST	No. 08UR004 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lots 12 and 13 of Block 1 of Rapid River Subdivision, Section 3, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.40 acres
LOCATION	2130 Jackson Boulevard
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	Low Density Residential District
PUBLIC UTILITIES	City Water/Sewer
DATE OF APPLICATION	4/25/2008
REVIEWED BY	Jared Ball / Karley Halsted

RECOMMENDATION:

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

1. All provisions of the applicable International Fire Code shall be continually met;
2. A minimum of 15,100 landscaping points shall be provided. The landscaping plan shall comply with all requirements of the Zoning Ordinance and the approved landscaping plan. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
3. A minimum of 23 parking spaces shall be provided. One of the spaces shall be handicap "Van" accessible. In addition, all provisions of the Off-Street Parking Ordinance shall be continually met;
4. The applicant shall obtain a building permit prior to any construction and the applicant shall obtain a sign permit prior to the installation of any signs;
5. Prior to occupancy, the applicant must obtain a certificate of occupancy;
6. All outdoor lighting shall be reflected within the property boundaries so as to not shine

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- onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind;
7. The on-sale liquor establishment shall be for on-sale beer beverages only. Any change in use shall require a Major Amendment to the Conditional Use Permit;
 8. 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: (Update: July 1, 2008. All revised and/or added text is shown in bold.) This item was continued at the May 22, 2008 Planning Commission meeting because not all of the stipulations of approval had been met. As of this writing all of the additional required information has been submitted for review and approval. As such, staff recommends that the Conditional Use to allow on-sale liquor establishment be approved with stipulations. The applicant has submitted a Conditional Use Permit to allow an on-sale liquor establishment in a General Commercial Zoning District. Section 17.18.030 of the Rapid City Municipal Code allows on-sale liquor establishments as a Conditional Use. The property is located at 2130 Jackson Boulevard.

Currently, a portion of a strip mall is located on the property. The applicant has submitted a plan indicating that the 2,400 square foot building located on this property will be used as an indoor golf facility with malt beverage sales pending approval of the Conditional Use Permit. The property to the north is zoned General Commercial and is currently being used as a credit center. The properties to the north-west are zoned Low Density Residential and are currently being used as single family dwellings. The properties to the south are zoned General Commercial and are currently being used as an insurance business and a Super Lube. The property to the east is zoned General Commercial and is being used as a credit center. The properties to the immediate west are zoned General Commercial and are being used as office buildings, a casino, and a campaign center.

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 500 foot radius of the subject property. An area of office spaces, a Super Lube station, a video lottery and a residential neighborhood surround the property. Jackson Boulevard, 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 Low Density Residential. 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.*

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The property to the north-west of the strip mall building is zoned Low Density Residential and consists entirely of residential land use. A grade separation provides some buffering between the residential land area and the mini-mall. Additionally, when the building permit was issued for this mall in 1993 it was noted that a five to six foot tall opaque ornamental screening fence was required along the rear lot line as it abuts the residential district. Staff is recommending that this fence be installed prior to the initiation of the proposed use. The remaining adjacent properties are zoned General Commercial. Staff does not anticipate that the proposed on-sale liquor use will have a significant negative impact on any residences. On May 20, 2008 the applicant brought in pictures of the existing six foot high privacy fence located on the rear lot line of the 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, there is one on-sale liquor establishment 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 an indoor golf facility, 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:

Landscaping: A landscaping plan has not been submitted. Prior to Planning Commission approval the applicant must submit a landscaping plan showing the required 15,100 landscape points for this project. The landscaping must be planted in compliance with the approved landscaping plan and must 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. On May 20, 2008 the applicant submitted the required landscaping plan showing the required number of landscaping points.

Parking: The parking plan that was submitted for this project identifies 23 off-street parking spaces. The total square footage for the building is 3,254 square feet. The applicant is proposing to occupy 2,400 square feet of the building. The Rapid City Municipal Code requires 10 parking spaces per 1,000 square feet for on-sale liquor establishments. The remaining 854 square feet of commercial office space will require four parking spaces. A total of 28 parking spaces are required for the site. As such, prior to Planning Commission approval of the Conditional Use Permit the applicant must revise the site plan to show a minimum of 28 parking spaces with two of the spaces being handicap accessible. In addition the handicap spaces must be "van" accessible or a variance from the Zoning Board of Adjustments must be obtained to reduce the parking requirement from 28 to 25. **On July 1, 2008 the applicant obtained a variance to the parking regulations to allow 25 parking stalls in lieu of 28.**

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Fire Code: Staff noted that all applicable provisions of the 2003 International Fire Code must be continually met.

Permits: The applicant must obtain a building permit prior to any construction. The applicant must receive a certificate of occupancy prior to occupying the building and the applicant must receive a sign permit prior to the installation of any signs.

Staff recommends that the Conditional Use to allow on-sale liquor establishment be approved with the above mentioned stipulations.