

STAFF REPORT
March 5, 2009

No. 09UR003 - Major Amendment to a Conditional Use Permit for an on-sale liquor establishment ITEM 35

GENERAL INFORMATION:

APPLICANT/AGENT	Coco Palace
PROPERTY OWNER	Coco Palace
REQUEST	No. 09UR003 - Major Amendment to a Conditional Use Permit for an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lot 1 of Lot K2-C of Marshall Heights Tract, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.32 acres
LOCATION	1900 North Maple Avenue
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Shopping Center-2 District
South:	Medium Density Residential District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	1/23/2009
REVIEWED BY	Travis Tegethoff / Mary Bosworth

RECOMMENDATION:

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

- 1. The on-sale liquor establishment shall be operated in conjunction with a full service restaurant;**
- 2. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 3. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;**
- 4. The landscaping shall continually comply with all requirements of the Zoning Ordinance and the approved landscape plan;**
- 5. All applicable provisions of the International Fire Code shall be continually met; and,**
- 6. The Major Amendment to a Conditional Use Permit shall expire if the use is not**

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undertaken 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, February 25, 2009. All revised and/or added text is shown in bold print.) This item was continued to the March 5, 2009 Planning Commission meeting to allow the applicant to submit the required information. On February 24, 2009, the applicant submitted a revised site plan and structural elevations in compliance with the Rapid City Municipal Code. As such, staff recommends that this item be approved with the above noted stipulations.

The applicant has submitted a Major Amendment to a Conditional Use Permit to construct a 12 foot by 30 foot deck on the north side of the existing restaurant. The property is located north of Knollwood Avenue and east of North Maple Avenue.

On February 4, 2004 City Council approved a Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a full service restaurant with the following stipulations:

Fire Department Recommendations:

1. Prior to issuance of a Building Permit, a revised site plan showing the location of existing fire hydrants within 500 feet of the subject property shall be submitted for review and approval;
2. Prior to issuance of a Building Permit; an interior floor plan showing the fire loading shall be submitted for review and approval;

Building Inspection Department Recommendations:

3. That prior to any construction, a Building Permit shall be obtained, and prior to occupancy a Certificate of Occupancy shall be obtained;
4. Upon submittal of a building permit, Architect/Engineer stamped plans shall be submitted.
5. That prior to issuance of a Certificate of Occupancy, the building shall comply with all requirements of the Uniform Building Code;

Urban Planning Division Recommendations:

6. The primary use of the structure shall be a restaurant with the on-sale liquor use being allowed only as an accessory use to the restaurant, and that no video lottery shall be allowed;
7. The Use on Review approval shall expire if the use is not undertaken and completed within two years of the date of approval by City Council, or if the use as approved has ceased for a period of two years;
8. That the expansion of the restaurant to provide outdoor service shall require a Major Amendment to the Use on Review; and,
9. That all requirements of the Off-Street Parking and Landscaping Ordinance shall be continually met.

STAFF REVIEW: Staff has reviewed this request with the respect to the four criteria established of On-sale Liquor establishments identified in Section 17.50.185 of the Rapid

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City Municipal Code.

1. *The request will not “adversely affect” the use of any place used for religious worship, school, park, playground, or similar use within a five hundred (500) feet radius.*

There are no places of religious worship or schools within a five hundred foot radius of the subject property. However, North Middle School is approximately 800 feet from the property and Knollwood Elementary School is approximately 1200 feet from the property.

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

The residential development surrounding the property includes the Maplewood Townhouses to the south and multifamily dwelling units to the southwest of the property. The Maplewood Townhouses is a low-income housing development owned by the South Dakota Housing Development Authority that provides housing for the elderly and low-income families. Maple Avenue and Knollwood Avenue provide a limited buffer between the proposed on-sale liquor establishment and the residential development. Staff does not anticipate that the proposed on-sale liquor establishment will have a significant negative impact on the surrounding residential area if conducted in conjunction with a full service restaurant.

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 identified three other on-sale liquor establishments (Red Lobster, Olive Garden and Chuck E. Cheese’s) in the area. However, the U. S. Interstate 90 right-of-way separates two of the on-sale liquor establishments to the north from the property and one of the establishments is more than 500 feet to the west of the property. Additionally, these facilities are also full service restaurants. Staff does not find this request for the expansion of an existing on-sale liquor establishment to constitute an undue concentration, which would cause blight or deterioration or diminish land values in the surrounding area.

4. *The proposed use has been reviewed under the Section 17.554.030 (E).*

Staff has reviewed the proposed use with respect to Chapter 17.18 of the Rapid City Municipal Code and notes the following issues:

Design: The applicant has submitted a site plan proposing a 12 foot by 30 foot deck on the north side of the existing building. However, the applicant has not submitted information on materials, elevations, access, and utilities. Staff is recommending that this item be continued to allow the applicant to submit the additional information as noted above.

On February 24, 2009, the applicant submitted elevations on the proposed deck demonstrating that it will be a cedar deck with a 36 inch high railing and access to the deck will be controlled from a door to be installed on the north side of the building. The deck will be located approximately 58 inches off the ground and the existing

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HVAC units located along the north side of the building will be placed under the proposed deck.

Building Permits: Staff noted that a building permit must be obtained prior to any construction and a certificate of occupancy obtained prior to occupancy.

Parking: Staff noted the submitted site plan does not demonstrate the current parking configuration of the property. The submitted site plan shows a leased parking lot to the south of the property. However, that parking lot was never constructed. In addition, it appears that the proposed deck will eliminate some of the parking along the north side of the building. As such, staff recommends that this item be continued to allow the applicant to submit a revised site plan to accurately demonstrate the existing and proposed parking for the property.

The proposed development requires that a minimum of 47 parking spaces be provided. Two of the parking spaces must be handicap accessible. On February 24, 2009, the applicant submitted a revised site plan demonstrating 52 parking spaces with 2 handicap spaces are being provided. The parking plan for the property complies with the minimum requirements of the adopted Parking Regulations.

Landscaping: Staff noted the landscape plan was approved during the previous building permit process and appears to be installed according to the approved plans. The landscape plan meets all the requirements of Section 17.50.300 of the Rapid City Municipal Code.

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

Notification: As of this writing, the required sign have not been posted on the property and the receipts from the certified mailing have not been returned.