

STAFF REPORT

April 9, 2009

No. 09UR010 - Major Amendment to a Conditional Use Permit to expand an existing on-sale liquor establishment

ITEM 40

GENERAL INFORMATION:

APPLICANT	Steve Wynia for Wyngaard Investments
AGENT	Kent Kennedy for Kennedy Design Group, Inc.
PROPERTY OWNER	Steve Wynia/Wyngard Inv. LLC
REQUEST	No. 09UR010 - Major Amendment to a Conditional Use Permit to expand an existing on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lot 1 less H1, Lot 2, the south 2.5 feet of Lot 3 and the vacated alley adjacent to said Lots of Radio Tower Addition of Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.47 acres
LOCATION	1330 St. Patrick Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Low Density Residential District
South:	Light Industrial District
East:	Low Density Residential District
West:	General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	3/13/2009
REVIEWED BY	Travis Tegethoff / Karley Halsted

RECOMMENDATION:

If the Planning Commission finds it appropriate to approve the Major Amendment to a Conditional Use Permit to expand an existing on-sale liquor establishment, the Major Amendment to a Conditional Use Permit should be approved with the following stipulations:

1. The hours of operation shall be limited from 7:00 a.m. to 10:00 p.m.;
2. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
3. A minimum of 21 parking spaces shall be provided and one of the parking spaces shall be a handicap accessible space. All provisions of the Off-Street Parking Ordinance shall

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- be continually met;
4. The landscaping plan shall comply with all requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
 5. All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Planned Industrial Development. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Planned Industrial Development. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign;
 6. The lighting shall be designed to be reflected within the property boundaries so as not to shine 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 currently adopted International Fire Code shall be continually met;
 8. All provisions of the General Commercial Zoning District shall be met unless an exception is specifically authorized as a stipulation of this Major Amendment to a Conditional Use Permit application or a subsequent Major Amendment; and,
 9. The Major Amendment to a Conditional Use Permit shall expire if the use is not 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:

The applicant has submitted a request for a Major Amendment to a Conditional Use Permit to expand an existing on-sale liquor establishment at 1330 Saint Patrick Street. The property is currently zoned General Commercial District. Currently a 3,204 square foot commercial structure is located on the property. The current use of the property is a 1,304 square foot video lottery casino with the remainder of the building available for office or retail uses. The applicant is now proposing to expand the video lottery casino to 2,029 square feet and use the remaining portion of the building for storage.

On March 8, 2007, Planning Commission approved a Conditional Use Permit (#07UR002) for the property with the following stipulation:

1. The hours of operation be limited from 7:00 a.m. to 10:00 p.m.

STAFF REVIEW: Staff has reviewed this request for a Major Amendment to a Conditional Use Permit to expand 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

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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 property abuts residential property on the northern boundary. The property is also located in close proximity to other residential property including single family residences located along Riley Street, which abuts the property to the northeast, and single family residences located along residential Sioux Avenue, which lies 150 feet west of the property. Staff does not find the property to have sufficient buffering between the proposed use of the property and the existing residential use within the area. However, Planning Commission has previously approved a Conditional Use Permit for an on-sale liquor establishment at this property and this Major Amendment would only expand the existing facility.

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 two liquor on-sale/video lottery establishments: Blue Lantern Lounge located at 1200 East Saint Patrick Street, and Saint Patrick Casino located at 1226 East Saint Patrick St, are within the vicinity of the property. Staff feels the additional on-sale liquor establishment would pose an undue concentration of similar uses. However, Planning Commission has previously approved a Conditional Use Permit for an on-sale liquor establishment at this property and this Major Amendment would only expand the existing facility.

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 showing 24 parking spaces, one of which is a van accessible handicap space. The minimum standard for this property is 21 parking spaces, one of which is required to be a handicap space. The submitted site plan meets the minimum requirements of Section 17.50.270 of the Rapid City Municipal Code.

Landscaping: The applicant has submitted a landscaping plan showing 18,000 landscape points as part of this application. A minimum of 17,906 landscape points is required. The submitted plan proposes eight small trees to be planted on the northern property line, which abuts single family residential property. Along with an existing 6 foot wooden fence the proposed landscaping provides sufficient screening between the two properties. 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 masonry structure with red and white colors. At the time of this review the applicant is not proposing any changes to the building.

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Signage: The applicant submitted a sign package identifying a sign located on an existing pole on the southern boundary of the property in front of the structure, and is not in close proximity of residential development. The existing sign is 32 inches by 72 inches installed into the existing sign frame and the height of the sign is 16 feet. Staff noted that the proposed sign package appears to meet the minimum requirements of Section 15.28 of the Rapid City Municipal Code. Staff recommends that all signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Planned Industrial Development. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Planned Industrial Development. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit must also be obtained for each individual sign.

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.