

STAFF REPORT
May 21, 2009

No. 09UR012 - Conditional Use Permit to allow an on-sale liquor establishment ITEM 33

GENERAL INFORMATION:

APPLICANT/AGENT	Brian Dadah
PROPERTY OWNER	Jim Letner
REQUEST	No. 09UR012 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lot B of Lot 3 of Tract D, located in the SW1/4 SW1/4, Section 5, T1N, R8E, BHM, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 8.34 acres
LOCATION	1624 East St. Patrick Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Light Industrial District
South:	General Commercial District
East:	Light Industrial District
West:	General Commercial District
PUBLIC UTILITIES	City Water and Sewer
DATE OF APPLICATION	4/21/2005
REVIEWED BY	Travis Tegethoff / Karley Halsted

RECOMMENDATION:

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

1. The hours of operation shall be limited from 10:00 a.m. to 11:00 p.m.;
2. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, may be allowed as a Minimal Amendment to the Conditional Use Permit. 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 must be designed to preclude shining on the adjacent properties and/or street(s). A sign permit must also be obtained for each individual sign;
3. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;
4. The landscape plan shall continually comply with all requirements of the Zoning

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- Ordinance and the approved landscape plan;
5. All applicable provisions of the International Fire Codes shall be continually met;
 6. Prior to Planning Commission approval, a revised legal description for only the portion of the subject property that includes the on-sale liquor establishment shall be submitted for review and approval; and,
 7. 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: The property is located east of Creek Drive and north of East Saint Patrick Street at 1624 East Saint Patrick Street. A retail building is currently located on the property and Pauly's Pizzeria and Sub Company occupy one of the tenant spaces. The applicant is requesting approval of a Conditional Use Permit to allow an "on-sale liquor establishment" at the existing restaurant. The property is zoned General Commercial District. The properties north and east of the property are zoned Light Industrial District. The properties located south and west of the subject property are zoned General Commercial District.

On July 6, 2006, a Conditional Use Permit (#06UR017) was approved with the following stipulations for a portion of the property:

1. A building permit shall be obtained prior to any construction on the tenant space and a certificate of occupancy shall be obtained prior to occupancy;
2. A sign permit shall be obtained prior to installation of any signage;
3. Any additional signage must meet all Sign Code regulations and will require a Minimal Amendment to the Conditional Use Permit;
4. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;
5. The landscape plan shall continually comply with all requirements of the Zoning Ordinance and the approved landscape plan;
6. All applicable provisions of the International Fire Codes shall be continually met; and,
7. 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.

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 used for religious worship, school, park, playground, or similar use within a five hundred foot radius.*

The bike path is located adjacent to the north and east property lines of the property. The west edge of the Star of the West Sports Complex is located within 500 feet of the subject property. There are no other places of religious worship, schools or parks located within a

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500 foot radius of the property. It appears the proposed use will be buffered from the bike path by future development on the property. In particular, a future building is proposed along the east property line that will screen this facility from the bike path. The Star of the West Sports Complex is buffered from the property by Rapid Creek. It does not appear that this request for an on-sale liquor use in conjunction with a full service restaurant will adversely affect these recreational areas.

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

The property is currently zoned General Commercial District. The property is located adjacent to existing commercial uses. Residential structures are located southwest of the property across East Saint Patrick Street. East Saint Patrick Street is a five-lane road that sufficiently buffers the residential areas from the property and the proposed use so as not to adversely affect the residential areas.

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."*

There is currently an on-sale liquor establishment with a video lottery casino located on the property and the Blue Lantern Lounge located at 1200 East Saint Patrick Street is within the vicinity of the property. Since the proposed on-sale liquor establishment will be operated in conjunction with a full service restaurant this request for an on-sale liquor use does not appear to constitute an undue concentration that would cause blight or deterioration or diminish land values in the surrounding area.

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 notes the following issues:

Sign Permit: Staff noted that a sign permit was previously approved for the business during a previous building permit submittal. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, may be allowed as a Minimal Amendment to the Conditional Use Permit. 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 must be designed to preclude shining on the adjacent properties and/or street(s). A sign permit must also be obtained for each individual sign.

Parking: Staff noted that a parking plan was previously reviewed and approved during a previous building permit submittal and that 136 parking spaces are provided. The site plan meets all the requirements of Section 17.50.270 of the Rapid City Municipal Code.

Landscaping: Staff noted that a landscape plan was previously reviewed, approved and installed as part of a previous building permit application. Staff noted that 68,866 landscape

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points are required and that 69,000 landscape points are provided. The landscape plan meets all the requirements of Section 17.50.300 of the Rapid City Municipal Code.

Design Features: The building is a one story masonry structure with earth tone colors. The dumpsters will be screened and will not be visible to the adjacent properties.

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

Engineering: Staff noted that the site development has been reviewed and approved during a previous Building Permit submittal.

Legal Description: Staff noted that the current legal description for the application covers the entire 8.34 acres of the subject property. Staff also noted that if the Conditional Use Permit for an on-sale liquor establishment is approved for the entire subject property then any change to the property would require an amendment to the Conditional Use Permit. As such, staff is recommending that prior to Planning Commission approval, a revised legal description for only the portion of the property that includes the on-sale liquor establishment be submitted for review and approval to eliminate the applicant from having to go through the amendment process every time a change occurs on the property.

Notification: The green cards from the required notification of surrounding property owners have not been returned and the sign stating that a Conditional Use Permit has been requested has not been posted on the property. Staff will notify the Planning Commission at the May 21, 2009 Planning Commission meeting if the legal notification requirements have not been met.

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.