

STAFF REPORT  
October 8, 2009

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**No. 09UR024 - Conditional Use Permit to allow an on-sale liquor establishment**      **ITEM 38**

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GENERAL INFORMATION:

APPLICANT/AGENT	Lisa Holbrook
PROPERTY OWNER	Tensleep, LLC
REQUEST	<b>No. 09UR024 - Conditional Use Permit to allow an on-sale liquor establishment</b>
EXISTING LEGAL DESCRIPTION	Lots 1 thru 5 of Block 88 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.4 acres
LOCATION	201 Main Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City Sewer and Water
DATE OF APPLICATION	8/28/2009
REVIEWED BY	Karen Bulman / Ted Johnson

RECOMMENDATION:

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

GENERAL COMMENTS: (Update, September 29, 2009. All revised and/or added text is shown in bold print.) This item was continued to the October 8, 2009 Planning Commission meeting to allow further information to be provided to address the Off-street parking requirements. To address the requirements, the applicant has submitted a Planned Commercial Development – Initial and Final Development Plan (09PD047). As such, staff recommends that this item be denied without prejudice. The applicant is requesting a Conditional Use Permit for to allow an on-sale liquor establishment in conjunction with a full service restaurant. The establishment, “The Beanery”, occupies a 7,795 square foot portion of the Creamery Mall at 201 Main Street.

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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) foot radius.*

There are no places of religious worship or schools within a 500 foot radius. The area around the property is predominantly commercial. Staff's review of the proposed on-sale liquor establishment finds that the proposed use should have no significant adverse effect on the surrounding area.

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

There are no single family residences located in the immediate area of the proposed on-sale liquor establishment. The closest residence is located approximately 800 feet from the property. Staff does not anticipate that the proposed use will have a significant negative impact on any residential area.

*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 one on-sale liquor establishment, Roman's Bar, located at 100 St. Joseph Street, in the general area of the proposed use. There does not appear to be a concentration of similar uses in this area that would cause blight, deterioration or would substantially diminish or impair property values. In addition, this on-sale liquor establishment is proposed to operate in conjunction with a full service restaurant, so any adverse effects may be mitigated.

*4. The proposed use has been reviewed under the Section 17.54.030(E) and Section 5.12.140.*

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

Land Use: The applicant has indicated that the on-sale alcohol use will be operated in conjunction with the restaurant. The restaurant will seat approximately 60 people. The restaurant is open for lunch from 10:30 a.m. to 2 p.m. Monday through Friday. On Friday and Saturday from 6:30 p.m. to 8:30 p.m. the restaurant is open for a dinner/show performance. During the holidays, there may be additional evening performances during the week.

Parking: There are 18 off-street parking spaces located on the south and west side of the building; however, the majority of those spaces do not appear to comply with the minimum requirements of the City's adopted off-street parking requirements. Parking for the restaurant area of the property would require 34 off-street spaces, including two handicapped spaces. Additional parking is required for the other offices and uses located in

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the building. Staff has reviewed the records to determine if the use is a legal nonconforming use or if a variance was previously granted for the property. Records indicate that the creamery operated on the site until 1971. The 1968 Zoning Ordinance required off-street parking similar to that contained in the ordinance today. Based on this information, the use is not a legal nonconforming use. Additionally, no record of a variance being granted has been found. It appears that the use as it exists is an illegal use. Staff has identified three alternatives available to the applicant: 1) Provide documentation indicating that a variance has been granted for the building including the restaurant or that the restaurant is a legal nonconforming use; or (2) Apply for and obtain a zoning variance from the Zoning Board of Adjustment; or (3) Resubmit the request as a Planned Commercial Development whereby the Planning Commission may grant an exception to allow a reduction in the required number of off-street parking spaces and to grant exceptions for the design of the existing off-street parking spaces.

Landscaping: Staff noted that the structure and parking lot are not expanding by 20 percent or more. In accordance with Section 17.50.300 of the Rapid City Municipal Code, additional landscaping is not required for the proposed on-sale liquor establishment.

Signage: One 36 inch by 30 inch painted sign board for “The Beanery” is located on the west side of the building facing the drive up lanes for the Black Hills Federal Credit Union. A sign posted in the window on the east side of the building comprise “The Beanery” and the menu choices.

Fire Code: Staff noted that all applicable provisions of the International Fire Code shall be continually met. The Creamery Mall is in the process of updating the sprinkler system for the building. The Fire Department staff requests that the applicant coordinate and confirm the final installation of the fire sprinkler system in the first floor area with the Fire Department.

Historic property: The property is located on the National Register of Historic Places as an Individually Nominated property. However, the Conditional Use Permit to allow an on-sale alcohol establishment will not require review by the State of South Dakota.

Notification: As of this writing, the required sign has been posted on the property but the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the September 24, 2009 Planning Commission meeting if this requirement has not been met. Staff has received one support comment and one objection regarding parking for the proposed Conditional Use Permit at the time of this writing.

Staff is recommending that the Conditional Use Permit to allow an on-sale liquor establishment be continued to allow further information to be provided to address the Off-street parking requirements.

**The applicant has submitted a Planned Commercial Development – Initial and Final Development Plan (09PD047) to address the off-street parking requirements. As such, staff recommends that the Conditional Use Permit be denied without prejudice.**

STAFF REPORT  
September 24, 2009

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**No. 09UR024 - Conditional Use Permit to allow an on-sale liquor establishment      ITEM**

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