

STAFF REPORT
June 10, 2010

No. 10UR013 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 35**

GENERAL INFORMATION:

APPLICANT	Cimarron Casino, Inc.
AGENT	Kennedy Design Group, Inc.
PROPERTY OWNER	Reel Wynia, LLC
REQUEST	No. 10UR013 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lots 1, 2, 3 and 4 of Block 26 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .32 acres
LOCATION	703 and 705 Indiana Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	Low Density Residential District
West:	General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	5/14/2010
REVIEWED BY	Jim Flaaen / Mary Bosworth

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be denied.

GENERAL COMMENTS: The applicant has submitted a Conditional Use Permit to allow an on-sale liquor establishment at the property at 703 and 705 Indiana Street. In particular the applicant is proposing to construct a new 4,000 square foot commercial strip mall. A casino will occupy the southern 1,825 square feet of the building with the north half of the building leased to other commercial tenants.

While the Planning Department staff had recommended approval, on January 12, 2006, the Planning Commission denied a Conditional Use Permit for a similar request to allow an on-sale liquor establishment on this property. That action was the result of significant testimony

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during the public hearing regarding a negative effect of the use on the property values on the adjacent residential neighborhood and concerns with the increased traffic in close proximity to the residential homes and schools in the residential area. The applicant appealed the Planning Commission's decision to City Council and that appeal was denied on March 6, 2006. The previous request proposed a commercial strip mall of the same size although the casino was proposed to occupy only 1,077 square feet.

The property is located southwest of the intersection of Indiana Street and 7th Street. The property is currently undeveloped.

STAFF REVIEW: Staff has reviewed the Conditional Use Permit 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, schools or playgrounds within a five hundred foot radius of the subject property. There are two churches in the area. St. John's Orthodox Church is located approximately 775 feet to the northeast and Our Lady of Perpetual Help is located approximately 725 feet to the southeast. There is one school in the area, Saint Elizabeth Seton School, located approximately 1,200 feet to the southeast. There is one park in the nearby vicinity, Wilson Park, located approximately 2,400 feet to the northwest.

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

The property is zoned General Commercial District and commercial uses are adjacent to the property to the north, south and west. Single family residences are located east of the property across 7th Street. The landscape plan indicates that deciduous trees will be installed along 7th Street. Staff finds that the proposed screening using deciduous trees will not adequately screen the adjacent residential properties to the east from noise and light pollution coming from the proposed on-sale liquor establishment.

3. *The proposed use will not create an undue concentration of similar uses, so as to cause "blight, deterioration, or substantially diminished or impair property values."*

The proposed on-sale liquor establishment will be a video lottery casino to be located on the property. An existing video lottery casino is located on the adjacent property to the south northwest of the intersection of 7th Street and Cleveland Street. The Colonial House Restaurant and Bar is located approximately 500 feet to the west of the proposed on-sale liquor establishment. In addition, several other on-sale liquor establishments are in the vicinity of the proposed use along Mount Rushmore Road.

4. *The proposed use has been reviewed under Chapter 17.54.030(E) Criteria for Review.*

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Staff has reviewed the proposed use with respect to Chapter 17.54.030(E) and has noted the following issues:

Land Use Review: Based on public concern expressed during the review of the previously submitted Conditional Use Permit to allow an on-sale liquor establishment at this property, there does not appear to be sufficient separation between the existing residential properties to the east and the proposed on-sale liquor establishment.

As previously stated, the City Council denied an appeal of the Planning Commission's decision to deny the Conditional Use Permit application to allow an on-sale liquor establishment on the property on the determination that the use was not sufficiently buffered from the residential area to the east and that the street did not provide adequate separation between the uses. In addition, area property owners voiced concern regarding increased traffic, decline in property values, alcohol related accidents and safety of neighborhood children in the area if the Conditional Use Permit to allow an on-sale liquor establishment was approved. As such, based on the previous public testimony and action by the Planning Commission and City Council, staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be denied.

Parking: The applicant has submitted a site plan that has indicated that the proposed commercial strip mall will include 1,825 square feet of casino use, 155 square feet of storage use, and 1,980 square feet of general retail/office use that is currently proposed to be vacant. Based on the uses submitted, a minimum of 29 spaces are required to be provided on the property. The applicant has submitted a parking plan that identifies 29 spaces will be provided. In addition, two of the provided spaces will be handicap accessible with one being "van" accessible.

The applicant has provided parking for the vacant space in the proposed commercial strip mall at the rate for general retail and office uses of 5 off-street parking spaces per 1,000 square feet as required by the City's Off-Street Parking Ordinance. The applicant should be aware that depending on the specific use of the property, additional off-street parking may be required or the use of the vacant space limited. Parking requirements for individual tenants will be evaluated on an individual basis and sufficient off-street parking must be provided based on the uses on the property.

Access: The submitted site plan identifies that the existing curb cut onto the property off of 7th Street will be closed as a part of this development. The applicant has proposed a new curb cut to be located on the north side of the site, taking access onto the property off of Indiana Street. However, the submitted site plan indicates that the proposed curb cut will be located approximately 38 feet from the intersection of 7th Street and Indiana Street. The Street Design Criteria Manual requires that a minimum of 50 feet must be provided. As such, a revised site plan must be submitted identifying the curb cut to be a minimum of 50 feet from the intersection or an Exception to the Street Design Criteria Manual must be obtained.

Landscaping: The site plan indicates that a total of 11,220 landscape points will be provided on the property. Based on the developed area of the property in relation to the lot size, 11,040

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landscape points are required. The proposed landscape plan meets the minimum requirements of the Landscape Ordinance. The landscaping must be installed as per the approved landscape plan and continually maintained in a live vegetative state and replaced as necessary.

Design Features: The proposed building will be a one story structure with earth tone gray colors with dark gray accents. The roof is proposed to be shingles with a medium gray color. The proposed dumpster screening fence will be constructed of wood and will be light to medium gray in color and will be 6 feet in height. The screened area for the dumpsters will be approximately 8 feet wide and 12 feet long.

Mechanical Equipment: The submitted site plan identifies that the HVAC equipment will be located on the southwest corner of the property adjacent to the proposed building. The site plan does not identify any screening around the proposed HVAC equipment. In addition, noise levels of the proposed equipment have not been submitted.

Drainage: The submitted application did not include any drainage information. A drainage plan must be submitted for review and approval indicating that discharge from the proposed development will not exceed pre-development flow rates or local detention facilities will be provided.

Red line comments: Staff made several red line comments on the submitted site plans regarding utilities, sewer and service lines and alley paving. Prior to issuance of a building permit, the redline comments must be revised and the red line comments returned to the Growth Management Department.

Signage: The applicant has submitted a sign package for the proposed commercial strip mall. The submitted sign package includes a dual-pole sign to be located at the northeast corner of the property, southwest of the intersection of 7th Street and Indiana Street. The pole sign is proposed to be 12 feet in width and the base of the signage to be 15 feet above the ground. The pole sign is proposed to include two static poster signs, the smaller, bottom sign being 12 feet wide and 2 feet tall. The applicant has indicated that the current message will read "Space for Lease" to be changed when a new tenant occupies the building. The second sign is proposed to be 12 feet wide and 10 feet tall with a curved top with the message "Indiana St. Plaza Indiana Street Casino". In addition, the applicant has proposed two static poster wall signs to be located on the building. Both signs are proposed to be 8 feet wide and 3 feet tall. One sign is proposed for the south end of the building with the message "20 Machines" and the other sign is proposed for the north side of the building with the message "For lease office or retail". The applicant has not provided any information on how the signage would be illuminated. As such, details regarding the illumination of the proposed pole and wall signs must be submitted for review and approval demonstrating that the illumination for the proposed signage will not adversely impact adjacent residential properties.

No electronic signs are proposed as a part of this sign package. All signage must meet all regulations of the Sign Code. Changes to the proposed sign package, which the Growth

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Management Director determines to be consistent with the original approved sign package, may be allowed as a Minimal Amendment to the Conditional Use Permit.

Fire Code: The Rapid City Fire Department has identified the proposed building will be fully fire sprinklered throughout the building. The currently adopted International Fire Code must be continually met.

Developmental Lot: The proposed development occupies two parcels, Lots 1-2 and Lots 3-4 of Block 26 of South Boulevard Addition. Prior to issuance of a building permit, a developmental lot agreement must be signed and filed with the Pennington County Register of Deeds and a copy of the filed agreement submitted to the Growth Management Department.

Notification Requirement: As of this writing, the receipts from the certified mailing have not been returned nor has the sign been posted on the property. Staff will notify the Planning Commission at the June 10, 2010 Planning Commission meeting if the notification requirements have not been met.

Staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be denied.