

STAFF REPORT
August 5, 2010

No. 10UR021 - Conditional Use Permit to allow on-sale liquor establishment in a General Commercial Zoning District **ITEM 33**

GENERAL INFORMATION:

APPLICANT	Walgreen Co.
AGENT	Michael M. Hickey for
PROPERTY OWNER	Susie Investments of SD, LLC
REQUEST	No. 10UR021 - Conditional Use Permit to allow on-sale liquor establishment in a General Commercial Zoning District
EXISTING LEGAL DESCRIPTION	Lot 1 less Lot H1 of Hoganville Subdivision, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.16 acres
LOCATION	540 Mountain View Road
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 water and sewer
DATE OF APPLICATION	7/9/2010
REVIEWED BY	Jim Flaaen / Ted Johnson

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow on-sale liquor establishment in a General Commercial Zoning District be approved with the following stipulations:

1. The sale of wine and malt beverages shall be limited to off-premise consumption only. Any on-premise consumption of wine and malt beverages shall require a Major Amendment to the Conditional Use Permit;
2. The sale of alcohol shall be limited to wine and malt beverages in conjunction with the business operating as a retail store. The addition of alcohol sales beyond on-sale beer and wine shall require a Major Amendment to the Conditional Use Permit;
3. A minimum of 65 parking spaces shall continually be provided. The parking plan shall

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- continually comply with all requirements of the Off-Street Parking Ordinance;
4. A minimum of 37,716 landscape point shall continually be provided. The landscaping plan shall continually comply with all requirements of the Zoning Ordinance and the approved landscaping plan. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
5. All applicable provisions of the currently adopted International Fire Code shall be continually met;
6. All provisions of the General Commercial Zoning District shall be continually met; and,
7. The Conditional Use Permit shall expire if the use as approved 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 applicant has submitted a Conditional Use Permit request to allow for off-premise wine and malt beverage sales. In particular, the applicant is proposing to expand the existing retail store at 540 Mountain View Road to include off-premise wine and malt beverage sales within the existing building. The property is currently zoned General Commercial District. On-sale liquor establishments are a Conditional Use within the General Commercial Zoning District. Properties to the north, south, east and west are zoned General Commercial District.

The property is located at 540 Mountain View Road, on the east side of Mountain View Road and north of Main Street. A retail store, Walgreen's, is currently located on the property.

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 with five hundred (500) feet radius.*

There are no schools or places of religious worship located within 500 feet of the proposed on-sale liquor establishment. However, portions of the Rapid City Greenway Tract are located within 500 feet of the proposed use. These parcels of the Greenway Tract include several bike and walking trails, athletic fields, swimming pools and playgrounds. However, there are no pools or playgrounds and only one athletic field located within the 500 radius. The athletic field is a soccer field located north of the property, east of Mountain View Road and south of Omaha Street, west of Cross Street. With the exception of the athletic field to the north, the existing road network surrounding the property will significantly buffer the proposed on-sale liquor establishment from the Greenway Tract. The proposed use is for off-premise wine and malt-beverage sales only with no on-premise consumption. Staff does not feel that the proposed use will adversely affect any place used for religious worship, school, park, playground or similar use.

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

There is one Medium Density Residential District located within 500 feet of the proposed use. Alps Park Apartments are located north of Shaver Street and east of Jackson Boulevard. However, staff finds that the existing residences are sufficiently buffered from the proposed use by existing commercial development located along Jackson Boulevard as well as retail development between Jackson Boulevard, Mountain View Road and Main Street. In addition, the property will continue to operate as a retail store with alcohol sales limited to off-premise wine and malt beverage sales with no on-premise consumption. As such, staff finds that the proposed use shall not adversely affect the nearby residences.

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 are eight on-sale liquor establishments located within a 500 foot radius of the property. The Corner Pantry convenience store as well as BP Casino is located southwest of the intersection of Mountain View Road and Main Street. Boyd’s Drug Mart, Buffalo Wild Wings and Family Thrift Center are located in the Baken Park Shopping Center southwest of the intersection of Mountain View Road and Main Street. Safeway is located south of the property, southeast of the intersection of Mountain View Road and Main Street. The Sun Inn Bar and Kelly’s Sports Lounge are located south of the property on the west side of Jackson Boulevard. The area of the proposed on-sale liquor establishment is located within a highly commercialized area. Many of the existing on-sale liquor establishments operate in conjunction with a full service restaurant or retail store. As such, staff finds that the use would not appear to create an undue concentration causing blight or deterioration or diminish land values in the surrounding area.

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

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

Use: A retail store, Walgreen’s, is currently operating on the property. The Rapid City Municipal Code does not require that off-sale wine and malt beverages be screened from the rest of the establishment. Staff recommends that the on-sale liquor establishment be limited to off-premise wine and malt beverage sales in conjunction with the business operating as a retail store with no on-premise liquor consumption allowed.

Parking: The applicant has submitted a parking plan with the application. A minimum of 65 spaces are required for the existing retail use on the property. The addition of off-premise wine and malt beverage sales within the existing building will not lead to an increase in the required parking on the property. The parking plan submitted by the applicant identifies that 66 parking spaces are being provided with 4 handicap spaces with one being “van

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accessible". The submitted parking plan meets the requirements of the Off-Street Parking Ordinance. Staff recommends that the parking be installed as per the approved parking plan and continually maintained as per the Off-Street Parking Ordinance.

Landscaping: The applicant has submitted a landscape plan with the application. A minimum of 36,716 landscape points are required on the property. The landscape plan submitted with the application identifies that 44,400 landscape points are being provided including small trees, shrubs and grasses. The submitted landscape plan meets the requirements of the Landscape Ordinance. Staff recommends that the landscaping be installed as per the approved landscape plan and be kept free of refuse and debris and continually maintained in a live vegetative state and replaced when necessary.

Fire Code: All applicable provisions of the currently adopted International Fire Code must be continually met.

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 August 5, 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 approved with the stipulations as identified above.