

STAFF REPORT
March 23, 2006

No. 06OA001 - Ordinance Amendment to Section 17.50.185 to provide a specific distance between residential areas and on-sale liquor establishments with and without video lottery **ITEM 37**

GENERAL INFORMATION:

PETITIONER	City of Rapid City
REQUEST	No. 06OA001 - Ordinance Amendment to Section 17.50.185 to provide a specific distance between residential areas and on-sale liquor establishments with and without video lottery
DATE OF APPLICATION	1/6/2006
REVIEWED BY	Karen Bulman

RECOMMENDATION: **If the Planning Commission finds it appropriate to provide a specific distance between residential areas and on-sale liquor establishments with and without video lottery, excluding restaurants without video lottery, they should recommend approval of the Amendment to Section 17.50.185.**

GENERAL COMMENTS: **This staff report has been revised as of March 16, 2006. All revised and/or added text is shown in bold print.** Section 17.50.185 of the Rapid City Municipal Code addresses the on-sale liquor establishments with a Conditional Use Permit. Currently, the code states:

An on-sale liquor establishment must be issued if:

- A. The requested use 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.
- B. The requested use is sufficiently buffered with respect to residential areas so as not to adversely affect such areas.
- C. 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.
- D. The proposed use complies with the standards of Section 5.12.140 and 17.54.030 of this code.

The City Council has requested that the Planning Commission review a proposed ordinance amendment adding a specific distance requirement between casinos and adjacent residential areas.

STAFF REVIEW: Staff has researched the request to amend Section 17.50.185 of the Rapid City Municipal Code and identified similar requirements for on-sale liquor establishments utilized in surrounding communities. Distance requirements between on-sale liquor establishments and residential areas are included in a number of communities with a variety of criteria. Examples include distance requirements of 100 feet, 150 feet, 200 feet, 300 feet, and 600 feet between on-sale liquor establishments or casinos and uses such as schools, parks, churches, residential districts, day care facilities, libraries, hospitals, colleges, mental health institutions or other license holders. One community excludes restaurants with on-

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sale alcohol sales from their distance requirements if the bar area is not more than 35% of the floor area. The majority of communities require approval of a Conditional Use Permit prior to the issuance of an on-sale liquor license in order to review the concentration of uses, the compatibility with surrounding uses, and any adverse effects the use may have on surrounding properties.

Most communities do not distinguish between on-sale alcohol sales and video lottery locations. However, Sioux Falls requires a distance of 2,000 feet between any video lottery machine placement and a city park, other video lottery machine placement, or any elementary or secondary school. On-sale alcohol uses without video lottery do not have any distance requirements from residential districts in the Sioux Falls Municipal Code. Bozeman, Montana establishes Casino Overlay Districts that includes regulation of casinos and a 600 foot distance between licensed establishments and schools, churches, residences, public parks and other casinos.

The current Rapid City Municipal Code establishes criteria requiring that on-sale liquor establishments not adversely affect places used for religious worship, schools, parks, playgrounds or similar uses within a 500 foot radius. The on-sale liquor establishment must also be sufficiently buffered with respect to residential areas so as not to adversely affect such areas. This current ordinance provides the governing body with some discretion in reviewing each proposal as it relates to the criteria. The inclusion of a specific distance requirement would establish a definitive distance and would be simpler, more clear and easier to enforce; however, in doing so it would limit the discretion of the governing body.

If the Planning Commission finds that a distance requirement is appropriate between casinos or on-sale liquor establishments and residential uses, then staff recommends that the language in the current ordinance be amended to provide a 500 foot radius consistent with the distance requirement established for schools, parks and churches. The Ordinance Amendment as drafted would change the language in Section 17.50.185 to make it more restrictive by stating that no on-sale liquor establishments shall be located within 500 feet of residential districts. To clarify the distance requirement, the Ordinance Amendment further states that the 500 foot distance is measured from the property line of the proposed use and the property line of the residentially zoned property. If the Planning Commission finds a distance requirement for all on-sale liquor establishments and residential districts appropriate, staff believes this Ordinance Amendment would be an appropriate change in the Rapid City Municipal Code. The Planning Commission may wish to consider whether they believe it is appropriate to add language excluding restaurants from the distance requirement. On February 9, 2006, the Planning Commission requested that staff add language excluding restaurants without video lottery from the distance requirement. If the Planning Commission finds a distance requirement for all on-sale liquor establishments and residential districts appropriate, with the exception of restaurants without video lottery as noted above, staff believes this Ordinance Amendment will be an appropriate change in the Rapid City Municipal Code. (Revised 2-14-06) **On February 23, 2006, the Planning Commission requested additional information regarding current on-sale liquor establishments located within 500 feet and 1000 feet of residences. Staff has utilized**

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the Geographic Information System to map the location of all licensed on-sale liquor establishments. There are a total of 144 on-sale liquor establishments located in Rapid City. Of this total, 124 establishments have video lottery machines.

In addition, property identified as residential by the tax codes as identified in the Director of Equalization records, was mapped. A 500 foot buffer and a 1000 foot buffer were applied. A copy of that map is linked to this report. The map identifies the location of all on-sale liquor establishments located within 500 feet of residential zoning districts and 1000 feet of residential zoning districts. It also identifies the areas that are outside of the buffers that may serve as future locations for on-sale liquor establishments.

Based on the mapping staff prepared, a list of all on-sale liquor establishments located within 500 feet of residential property and 1000 feet of residential property is included in this staff report. In addition, those on-sale liquor establishments that would comply with each of the proposed buffers are identified. (See lists attached to this report.)

In addition, the Planning Commission requested that staff review those restaurants without video lottery that may be affected by a 500 foot buffer. There are 13 restaurants without video lottery that are located within the 500 foot buffer. A separate list is attached to this report identifying all restaurants without video lottery and all on-sale liquor establishments that conform to the proposed 500 foot buffer.

Of the 144 on-sale liquor establishments, 60 on-sale liquor establishments are located more than 500 feet from residential property including 38 with video lottery. The remaining 84 on-sale liquor establishments are located within 500 feet of residential property. Of the 84 establishments, 66 have video lottery and 13 are restaurants without video lottery.

Of the 144 on-sale liquor establishments, 20 on-sale liquor establishments are located more than 1000 feet from residential property and of those, 12 have video lottery. The remaining 124 on-sale liquor establishments are located within 1000 feet of residential property and of those, 92 have video lottery and 23 are restaurants without video lottery.

If the Planning Commission finds a distance requirement for all on-sale liquor establishments and residential districts appropriate, to include an exception for restaurants without video lottery, they should recommend approval of the attached amendments. (Revised 3-16-06)