

STAFF REPORT
September 9, 2010

No. 10UR023 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 26**

GENERAL INFORMATION:

APPLICANT	Walgreen Co.
AGENT	Michael M. Hickey for
PROPERTY OWNER	Waltrust Properties, Inc.
REQUEST	No. 10UR023 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lots 1 thru 9 and 10 and one half of the vacated alley less Lot H1 of Block 1 of St. Elmo No. 2 Subdivision, Section 11, T1N, R7E, BHM, and Lots 14 thru 19 and half of the vacated alley of Block 5 of South Boulevard Subdivision, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.19 acres
LOCATION	1902 Mount Rushmore 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	8/12/2010
REVIEWED BY	Jim Flaaen / Mary Bosworth

RECOMMENDATION:

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

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- and wine shall require a Major Amendment to the Conditional Use Permit;
3. A minimum of 57 parking spaces shall continually be provided. The parking plan shall continually comply with all requirements of the Off-Street Parking Ordinance;
 4. A minimum of 53,800 landscape points 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 1902 Mount Rushmore 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 1902 Mount Rushmore Road, on the east side of Mount Rushmore Road and south of Saint Patrick 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 is one place of religious worship located within the 500 foot radius of the property. First Baptist Church is located immediately adjacent to and east of the property. In addition, Lighthouse Evangelical Temple is located just outside of the 500 foot radius east of the property northwest of the intersection of Saint Francis Street and 6th Street. There is one park, Wilson Park, located within 500 feet of the property to the northwest, west of Mount Rushmore Road north of Saint Andrew Street and south of Saint Charles Street. Wilson Elementary School is located just outside of the 500 foot boundary to the northwest of the property southeast of the intersection of Franklin Street and 9th Street.

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

There are several Medium Density Residential Districts located within 500 feet of the property to the northeast, east and southeast. The majority of the residential areas are

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all located on the east side of 7th Street, east of the property. However, residential properties are located northeast of the property across Saint Patrick Street, west of 7th Street. Medium Density Residential Districts are also located west of the property on the east side of 9th Street, west of Mount Rushmore Road. However, it appears that these properties are sufficiently buffered by the roadway and the existing commercial development on the west side of Mount Rushmore Road. 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, it appears that the proposed use will 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 three on-sale liquor establishments located within a 500 foot radius of the property. Rushmore Casino is located north of the property southeast of the intersection of Mount Rushmore Road and Saint Andrew Street. Safeway is located south of the property southeast of the intersection of Mount Rushmore Road and Saint Anne Street. Big Mike's Sports Bar & Grill is located southwest of the property southwest of the intersection of Mount Rushmore Road and Saint Anne Street. The area of the proposed on-sale liquor establishment is located along a commercial corridor. Safeway sells liquor and malt beverages in conjunction with a retail store and Big Mike's Bar and Grill operates in conjunction with a full-service restaurant. 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 proposed on-sale liquor establishment is proposed to be limited to off-premise wine and malt beverage sales in conjunction with the retail business with no on-premise liquor consumption allowed.

Parking: A parking plan has been submitted with the application. A minimum of 57 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 58 parking spaces are being provided with 3 handicap spaces with two being "van accessible". The submitted parking plan meets the requirements of the Off-Street Parking Ordinance.

Landscaping: The applicant has submitted a landscape plan with the application. A minimum of 39,098 landscape points are required on the property. The landscape plan submitted with the application identifies that 53,800 landscape points are being provided including trees, shrubs and grasses. The submitted landscape plan meets the requirements of the Landscape Ordinance.

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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 September 9, 2010 Planning Commission meeting if the notification requirements have not been met. Staff has not received any inquiries or objections to the proposed request at the time of this writing.

Staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be approved with the stipulations as identified above.