

STAFF REPORT
October 7, 2010

No. 10UR030 - Major Amendment to a Conditional Use Permit to expand an On-Sale Liquor Establishment **ITEM 35**

GENERAL INFORMATION:

APPLICANT	Caleb Arceneaux - Isis Hospitality
AGENT	Janelle Finck for Fisk Land Surveying & Consulting Engineers
PROPERTY OWNER	Atlantis, LLC
REQUEST	No. 10UR030 - Major Amendment to a Conditional Use Permit to expand an On-Sale Liquor Establishment
EXISTING LEGAL DESCRIPTION	Lot 1 Revised of Atlantis Subdivision located in the W1/2 SW1/4 of Section 27, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 6.32 acres
LOCATION	1416 North Elk Vale Road
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	Box Elder
South:	General Commercial District - General Commercial District (Planned Commercial Development)
East:	Box Elder
West:	General Commercial District (Planned Commercial Development)
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	9/10/2010
REVIEWED BY	Jim Flaaen / Karley Halsted

RECOMMENDATION:

Staff recommends that the Major Amendment to a Conditional Use Permit to expand an On-Sale Liquor Establishment be approved with the following stipulations:

1. Prior to Planning Commission approval, the City Council shall authorize the Mayor and Finance Officer to sign a Covenant Agreement with Atlantis, LLC for shared parking facilities and a signed and recorded copy of the Covenant Agreement shall be submitted to the Growth Management Department;

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2. A Building Permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
3. All applicable provisions of the currently adopted International Fire Code shall be continually met;
4. The Major Amendment to the Conditional Use Permit shall allow for the expansion of the existing on-sale liquor establishment to include serving alcoholic beverages to the general public and not limited to patrons of the hotel and/or waterpark uses;
5. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;
6. The landscape plan shall continually comply with all requirements of the Zoning Ordinance and the approved landscape plan; and,
7. The Major Amendment to the Conditional Use Permit shall expire if the use is not undertaken 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 Major Amendment to a Conditional Use Permit request to expand an existing on-sale liquor establishment at the property located at 1416 North Elk Vale Road. Fairfield Inn, La Quinta Inn and Watiki Indoor Waterpark are located on the property. The building is constructed such that half of the existing building is located in Box Elder and half is located in Rapid City.

On May 4, 2006, a Conditional Use Permit (#06UR010) was approved with stipulations to allow an on-sale liquor establishment within the hotel waterpark complex. Staff's review noted that the location of the bar was located in Box Elder, but patrons would be allowed to move between the two municipalities within the building. The stipulations of approval were:

1. A Certificate of Occupancy shall be obtained prior to occupancy;
2. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;
3. The landscape plan shall continually comply with all requirements of the Zoning Ordinance and the approved landscape plan;
4. The applicable provisions of the International Fire Code shall be continually met; and,
5. The Conditional Use Permit shall expire if the use 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.

On October 23, 2008, a Major Amendment to a Conditional Use Permit (#08UR015) was approved with stipulations to expand the boundaries of the existing Conditional Use Permit to include all of Lot 1 Revised of Atlantis Subdivision and to transfer a full on-sale liquor license to the property. The stipulations of approval were:

1. The on-sale liquor establishment shall be for the guests of the existing hotel only and any change in use shall require a Major Amendment to the Conditional Use Permit;
2. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;
3. The landscape plan shall continually comply with all requirements of the Zoning

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Ordinance and the approved landscape plan;

4. All applicable provisions of the International Fire Code shall be continually met; and,
5. The Major Amendment to the Conditional Use Permit shall expire if the use is not undertaken 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.

The property is located at 1416 North Elk Vale Road, east of Elk Vale Road and south of the Interstate 90 Service Road. An existing hotel and waterpark complex is 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 places of religious worship, parks or playgrounds located within a 500 foot radius of the property. On November 19, 2009, the Planning Commission approved a SDCL11-6-19 Review to construct a public school on public property. The school, the “University Center of the Black Hills”, was approved to be located at 4300 Cheyenne Boulevard, southeast of the subject property. The approved location of the school will be located approximately 400 feet from the subject property. The school is currently under construction. The property is located across railroad right-of-way to the southeast which will provide a buffer between the school and the on-sale liquor establishment.

The surrounding properties to the south and west are zoned General Commercial District with a Planned Commercial Development. The properties to the north and east are located in Box Elder. Existing commercial structures are located surrounding the property.

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

There are no residential zoning districts adjacent to the property. The property is surrounded by General Commercial Zoning District. Staff does not anticipate that the proposed expansion to the on-sale liquor use will result in any significant adverse effects on any 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 currently three on-sale liquor establishments located within 500 feet of the property. Two on-sale liquor establishments are located to the west of the property across Elk Vale Road. One operates in conjunction with a full-service restaurant, Dakota Steakhouse, and the second operates in conjunction with a hotel banquet facility. The third on-sale liquor establishment is an on-sale liquor establishment with video

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lottery located to the south of the property, south of the railroad right-of-way. It does not appear that the proposed expansion of the existing on-sale liquor establishment will create an undue concentration of similar uses due to the fact that the proposed and the majority of the nearby on-sale liquor establishments operate in conjunction with full-service restaurants or hotel banquet facilities.

4. *The proposed use 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: The previously approved Major Amendment to a Conditional Use Permit stipulated that the on-sale liquor establishment be for the guests of the hotel only and not available to the general public. The applicant has indicated that the proposed expansion of the on-sale liquor establishment will allow the serving of alcoholic beverages to the general public not limited to the patrons of the hotel and waterpark facilities.

Building Expansion: The site plan submitted by the applicant identifies that a 5,460 square foot building addition will be added to the existing hotel and waterpark complex. Specifically, the expansion will add additional square footage to the restaurant and kitchen facilities. Only 1,577 square feet of the restaurant expansion will occur within Rapid City and the majority of the building expansion will take place on the portions of the building located in Box Elder.

Parking: A minimum of 233 off-street parking spaces are required for the existing and proposed uses within Rapid City. On September 7, 2010, the applicant obtained a Variance from the Zoning Board of Adjustment to reduce the required number of off-street parking spaces from 233 parking spaces to 154 parking spaces with the stipulation that a shared parking agreement be entered into with the property located in Box Elder.

The Rapid City Council is scheduled to consider a Covenant Agreement between the City of Rapid City and Atlantis, LLC such that if the properties are ever transferred separately, a shared parking agreement would be entered into between Lot 1 Revised of Atlantis Subdivision, Rapid City, SD and Lots 1 and 2, Davis Subdivision, Box Elder, SD at the October 4, 2010 City Council meeting. As such, prior to Planning Commission approval, the Rapid City Council must authorize the Mayor and Finance Officer to sign the Covenant Agreement with Atlantis, LLC and a signed and recorded copy of the Covenant Agreement must be submitted to the Growth Management Department. In addition, staff recommends that the off-street parking continually comply with the approved parking plan and all requirements of the Zoning Ordinance.

Landscaping: The previously approved Major Amendment to the Conditional Use Permit required that 150,681 landscaping points were required on the property and that 256,871 were being provided. The proposed 5,460 square foot addition to the existing building will decrease the required number of landscape points to 145,221. The amount of provided landscaping provided exceeds the required landscaping. Staff recommends that the landscaping continually comply with the approved landscape plan and with all requirements

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of the Zoning Ordinance and continually be maintained in a live vegetative state and replaced as necessary.

Fire Code: The Fire Department has identified that existing buildings and the proposed expansion meets or exceeds the current Fire Code requirements. Staff recommends that all applicable provisions of the currently adopted International Fire Code be continually met.

Permits: A Building Permit must be obtained prior to construction and a Certificate of Occupancy must be obtained prior to occupancy.

Notification Requirement: As of this writing, the required sign has not been posted on the property and the receipts from the certified mailings have not been returned. Staff will notify the Planning Commission at the October 7, 2010 Planning Commission meeting if this requirement has not been met.

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