

STAFF REPORT
February 24, 2011

No. 11UR003 - Conditional Use Permit to allow an On-Sale Liquor Establishment **ITEM 23**

GENERAL INFORMATION:

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| APPLICANT | Gari Jo Bloomberg |
| PROPERTY OWNER | M.G. Oil Company |
| REQUEST | No. 11UR003 - Conditional Use Permit to allow an On-Sale Liquor Establishment |
| EXISTING LEGAL DESCRIPTION | Lot F less Lot F-1 of Park Addition No. 2, Section 6 (also in Section 1, T1N, R7E), T1N, R8E, BHM, and Lot A of E of Government Lot 4 and 5, Section 6, T1N, R8E, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE | Approximately .672 acres |
| LOCATION | 200 East Main Street |
| EXISTING ZONING | General Commercial District |
| SURROUNDING ZONING | |
| North: | Light Industrial District |
| South: | General Commercial District - General Commercial District (Planned Commercial Development) |
| East: | Light Industrial District |
| West: | General Commercial District |
| PUBLIC UTILITIES | City water and sewer |
| DATE OF APPLICATION | 1/28/2011 |
| REVIEWED BY | Jim Flaaen / Karley Halsted |

RECOMMENDATION:

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

1. Prior to Planning Commission approval, a revised site plan shall be submitted identifying all underground utilities on the property;
2. Prior to Planning Commission approval, a Exception to the Street Design Criteria Manual shall be obtained to allow three driveway approaches or one of the driveway approaches shall be closed;
3. Prior to occupancy of the building, a covenant agreement shall be entered into with the property owner to allow the installation of fire protection systems over an approved time frame;

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4. The property shall be used as an on-sale liquor establishment. The addition of any other conditional use of the General Commercial Zoning District will require a Major Amendment to the Conditional Use Permit;
5. The proposed structure shall conform architecturally to the plans, elevations and color palette approved as part of the Conditional Use Permit;
6. All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Conditional Use Permit. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Conditional Use Permit. The addition of additional electronic signage will require a Major Amendment to the Conditional Use Permit. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign;
7. All applicable provisions of the International Fire Code shall be continually met;
8. All provisions of the General Commercial Zoning District shall be continually met;
9. A minimum of 33 off-street parking spaces shall be continually provided. Two of the spaces shall be handicap accessible, one of which shall be "van accessible". All provisions of the off-street parking ordinance shall be continually met;
10. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorists;
11. A minimum of 18,503 landscape points shall be continually provided on the property. The landscaping plan shall continually comply with Chapter 17.50.300 of the Rapid City Municipal Code and the approved landscape plan. The landscaping shall be continually maintained in a live vegetative state, kept free of refuse and debris and replaced when necessary; and,
12. 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.

GENERAL COMMENTS: The applicant has submitted a Conditional Use Permit request to allow an on-sale liquor establishment in the General Commercial Zoning District. In particular, the applicant has proposed to use the existing structure at 200 East Main Street as an on-sale liquor establishment. The property was formerly used as an on-sale liquor establishment, The Warehouse Bar.

A Conditional Use Permit (#00UR001) was previously approved with stipulations for the property to allow an on-sale liquor establishment. The approved structure was identical in size, 3,228 square feet, and in location as the proposed use. A Major Amendment to the Conditional Use Permit (#01UR031) was approved on September 4, 2001. However, Chapter 17.54.030 of the Rapid City Municipal Code states that a Conditional Use Permit expires when, "the primary use for which it was granted has ceased for a period of 2 years or more." The on-sale liquor business has ceased operations for longer than two years. As a result Conditional Use Permit #01UR031 has expired and the applicant has submitted this

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new Conditional Use Permit request.

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.*

Staff review has noted that there is one park located within 500 feet of the proposed use. A portion of Tract 29 of the Rapid City Greenway Tract is located within 500 feet of the proposed use. Several fields and courts are located on Tract 29 however; all facilities appear to be outside of the 500 foot boundary. In addition, the park is buffered from the proposed use by several properties and the railroad tracks. In addition, portions of the South Dakota School of Mines and Technology campus are located within 500 feet of the proposed use. However, the existing street network will provide a physical buffer from the proposed use and the campus. As such, the proposed use would not appear to have any significant adverse effect on any place used for religious worship, school, park or similar use.

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 zoned General Commercial District and all surrounding property is zoned General Commercial District and Light Industrial District. There are some existing residences located south of St. Joseph Street, south of the subject property. The existing street network will provide a physical buffer between the proposed use and the existing residences. Staff does not anticipate that the proposed 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 diminished or impair property values.”*

There is currently no on-sale liquor establishments located within 500 feet of the property. As such, the proposed use would not appear to create a concentration of similar uses so as to create blight, deterioration, or negatively affect property values.

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:

1. *The location, character and natural features of the property:*

The property is located along East Main Street within a highly commercial and industrialized area. The existing lot is located adjacent to railroad right-of-way and is

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relatively level. Access to the property is currently taken from East Main Street and Maple Avenue. The existing 3,228 square foot structure is finished using white metal siding and a large deck is located on the east side of the structure facing the parking lot. Staff recommends that the structure continually conform architecturally to the plans and elevations and color palette submitted as part of this Conditional Use Permit.

2. The location, character and design of adjacent buildings:

The buildings adjacent to the existing building are commercial and industrial structures of similar construction and design and are of brick or concrete construction with panel or metal siding exteriors. Staff finds that the design and character of the proposed building is consistent with the design and character of the adjacent buildings.

3. Proposed fencing, screening and landscaping:

The applicant has not proposed any additional fencing with this Conditional Use Permit request. However, an existing fence is located along the north property line adjacent to the railroad. The applicant has not proposed any additional screening with this Conditional Use Permit request. The property is zoned General Commercial District and all surrounding properties are zoned either General Commercial District or Light Industrial District and, as such, no screening from adjacent properties is required. The applicant has submitted a landscape plan which identifies that 18,850 landscape points are being provided on the property in excess of the 18,503 points required.

4. Proposed vegetation, topography and natural drainage:

The property is located such that there is no elevation change on the property. As noted previously the applicant has submitted a landscape plan that provides shrubs, medium trees and grassed areas on the property.

5. Proposed pedestrian and vehicular access, circulation and parking, including that related to bicycles and other unpowered vehicles and provisions for handicapped persons:

The property is located on East Main Street, a principle arterial on the Major Street Plan, and Maple Avenue, a local street. Based on the proposed use, a minimum of 33 parking spaces are required including two handicap spaces with one space being "van accessible". The site plan submitted by the applicant indicates that 35 spaces are being provided including two handicap spaces with one "van accessible" space. There are no sidewalks located on the property; however sidewalk is in place on the south side of East Main Street.

The submitted site plan identifies three driveway access points to the property. A maximum of two driveway approaches are allowed for commercial uses. As such, the Public Works staff has indicated that prior to Planning Commission approval the applicant must obtain an Exception to the Street Design Criteria Manual to allow the three driveway approaches or one of the driveways must be closed.

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6. *Existing traffic and traffic to be generated by the proposed use:*

The existing structure on the property is currently vacant; however, the building was formerly used as an on-sale liquor establishment. The applicant has proposed to use the building as an on-sale liquor establishment. The applicant has not proposed to dedicate any additional new floor space or expand the structure for the proposed use. As such, no increased traffic should be generated by the proposed on-sale liquor use beyond previous levels.

7. *Proposed signs and lighting:*

There is one existing sign located on the property. The existing sign is a goalpost-like structure painted red, white and blue with a light-emitting-diode (LED) electronic reader board sign between the upright posts. The sign is located on the southwest corner of the property at the intersection of East Main Street and Maple Avenue. No additional signage is being proposed as a part of this Conditional Use Permit.

All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Conditional Use Permit. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Conditional Use Permit. The addition of any new electronic signage will require a Major Amendment to the Conditional Use Permit. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign.

8. *The availability of public utilities and services:*

The property is served by City water and sewer services. There are no proposed changes to utility services with this Conditional Use Permit. However, those utility services are not identified on the site plan. As such, prior to Planning Commission approval, the Public Works staff has requested that the site plan must be revised to identify all underground utilities.

The Fire Department has indicated that as the occupant load of the structure exceeds 50 occupants, the building must be protected throughout with an approved fire sprinkler system and associated fire alarm system. As such, the Fire Department has indicated that prior to occupancy of the building, a covenant agreement must be entered into with the property owner to allow the installation of fire protection systems over an approved time frame.

9. *The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein:*

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The property is intended to be used for general commercial uses. The proposed on-sale liquor use is a conditional use in the General Commercial Zoning District. The proposed use of the property meets the objectives of the adopted comprehensive plan and the purpose of the Zoning Ordinance.

10. The overall density, yard, height and other requirements of the zone in which it is located:

The existing structure on the property is in compliance with the density, yard and height requirements of the General Commercial District.

11. The effects of noise, odor, smoke, dust, air and water pollution and the degree of control through which clarifiers, screening, setbacks and orientation:

The proposed on-sale liquor use is located within a highly commercial and industrialized area. There are existing residences located to the south of the property which are buffered from the proposed use by the existing road network. The property has been operated as an on-sale liquor establishment in the past with no apparent significant impacts on the adjacent uses. As such, staff has not identified any adverse effects of noise, odor, smoke, dust, and air and water pollution on the area.

12. The degree to which conditions imposed will mitigate any probable adverse impacts of the proposed use on existing adjacent uses:

The stipulations of approval will serve as a tool to insure that the existing parking, landscaping, signage, and lighting will be maintained on the property. In addition, the stipulations secure the use of the property and insure that the currently adopted International Fire Codes are continually met. As such, the stipulations should serve as a tool to mitigate probable adverse impacts of the proposed use on the existing adjacent uses and structures.

Notification Requirement: As of this writing, the white receipts from the certified mailing have been returned however the green card receipts have not been returned. The required signs have been posted on the property. Staff will notify the Planning Commission at the February 24, 2011 Planning Commission meeting if these requirements have not been met.

Staff recommends that the Conditional Use Permit be approved with the stipulations as identified above.