

STAFF REPORT  
April 7, 2011

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**No. 11UR007 - Conditional Use Permit to allow an On-Sale Liquor Establishment**      **ITEM 24**

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GENERAL INFORMATION:

APPLICANT	Monte Hartl RC Boston Company LLC
PROPERTY OWNER	Mall Land Company LLC
REQUEST	<b>No. 11UR007 - Conditional Use Permit to allow an On-Sale Liquor Establishment</b>
EXISTING LEGAL DESCRIPTION	Lot 2R of Block 1 of East Mall Business Center Subdivision, Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 5.74 acres
LOCATION	815 East Mall Drive
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District / Light Industrial District (Planned Industrial Development)
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	3/11/2011
REVIEWED BY	Karen Bulman / Karley Halsted

RECOMMENDATION:

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

1. The approved uses for the property shall be limited to an on-sale liquor establishment operating in conjunction with a hotel with full-service restaurant, lounge and convention meeting rooms. A pantry will be available for off-sale wine and malt beverages. Any other use of the property shall require a Major Amendment to the Conditional Use Permit;
2. A Certificate of Occupancy shall be obtained prior to occupancy of the building;
3. All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;
4. 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. Any new signs or the replacement of signs will require a variance to the Sign Code Board of Appeals if the signs do not

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conform to the Sign Code requirements. 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 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. A sign permit shall also be obtained for any additional signage;

5. All applicable provisions of the currently adopted International Fire Code shall continually be met;
6. A minimum of 219,180 landscaping points shall be provided. The landscaping plan shall comply with all requirements of the Zoning Ordinance. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
7. A minimum of 286 parking spaces shall be provided. In addition, eight of the parking spaces shall be handicap accessible spaces as shown on the site plan. Three of the handicap spaces shall be "van" accessible. All provisions of the Off-Street Parking Ordinance shall be continually met;
8. All provisions of the General Commercial Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment; and,
9. 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 conjunction with a full-service restaurant and lounge at the property located at 815 E. Mall Drive. The Hilton Garden Inn property is currently under construction. In addition to the restaurant and lounge, the hotel will serve food with wine or malt beverage in conjunction with the convention/meeting room. A pantry will be located next to the front desk for snacks, soft drinks, beer and wine for off sale use.

**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 are no schools, parks, playgrounds or similar uses within a 500 foot radius of the property. The proposed on-sale liquor use is for on-premise consumption for a restaurant and lounge. Staff review has not identified any significant adverse affects on any places of religious worship, schools, parks, playgrounds or similar uses within the area.

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

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surrounded by General Commercial Zoning District. Staff has not identified 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 are currently two on-sale liquor establishments located within a 500 foot radius of the subject property. Boston's is located to the west of the property and the Outback Steakhouse is located south of the property along E. Disk Drive.

While there is a significant concentration of alcohol uses in this area for restaurants and hotels, the type of use proposed as part of this application, is typical for areas located adjacent to off ramps from the interstate highway system. Staff has identified that the proposed use will contribute to a concentration of similar uses in the area, but has not identified any information that would suggest the proposed use would result in blight, deterioration or substantially diminished 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 within the General Commercial District at 815 E. Mall Drive. There are several hotels and restaurants in this location. The four story structure will use Exterior Insulation and Finish System (EIFS) material in white, brown and neutral colors. The roof color will be brown.

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

The buildings adjacent to the hotel are commercial structures of similar construction and design. Staff finds that the design and character of the building is consistent with the design and character of the adjacent buildings.

3. *Proposed fencing, screening and landscaping:*

The applicant has not proposed any fencing or screening with this Conditional Use Permit request. The property will be landscaped with 59 large and medium trees and 149 shrubs. The applicant has submitted a landscaping plan showing 219,180 landscaping points. In addition, all adjacent properties are zoned General Commercial District and no additional screening from adjacent properties is required.

4. *Proposed vegetation, topography and natural drainage:*

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The property will be landscaped and all drainage for the property has been addressed through the building permit process.

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

There are several parking lots surrounding the hotel to serve the property. A total of 248 spaces are required including 7 handicapped spaces. The parking lots will provide 286 spaces including 8 handicapped spaces, with 3 of the handicapped spaces for van accessibility.

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

There are three entrances to the property to accommodate the traffic. Two entrances are along E. Mall Drive and one entrance is along E. Disk Drive. An access easement on the adjacent property is recorded for the eastern approach to the property along E. Mall Drive.

7. *Proposed signs and lighting:*

An illuminated 7 foot 5 inch by 31 foot 9 inch sign will be located above the front entrance along the roof line. The sign will be red in color and made of acrylic face channel letters. An internally lit red floret logo will be located above the front entrance door. There will also be two opaque white vinyl floret logos applied to the door glass on the front entrance. Two 4 foot high by 8 foot 9 inch illuminated double faced monument signs will be located at both entrances to the property along E. Mall Drive.

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. No electronic signs are being proposed as a part of this Conditional Use Permit. The addition of 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 new sign or replaced sign.

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

The property is served by City water and sewer services. The Fire Department has indicated that the structure has fire sprinkler protection within the structure. All applicable provisions of the currently adopted International Fire Code must continually be met.

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

The property is zoned General Commercial District and serves the personal services of the public. The proposed on-sale liquor use will be used in conjunction with a full service restaurant, a lobby lounge, and the meeting/convention rooms for the hotel. In addition, a pantry will be located next to the front desk to be utilized for merchandising food items, beer and wine. The applicant is proposing to obtain an on-off sale malt beverage license and an on-off sale wine license.

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

The property is located within the General Commercial Zoning District and will meet all required setbacks. The mean height of the 4 story building is 51 feet 6 ½ inches. A Variance from the Zoning Board of Adjustment was approved on May 4, 2010 to allow the height of the building to be in excess of the 45 foot required height as proposed.

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 use for the property is a hotel with 120 guest rooms, an indoor pool, fitness center, restaurant, lounge, meeting facilities and guest amenities. The on-sale alcohol will be used in conjunction with the restaurant and lounge. There are no noise or pollution issues that have been identified for this property.

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

As the proposed on-sale liquor establishment will operate in conjunction with a restaurant and a lobby lounge, the effects will be significantly mitigated.

Notification Requirement: As of this writing, the required signs have not been posted on the property and the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the April 7, 2011 Planning Commission meeting if these requirements have not been met. Staff has received no inquiries or objections regarding the proposed request at the time of this writing.

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