

STAFF REPORT  
May 24, 2012

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**No. 12UR005 - Conditional Use Permit to allow an On-Sale Liquor Establishment** **ITEM 4**

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GENERAL INFORMATION:

APPLICANT	China Wok
PROPERTY OWNER	Bach Investment
REQUEST	<b>No. 12UR005 - Conditional Use Permit to allow an On-Sale Liquor Establishment</b>
EXISTING LEGAL DESCRIPTION	Lot B of Lot 6 of Lot K-3 of Marshall Heights Tract located in Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.47 acres
LOCATION	1575 North LaCrosse Street, Suite B
EXISTING ZONING	General Commercial District
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District (Planned Commercial Development)
West:	Medium Density Residential District
PUBLIC UTILITIES	Rapid City
DATE OF APPLICATION	2/13/2012
REVIEWED BY	Fletcher Lacock / Nicole Lecy

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, the property owner shall initiate a covenant agreement in cooperation with the Rapid City Fire Department to provide fire sprinkler protection and an associated fire alarm system throughout the structure within an acceptable timeframe. All applicable provisions of the adopted International Fire Code shall continually be met;
2. Prior to Planning Commission approval, the existing parking lot located on the property shall be revised to provide four handicap accessible stalls. A minimum of 87 parking spaces shall continually be provided. Four of the parking spaces shall be handicap

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- accessible. One of the handicap spaces shall be "van accessible." All provisions of the Off-Street Parking Ordinance shall be continually met;
3. Prior to Planning Commission approval, a revised landscaping plan shall be submitted for review and approval showing the landscaping in compliance with Section 17.50.300 of the Rapid City Municipal Code. A minimum of 71,597 landscaping points shall be provided. All provisions of Section 17.50.300, the Landscaping Regulations of the Rapid City Municipal Code shall be continually met. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
  4. All provisions of the General Commercial District shall be met unless otherwise specifically authorized as a stipulation of this Conditional Use Permit or a subsequent Major Amendment;
  5. 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 motorist or constitute a nuisance of any kind;
  6. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. 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; and,
  7. The on-sale liquor establishment shall operate in conjunction with a full-service restaurant. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Other permitted uses within the General Commercial District shall be allowed, with the exception of a conditional use which shall require the review and approval of a Major Amendment to the Conditional Use Permit.

GENERAL COMMENTS:

(Update May 15, 2012. All revised and/or added text is shown in bold.) This item has been continued since the March 8, 2012 Planning Commission meeting to allow the applicant to address issues concerning landscaping, handicap parking and fire sprinkler protection. The applicant has indicated that the stipulations of approval are unlikely to be met prior to the May 24, 2012 Planning Commission meeting. Staff has informed the applicant that if the stipulations of approval have not been met prior to the May 24, 2012 Planning Commission meeting, that staff will recommend to deny the Conditional Use Permit. As of this writing, additional information has not been submitted for review and approval. Staff will notify the Planning Commission at the May 24, 2012 meeting if the stipulations have not been met.

(Update May 2, 2012. All revised and/or added text is shown in bold.) This item has been continued since the March 22, 2012 Planning Commission meeting to allow the applicant to address issues concerning landscaping, handicap parking and fire sprinkler protection. The property owner has indicated that he is currently reviewing bids to provide fire sprinkler protection for the existing structure. As of this writing, additional information has not been submitted for review and approval. Staff will notify the Planning Commission at the May 10, 2012 meeting if the stipulations have not been met. The applicant should be aware that if the stipulations have not been met prior to the May 24, 2012 Planning Commission meeting,

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staff will recommend to deny the Conditional Use Permit to allow an on-sale liquor establishment.

(Update April 18, 2012. All revised and/or added text is shown in bold.) This item was continued at the April 5, 2012 Planning Commission meeting to allow the applicant to address issues. The applicant is working with staff to submit a revised landscaping plan, provide two additional handicap accessible parking spaces and enter into a covenant agreement with the Fire Department to provide fire sprinkler protection to the building. As of this writing, the additional information has not been submitted for review and approval. Staff will notify the Planning Commission at the April 26, 2012 meeting if the stipulations have not been met.

(Update April 5, 2012. All revised and/or added text is shown in bold.) This item was continued at the March 22, 2012 Planning Commission meeting to allow the applicant to meet the stipulations of approval. The applicant is working with staff to submit a revised landscaping plan, provide two additional handicap accessible parking spaces and enter into a covenant agreement with the Fire Department to provide fire sprinkler protection to the building. As of this writing, the additional information has not been submitted for review and approval. Staff will notify the Planning Commission at the April 5, 2012 meeting if the stipulations have not been met.

(Update March 14, 2012. All revised and/or added text is shown in bold.) This item was continued at the March 8, 2012 Planning Commission meeting to allow the applicant to meet the stipulations of approval. The applicant is working with staff to submit a revised landscaping plan, provide two additional handicap accessible parking spaces and enter into a covenant agreement with the Fire Department to provide fire sprinkler protection to the building. As of this writing, the additional information has not been submitted for review and approval. Staff will notify the Planning Commission at the March 22, 2012 meeting if the stipulations have not been met.

The applicant has submitted a Conditional Use Permit to allow an on-sale liquor establishment. In particular, the applicant is proposing to serve beer and wine in the existing China Wok restaurant. The applicant is not proposing to expand any portion of the existing building.

On January 16, 1978, a Lot Split (File #PL608) was approved by the City Council creating the above legally described property.

On December 1, 1997, a Conditional Use Permit (File #UR1645) was approved with stipulations to allow an on-sale liquor establishment, the Hideaway Casino, to be located on the property.

The property is located approximately 80 feet southwest of the intersection of Eglin Street and North LaCrosse Street. Currently, a two level commercial building is located on the property called LaCrossroads Place. The occupants include China Wok, the Dollar Loan Center, Hideaway Casino, ING, Ameriprise Financial, Test Point and SD Advocacy.

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STAFF REVIEW:

Staff has reviewed the Conditional Use Permit application with respect to the four criteria for On-sale liquor establishments identified in Chapter 17.50.185 of the Rapid City Municipal Code and has noted the following considerations:

1. *The request will not “adversely affect” the use of any place used for religious worship, school, park, playground, or similar use within (500) foot radius.*

There are no schools, playgrounds or places of worship located within a 500 foot radius of the subject property. Knollwood Heights Park is located immediately northwest of the parcel. Knollwood Park is used as passive open space with no active recreation equipment. Located approximately 600 feet to the west is Knollwood Heights Elementary School. The request is not anticipated to have any “adverse affect” on any place used for religious worship, school, park or playground.

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

The subject property is currently zoned General Commercial District and is located along North LaCrosse Street which is identified as a principal arterial on the City's Major Street Plan. The properties to the north, south and east are zoned General Commercial District. The properties to the west are zoned Medium Density Residential District. A six foot opaque screening fence is located along the west property line.

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 several on-sale liquor establishments located within the area of the subject property. Located on the same property is the Hideaway Casino. Located on the property directly to the south is the Jackpot Casino Too #2. Located approximately 500 feet to the north is the Grand Gateway Casino/Cheers. Located approximately 150 feet to the northeast is the Ramada Inn. North Lacrosse Street is identified as a principal arterial street on the City's Major Street Plan. Staff does not find this request to allow an on-sale liquor establishment in conjunction with a full service restaurant to constitute an undue concentration that would cause blight or deterioration or diminish land values in the surrounding area.

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 at 1575 North LaCrosse Street adjacent to a principal arterial street on the east. The existing building is a one story, two level commercial structure. The front of the building faces east and is at street level with North LaCrosse Street.

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The second lower-level faces west, the rear of the property.

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

To the north and south of the subject property are one story commercial buildings. To the west of the subject property is a two story hotel, the Days Inn. Located to the west of the subject property are two story residential structures.

3. *Proposed fencing, screening and landscaping:*

The applicant is not proposing any additional fencing, screening or landscaping. A six foot screening fence is currently located along the west side of the property. The site plan submitted with the application does not show the location of landscaping features such as trees and shrubs. As such, prior to Planning Commission approval a revised landscaping plan must be submitted for review and approval showing the landscaping in compliance with Section 17.50.300 of the Rapid City Municipal Code. A minimum of 71,597 landscaping points must be provided. All provisions of Section 17.50.300, the Landscaping Regulations of the Rapid City Municipal Code must be continually met. All landscaping must be continually maintained in a live vegetative state and replaced as necessary.

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

There will be no changes in impervious surfaces, topography or drainage.

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

Vehicular access is off of North LaCrosse Street. A curbside sidewalk is located along North LaCrosse Street providing pedestrian access. There are currently 93 parking stalls with two handicapped accessible stalls. Section 17.50.270 of the Rapid City Municipal Code requires that a minimum of four handicap accessible stalls be provided when 93 stalls are provided. Prior to Planning Commission approval, four handicap accessible stalls must be located on the property. A minimum of 87 parking spaces must be provided. In addition, four of the parking spaces must be handicap accessible. One of the handicap spaces must be "van accessible." All provisions of the Off-Street Parking Ordinance must be continually met.

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

China Wok is an existing restaurant with sit-down and takeout options. The proposed on-sale liquor use in conjunction with a full service restaurant will generate approximately 47 trips per peak hour, 318 trips per weekday and 396 trips per Saturday.

7. *Proposed signs and lighting:*

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The applicant is not proposing any additional signage as a part of this Conditional Use Permit application. All signage must conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs will require the review and approval of a Major Amendment to the Conditional Use Permit. Lighting for the signs must be designed to preclude shining on the adjacent properties and/or street(s). A sign permit must also be obtained for each individual sign.

The applicant is not proposing any additional lighting as a part of this Conditional Use Permit application. All outdoor lighting must 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 motorist or constitute a nuisance of any kind.

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

The property is currently served by public utilities including Rapid City sewer and water.

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

The property is intended to be used for commercial uses. The proposed on-sale liquor establishment in conjunction with a full service restaurant requires a Conditional Use Permit. One of the goals of the Comprehensive Plan as identified in the Future Land Use Plan Overview adopted in 2008 is to provide a variety of centers for community activities and employment that meet the needs of residents and are integrated into the fabric of the community. The objective of the adopted Comprehensive Plan is to encourage retail establishments and businesses that are convenient to neighborhood residents, yet compatible with but not intrusive upon residential neighborhoods. Additionally, the objective of the adopted comprehensive plan is to insure that there is sufficient separation of conflicting uses. A 30 foot wide drainage and utility easement is located along the west property line as is a six foot screening fence. It appears that there is sufficient buffering between the on-sale liquor establishment in conjunction with a full service restaurant and the residential districts to the west and therefore appears to be in compliance with the adopted Comprehensive Plan.

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

The existing development on the property is in compliance with the density, yard and height requirements of the General Commercial District. All provisions of the General Commercial District must be met unless otherwise specifically authorized as a stipulation of this Conditional Use Permit or a subsequent Major Amendment.

The on-sale liquor establishment in conjunction with a full service restaurant is a conditional use in the General Commercial Zoning District. The on-sale liquor establishment must operate in conjunction with a full-service restaurant. Any expansion

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to the on-sale liquor use will require a Major Amendment to the Conditional Use Permit. Other permitted uses within the Central Business District will be allowed, with the exception of conditional uses which will require the review and approval of a Major Amendment to the Conditional Use Permit.

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

There is a six foot high, wood, closed vision fence adjacent to the parking area on the west side of the property. This fence is anticipated to reduce potential negative impacts of both lights and noise from the commercial use onto the adjacent residential property.

*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 of the Conditional Use Permit will serve as a tool to ensure that on-site parking and landscaping are in compliance with the Zoning Ordinance and that the owner enter into a covenant agreement with the Fire Department to provide fire sprinkler protection.

Fire Department: The Rapid City Fire Department has indicated that the building must be protected with an approved fire sprinkler system and associated fire alarm. As such, prior to Planning Commission approval, the property owner must initiate a covenant agreement in cooperation with the Rapid City Fire Department to provide fire sprinkler protection and an associated fire alarm system throughout the structure within an acceptable timeframe. All applicable provisions of the adopted International Fire Code must continually be met.

Notification: As of this writing, the white slips and green cards have been returned and the required sign has been posted on the property.