

STAFF REPORT
October 25, 2012

No. 12UR020 - Conditional Use Permit to allow the expansion of an On-Sale Liquor Establishment **ITEM 14**

GENERAL INFORMATION:

APPLICANT	Kent Kennedy - Kennedy Design Group, Inc.
AGENT	Powderhorn LLC
PROPERTY OWNER	PowderHorn, LLC
REQUEST	No. 12UR020 - Conditional Use Permit to allow the expansion of an On-Sale Liquor Establishment
EXISTING LEGAL DESCRIPTION	Lots 23 through 29 of Block 3 of Riverside Addition, located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.55 acres
LOCATION	355 11th Street
EXISTING ZONING	General Commercial District
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	General Commercial District
South:	Light Industrial District
East:	General Commercial District (Planned Development)
West:	General Commercial District
PUBLIC UTILITIES	Rapid City
DATE OF APPLICATION	September 26, 2012
REVIEWED BY	Fletcher Lacock / Brandon Quiett

RECOMMENDATION:

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

1. A building permit shall be obtained prior to any construction;
2. Prior to project completion and final approval of the building permit, the roof sign shall be removed;
3. A minimum of 14,794 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;

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4. A minimum of 24 parking spaces shall be provided. In addition, one of the parking spaces shall be handicap "van accessible". All provisions of the Off-Street Parking Ordinance shall be continually met;
5. All applicable provisions of the adopted International Fire Code shall continually be met;
6. 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;
7. 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;
8. All signage shall continually conform to the Sign Code. No electronic signs are being approved as a part of this Conditional Use Permit. Changes to the proposed sign package, which the Community Planning and Development Services Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Conditional Use Permit. All signage not in conformance with the Sign 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 the proposed signs; and,
9. The Conditional Use Permit shall allow the expansion of an on-sale liquor establishment. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Any change in use that is a permitted use in the General Commercial District shall require the review and approval of a Minimal Amendment. Any change in use that is a Conditional Use in the General Commercial District shall require the review and approval of a Major Amendment to the Conditional Use Permit.

GENERAL COMMENTS:

The applicant has submitted a Conditional Use Permit to allow the expansion of an on-sale liquor establishment. In particular, the applicant operates "The Break Room Billiards and Casino" and is proposing to expand the billiards hall into space that was previously storage. The existing building is 9,600 square feet in size. The proposed expansion of the on-sale use would occupy all 9,600 square feet. The hours of operation are Monday through Thursday 11:00 a.m. to 12:00 a.m. and Friday thru Saturday 11:00 a.m. to 1:00 a.m. The existing on-sale use is legal non-conforming. The expansion of the use within the existing building to include an area that was previously storage requires that a Conditional Use Permit be obtained.

On June 15, 1987, the City Council approved a Rezoning request from Light Industrial District to General Commercial District (Rezone #761) for the above legally described property.

The property is located in the northwest corner of the intersection of West Rapid Street and 11th Street. Currently, a one story commercial building is located on the property.

STAFF REVIEW:

Staff has reviewed the Conditional Use Permit and has noted the following considerations:

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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. Founders Park is located approximately 400 feet to the north and northwest of the above legally described property. Founders Park is located on the north side of Omaha Street which is identified as an arterial street on the City’s Major Street Plan. 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 property is zoned General Commercial District as are the properties to the north and west. The property to the east is zoned General Commercial District with a Planned Development Overlay. The property to the south is zoned Light Industrial District. The above legally described property is located in a commercial corridor that extends along the south side of Omaha Street. To the south of the property is an industrial corridor. Omaha Street and Founders Park provide a buffer to residential districts located to the northwest. The industrial corridor, Main Street and East Saint Joseph Street provide a buffer to residential districts located to the south. It appears that the proposed expansion of an on-sale liquor establishment is sufficiently buffered with respect to residential areas so as not to adversely affect such areas.

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 in the existing structure is the Breakroom Casino. Located in the strip mall to the northwest of the property are Ichiban, A Perfect 10 Nail Bar and Happy Jack’s Omaha Street Casino. Located approximately 400 feet to the west is Panchero’s Mexican Grill. This is an established commercial corridor in the city. As such, staff does not find this request to allow the expansion of an on-sale liquor establishment to constitute an undue concentration that would cause blight, deterioration, or substantially diminish or impair 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 355 11th Street at the intersection of 11th Street and West Rapid Street. The existing building is a one story commercial structure.

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

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To the north of the subject property is a one story commercial strip mall. To the west of the subject property is a parking lot. To the east of the subject property is the First Interstate Bank. Located to the south of the subject property is the Cornerstone Rescue Mission. The subject property is in keeping with the character of the existing neighborhood.

3. *Proposed fencing, screening and landscaping:*

A minimum of 14,794 landscaping points must be provided for the proposed development. The applicant has submitted a landscaping plan that shows a total of 21,500 landscaping points to be provided. The proposed landscaping is in compliance with Chapter 17.50.300 of the Rapid City Municipal Code. 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:*

West Rapid Street provides vehicular access to the property. A property line sidewalk is located along West Rapid Street providing pedestrian access. The proposed on-sale use requires a minimum of 96 parking spaces. There are currently 24 parking stalls with two handicapped accessible stalls located on the property. On July 15, 2008, the Zoning Board of Adjustment granted a Variance to allow 24 parking spaces in lieu of the 96 parking spaces required as per Chapter 17.50.270 of the Rapid City Municipal Code. The Variance was requested for the proposed expansion of the billiard hall with on-sale use.

The Planning Commission should be aware that the existing on-site parking is 72 spaces below the minimum required for the proposed on-sale use. The applicant has stated that adjacent property owners will allow overflow parking on their lots as the applicant allows them to park on the above legally described property. The Variance to the parking requirement was approved for the proposed expansion of the on-sale use. As such, a minimum of 24 parking spaces must be provided. In addition, one of the parking spaces must be handicap "van accessible". All provisions of the Off-Street Parking Ordinance must be continually met. The applicant's parking plan is in compliance with the Variance previously granted by the Zoning Board of Adjustment.

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

Based on 8th Edition of the Institute of Transportation Engineers (ITE) Trip Generation book the proposed expansion of the on-sale liquor use will generate between 36 trips and 149 trips per peak hour.

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7. Proposed signs and lighting:

The applicant has submitted a sign package identifying the existing signage located on the property. The applicant is not proposing any additional signage as a part of this Conditional Use Permit application. The existing roof sign on the property does not comply with the Sign Code and must be removed prior to project completion and final approval of the building permit. All signage must continually conform to the Sign Code. No electronic signs are being approved as a part of this Conditional Use Permit. Changes to the proposed sign package, which the Community Planning and Development Services Director determines to be consistent with the original approved sign package, will be allowed as a Minimal Amendment to the Conditional Use Permit. All signage not in conformance with the Sign 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 existing on-sale use was established prior to February 17, 1992, when on-sale liquor establishments became a conditional use in the General Commercial District, and is therefore a legal non-conforming use. The proposed expansion of the on-sale liquor establishment 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. The proposed expansion of the on-sale use is located in a commercial corridor adjacent to an industrial corridor to the south and is sufficiently buffered from residential districts. As such, it appears that the proposed expansion of the on-sale liquor establishment is in compliance with the adopted Comprehensive Plan.

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

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The existing structure on the property is legal non-conforming as to front and side yard setback requirements of the General Commercial District. The applicant should be aware that damage to the structure in excess of 50% of the value of the structure will require that the property come into compliance with the Zoning Ordinance. 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 is a conditional use in the General Commercial Zoning District. The Conditional Use Permit will allow the expansion of an on-sale liquor establishment. Any further expansion to the on-sale liquor use will require a Major Amendment to the Conditional Use Permit. Any change in use that is a permitted use in the General Commercial District will require the review and approval of a Minimal Amendment. Any change in use that is a Conditional Use in the General Commercial District 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:

The above legally described property is located in a commercial corridor that extends along the south side of Omaha Street. To the south of the property is an industrial corridor. Omaha Street and Founders Park provide a buffer to residential districts located to the northwest. The industrial corridor, Main Street and East Saint Joseph Street provide a buffer to residential districts located to the south. It does not appear that the proposed on-sale liquor use will have a negative effect on the surrounding area by causing noise, odor, smoke, dust, air or water pollution.

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 the proposed expansion is in compliance with the Zoning Ordinance, International Fire Code and Building Code.

Fire Department: The applicant is currently installing fire sprinkler protection in the existing structure and has met the minimum standards as established by the International Fire Code. All applicable provisions of the adopted International Fire Code must continually be met.

Police Department: The Rapid City Police Department expressed concern regarding the applicant having sufficient staff members to monitor and ensure that no underage patrons have access to alcoholic beverages. The applicant has worked with police staff to address this issue and the Rapid City Police Department has indicated concurrence with the proposed expansion of the on-sale use.

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Notification: As of this writing, the white slips and green cards from the certified mailing have not been returned and the required sign has not been posted on the property. Staff will notify the Planning Commission at the October 25, 2012 Planning Commission meeting if these requirements have not been met.