

STAFF REPORT  
November 21, 2012

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**No. 12UR021 - Major Amendment to an On-sale Liquor Conditional Use Permit to expand the use of the property to allow Auto Sales and Display**

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**ITEM 2**

GENERAL INFORMATION:

APPLICANT	Frank Boyle
PROPERTY OWNER	Isaac Almanza and Carissa Meyer
REQUEST	<b>No. 12UR021 - Major Amendment to an On-sale Liquor Conditional Use Permit to expand the use of the property to allow Auto Sales and Display</b>
EXISTING LEGAL DESCRIPTION	Lot F less Lot F-1 of Park Addition No. 2, located in Section 6, T1N, R8E and Section 1, T1N, R7E and Lot A of Lot E of Government Lots 4 and 5, located in Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .67 acres
LOCATION	200 East Main Street
EXISTING ZONING	General Commercial District
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	Light Industrial District
South:	General Commercial District - General Commercial (Planned Development)
East:	General Commercial District - Light Industrial District
West:	General Commercial District
PUBLIC UTILITIES	Rapid City
DATE OF APPLICATION	October 26, 2012
REVIEWED BY	Fletcher Lacock / Nicole Lecy

RECOMMENDATION:

Staff recommends that the Major Amendment to an On-sale Liquor Conditional Use Permit to expand the use of the property to allow Auto Sales and Display be approved with the following stipulations:

1. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
2. Prior to issuance of a Certificate of Occupancy for the auto dealership, the proposed

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- interior wall separating the proposed auto sales office and the existing on-sale liquor use shall be constructed. The uses shall not extend onto the deck;
3. Any car washing activities in association with the auto dealership shall be designed and operated in compliance with Chapter 13.04.010 and Chapter 13.16.240 of the Rapid City Municipal Code;
  4. A minimum of 18,503 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;
  5. A minimum of 15 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;
  6. All applicable provisions of the adopted International Fire Code shall continually be met;
  7. 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 amendment in compliance with Chapter 17.54.040 of the Rapid City Municipal Code;
  8. 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;
  9. All signage shall continually conform to the Sign Code. The existing electronic reader board sign shall continually comply with the Sign Code. No new 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,
  10. The Major Amendment to the on-sale liquor Conditional Use Permit shall allow the expansion of the uses on the property to include an auto sales office and display and an on-sale liquor establishment. The uses shall not extend onto the deck. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Minimal Amendments shall be allowed as per Chapter 17.54.030 of the Rapid City Municipal Code. 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 Major Amendment to an on-sale liquor Conditional Use Permit to expand the use of the property to allow auto sales and display. A Conditional Use Permit to allow an on-sale liquor establishment was previously approved for the property. The applicant is requesting to expand the use of the property to include an auto sales office and display parking. The existing building is 2,433 square feet in size. Approximately 1,800 square feet of the building will be used as an auto sales office with approximately 724 square feet used for the previously approved on-sale liquor establishment with video lottery.

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The applicant has stated that the auto sales will operate 8:00 a.m. to 5:00 p.m. Monday through Saturday and the on-sale liquor establishment with video lottery will operate from 11:00 a.m. to legal last call.

On February 21, 2000, the City Council approved a Conditional Use Permit to allow an on-sale liquor establishment (File #00UR001) for the above legally described property.

On September 4, 2001, the City Council approved a Major Amendment to a Conditional Use Permit to eliminate the stipulation requiring fencing, landscaping and barrier along Maple Avenue (File #01UR031) for the above legally described property.

On February 24, 2011, the Planning Commission approved a Conditional Use Permit to allow an on-sale liquor establishment (File #11UR003) because the previously approved on-sale use had ceased to operate for more than two years.

The property is located in the northeast corner of the intersection of East Main Street and Maple Avenue. Currently, a one story commercial building is located on the property.

**STAFF 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 in the northeast corner of the intersection of East Main Street and Maple Avenue. A one story commercial building with a deck is located on the property.

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

Railroad right-of-way is located to the north of the property. The properties located to the south are one story commercial structures. The properties to the north and east are one story industrial structures. The properties to the south and west are one story commercial structures. The properties to the southwest are one story residential structures zoned General Commercial District.

3. *Proposed fencing, screening and landscaping:*

The applicant is not proposing any additional fencing or screening. The applicant is proposing to construct an interior wall in the existing structure to separate the previously approved on-sale use and the proposed auto sales office. As such, prior to issuance of a Certificate of Occupancy for the auto dealership, the proposed interior wall separating the proposed auto sales office and the existing on-sale liquor use must be constructed. The applicant has indicated that the uses will not extend onto the deck to ensure separation between the uses.

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A minimum of 18,503 landscaping points must be provided for the proposed development. The applicant has submitted a landscaping plan that shows a total of 22,533 landscaping points to be provided. The proposed landscaping is in compliance with Chapter 17.50.300 of the Rapid City Municipal Code.

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

There will be no changes in impervious surfaces, topography or drainage. The applicant should be aware that if car washing activities will occur, car washing activities which discharge waste are considered a minor industrial user as per Chapter 13.04.010 of the Rapid City Municipal Code. Minor industrial users are required to have an interceptor to collect and treat the waste prior to discharging to the sanitary sewer system as per Chapter 13.16.240 of the Rapid City Municipal Code. Discharging car washing activities waste into the storm sewer is prohibited. As such, any car washing activities in association with the auto dealership must be designed and operated in compliance with Chapter 13.04.010 and Chapter 13.16.240 of the Rapid City Municipal Code.

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 to the site is provided off Main Street to the south and off Maple Avenue to the west. Currently, there are no sidewalks along the abutting rights-of-way. However, this major Amendment to the Conditional Use Permit does not trigger the requirement that sidewalks be constructed at this time.

A minimum of 15 parking spaces must be provided. In addition, one of the parking spaces must be handicap "van accessible". The applicant has submitted a parking plan identifying 35 parking spaces with 2 handicap accessible spaces. In addition, one of the handicap spaces is "van accessible". The applicant has identified the 17 parking spaces abutting Main Street to be for auto sales display. The proposed parking plan is in compliance with the parking regulations as per Chapter 17.50.270 of the Rapid City Municipal Code. All provisions of the Off-Street Parking Ordinance shall be continually met.

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

The applicant is proposing to reduce the area inside the existing building to be used by the previously approved on-sale use with video lottery. The proposed reduction will generate fewer trips per peak hour.

7. *Proposed signs and lighting:*

The applicant has submitted a sign package identifying an existing 4 foot high by 12 foot wide electronic reader board pole sign, four 4 foot high by 12 foot wide wall signs on the west, south and east sides of the existing structure and a 4 foot high by 6 foot wide canopy entrance sign. All signage must continually conform to the Sign Code. In

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addition, the existing electronic reader board sign must continually comply with the Sign Code. No new 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 new 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 the proposed signs.

The applicant is not proposing any additional outdoor lighting. The existing outdoor lighting must continue to 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 Zoning Ordinance is the tool that implements the Comprehensive Plan. A Conditional Use Permit was approved to allow an on-sale liquor establishment on the above legally described property. The applicant is proposing to reduce the size of the approved on-sale liquor establishment from 2,433 square feet to 726 square feet and to allow a used auto sales office with display parking. The Major Amendment to the on-sale liquor Conditional Use Permit will allow the expansion of the uses on the property to include an auto sales office and display. The applicant has indicated that neither use will extend onto the deck.

The applicant should be aware that any expansion to the on-sale liquor use will require a Major Amendment to the Conditional Use Permit. Minimal Amendments will be allowed as per Chapter 17.54.030 of the Rapid City Municipal Code. 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. All provisions of the General Commercial District must be met unless otherwise specifically authorized as a stipulation of this Major Amendment to the Conditional Use Permit or a subsequent amendment in compliance with Chapter 17.54.040 of the Rapid City Municipal Code.

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

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of this Major Amendment or a subsequent amendment in compliance with Chapter 17.54.040 of the Rapid City Municipal Code.

A Conditional Use Permit was previously approved to allow the on-sale liquor establishment on the property. The Major Amendment to a Conditional Use Permit will allow the uses on the property to include an auto sales office with display.

*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:*

It does not appear that the proposed auto sales office with display parking will have a negative effect on the surrounding area by causing noise, odor, smoke, dust, air or water pollution. However, the applicant should be aware that if car washing activities will occur, car washing activities which discharge waste are considered a minor industrial user as per Chapter 13.04.010 of the Rapid City Municipal Code. Minor industrial users are required to have an interceptor to collect and treat the waste prior to discharging to the sanitary sewer system as per Chapter 13.16.240 of the Rapid City Municipal Code. Discharging car washing activities waste into the storm sewer is prohibited. As such, any car washing activities in association with the auto dealership must be designed and operated in compliance with Chapter 13.04.010 and Chapter 13.16.240 of the Rapid City Municipal Code.

*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 are included to serve as a tool to mitigate probable adverse impacts of the proposed use on existing adjacent uses. In addition, the stipulations of approval will ensure compliance with the Zoning Ordinance and the International Fire Code.

Notification: As of this writing, the white certified mail receipts and green cards have not been returned. The required sign has not been posted on the property. Staff will notify the Planning Commission at the November 21, 2012 Planning Commission meeting if these requirements have not been met.