

STAFF REPORT  
August 22, 2013

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**No. 13UR015 - Conditional Use Permit to allow an On-Sale Liquor Establishment in Conjunction with a Full Service Restaurant**      **ITEM 8**

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GENERAL INFORMATION:

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|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| APPLICANT                   | Thomas R. Cone II                                                                                                                                                                                                                                                           |
| PROPERTY OWNER              | M3CLLC                                                                                                                                                                                                                                                                      |
| REQUEST                     | <b>No. 13UR015 - Conditional Use Permit to allow an On-Sale Liquor Establishment in Conjunction with a Full Service Restaurant</b>                                                                                                                                          |
| EXISTING LEGAL DESCRIPTION  | Lots 15 thru 23, the north 3 feet of vacated Monroe Street adjacent to Lots 15 thru 21, the S1/2 of the vacated alley adjacent to said Lots 15 thru 23 of Block 9 of North Side Addition, located in Section 31, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE              | Approximately .68 acres                                                                                                                                                                                                                                                     |
| LOCATION                    | 710 N. LaCrosse, Suite 4                                                                                                                                                                                                                                                    |
| EXISTING ZONING             | General Commercial District                                                                                                                                                                                                                                                 |
| FUTURE LAND USE DESIGNATION | Commercial                                                                                                                                                                                                                                                                  |
| SURROUNDING ZONING          |                                                                                                                                                                                                                                                                             |
| North:                      | General Commercial District                                                                                                                                                                                                                                                 |
| South:                      | General Commercial District - Medium Density Residential District                                                                                                                                                                                                           |
| East:                       | Medium Density Residential District                                                                                                                                                                                                                                         |
| West:                       | Public District                                                                                                                                                                                                                                                             |
| PUBLIC UTILITIES            | Rapid City water and sewer                                                                                                                                                                                                                                                  |
| DATE OF APPLICATION         | July 18, 2013                                                                                                                                                                                                                                                               |
| REVIEWED BY                 | Robert Laroco / Nicole Lecy                                                                                                                                                                                                                                                 |

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a full service restaurant be approved with the following stipulations:

1. A building permit shall be obtained prior to commencement of any construction;
2. All signage shall continue to comply with the submitted sign package and the Rapid City Municipal Code. Changes or additions to the signage which comply with the Rapid City Sign Code shall be permitted. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Planned Development. The addition of electronic or

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LED signage shall require a Major Amendment to the Planned Development. A sign permit is required for each sign;

3. A minimum of 40 parking spaces shall be provided. All parking shall continue to comply with the Rapid City Parking Ordinance and the submitted site plan;
4. All outdoor lighting shall continue to reflect within the property boundaries so as to not shine on adjoining properties and rights-of-way and not be a hazard to the passing motorist or constitute a nuisance of any kind;
5. All applicable provisions of the International Fire Code shall be continually maintained;
6. All provisions of the General Commercial District shall be continually maintained, and;
7. This Conditional Use Permit shall allow an on-sale liquor establishment for beer in conjunction with a full-service restaurant. All permitted uses in the General Commercial District shall be permitted contingent upon provision of sufficient parking and with an approved building permit. All conditional uses in the General Commercial District shall require a Major Amendment to the Conditional Use Permit.

**GENERAL COMMENTS:** The applicant has submitted a request for a Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a full service restaurant within one suite of a strip mall on property located in the General Commercial District. The existing restaurant, known as "Taste of Chicago" has recently opened at the former "House of Coffee" location on North La Crosse Street and is proposing to sell beer to their patrons as part of the menu. An on-sale liquor establishment is a conditional use in the General Commercial District and, as such, the applicant has submitted this request. The applicant has not proposed any expansion or alteration of the existing structures.

The restaurant is located in Suite #4 of the four suite strip mall located at 710 North La Crosse Street. Currently, the "Taste of Chicago", the Morningside Café, Benja's Mexican Store, and an attorney's office are located on the property.

**STAFF REVIEW:** Staff has reviewed the application according to the requirements of Rapid City Municipal Code Chapter 17.50.185 regarding on-sale liquor establishments. The requirements are as follows:

1. *The requested use will not adversely affect the use of any place used for religious worship, school, park, playground or similar use within a 500-foot radius:*

The Church of God, located at 706 East Monroe Street, is located approximately 200 feet to the east of the strip mall on property zoned Medium Density Residential District. The subject property is located in the General Commercial District located within an established commercial corridor. The proposed on-sale liquor use is for the sale of beer in conjunction with a full service restaurant. The sale and service of beer will be completely confined to the interior of the restaurant. The General Commercial District is seen as the appropriate zoning district for on-sale liquor establishments, especially when accessory to another use on the property. In addition, the applicant is proposing to sell beer only, and is not seeking a full liquor license. For these reasons, it does not appear that the proposed on-sale liquor use will adversely impact the nearby place of religious worship.

2. *The requested use is sufficiently buffered with respect to residential areas so as not to*

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*adversely affect the areas:*

Property to the north and south is zoned General Commercial District. Property to the west is zoned Public District. Property to the east is zoned Medium Density Residential District. The submitted site plan shows an existing screening fence is located between the commercial property and the Medium Density Residential District east of the property. The screening fence serves to minimize the impact of the proposed on-sale liquor use from the neighboring residences. The applicant's submitted operational plan shows that the restaurant has a maximum capacity of 25 patrons and will operate between the hours of 11:00 am and 12:00 am. In addition, the requested on-sale liquor use is for beer only and is in conjunction with a full service restaurant rather than a bar. The operational plan of the restaurant should minimize potential negative effects of the on-sale liquor use. Based on these reasons, it appears that the requested on-sale liquor use for beer only is sufficiently buffered from residential 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 three existing on-sale liquor establishments located within 500 feet of the property. The La Crosse Street Casinos I and II are located within two suites of a strip mall at 720 North La Crosse Street, immediately north of the subject property. In addition, the Jackpot Casino is located within one suite of a strip mall at 685 North La Crosse Street, approximately 300 feet south of the subject property and on the west side of North La Crosse Street. All three casinos include on-sale liquor as an accessory use to the primary use. The existing and proposed on-sale liquor uses in this vicinity are all located within an established commercial corridor zoned General Commercial District. Based on the accessory nature of the on-sale liquor uses in the area as well as the location of the business in an established commercial corridor, it appears that the proposed on-sale liquor establishment to allow the sale of beer only in conjunction with a full service restaurant does not create an undue concentration of similar uses.

4. *The proposed use complies with the standards of 5.12.140 and 17.54.030 of this code:*

The criteria for review of a Conditional Use Permit per Chapter 17.54.030 of the Rapid City Municipal Code are included below. The proposed use complies with the standards of the Code.

Criteria for Review: Rapid City Municipal Code Chapter 17.54.030.E sets the criteria required in reviewing a Conditional Use Permit. In reviewing applications for a Conditional Use Permit, due consideration shall be given to the following:

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

The property is located on North La Crosse Street, in an established commercial corridor, and is currently developed with a four suite strip mall and parking and landscaping. Other businesses located within the same strip mall include the Morningside Café, Benja's Mexican Store, and an attorney's office. No structural expansions are being proposed on

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the property.

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

The area along North La Crosse Street is fully developed with a variety of retail stores and services including a car wash, casinos, restaurants, a used sporting goods store, and a health clinic. Property to the east is developed as multifamily housing.

3. *Proposed fencing, screening, and landscaping:*

A landscaping plan showing existing landscaping on the property was included with the submitted application. The proposed on-sale liquor use to allow beer in conjunction with a full-service restaurant does not include any expansion of structures on the property and, as such, does not trigger any additional landscaping. Submitted plans also show a screening fence is located along the eastern portion of the property, separating the existing commercial development from the residential district located to the east. No additional screening, fencing, or landscaping is proposed.

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

All grading and drainage improvements for the Rushmore Crossing development have been installed. The Public Works department has not identified any issues with the drainage or grading of the area.

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

A minimum of 40 parking spaces must be provided for the existing and proposed uses on the site. The submitted site plans shows that 43 parking spaces are currently located on the site. All parking must continue to comply with the submitted site plan and the requirements of the Rapid City Parking Ordinance. The applicant should note that future changes to the uses in the structure may increase the required amount of off-street parking provided. If more than 43 parking spaces are required a variance to reduce the parking requirements may be required. However, it appears that sufficient parking is being provided for the existing and proposed uses.

Sidewalks are installed along North La Crosse Street and Monroe Street and in front of the strip mall. The alleyway located north of the structure has been vacated and serves as a shared access point for the strip mall and the commercial development located to the north of the subject property.

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

North La Crosse Street is identified as a principal arterial street on the City's Major Street Plan, suitable for accommodating the highest expected traffic volumes in the City. The proposed on-sale liquor use is located in a fully developed commercial corridor. In addition, the proposed on-sale liquor use is accessory to the existing restaurant and is

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not anticipated to increase the amount of traffic generated on the property.

*7. Proposed signs and lighting:*

Submitted plans show all existing signage will remain on the property. It appears existing signage complies with the requirements of the Rapid City Sign Code. No additional signage is being proposed. All existing and future signage must comply with Chapter 17.50.080 of the Rapid City Municipal Code. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Conditional Use Permit. The addition of LED signage will require a Major Amendment to the Conditional Use Permit. A sign permit is required for each sign.

Property to the east is zoned Medium Density Residential District and is currently developed with multifamily housing. All outdoor lighting must be designed to reflect within the property boundaries so as to not shine on adjoining properties and rights-of-way and 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 served by Rapid City water and sewer services. Public Works staff has noted that existing utilities appear sufficient to accommodate the proposed on-sale liquor establishment for beer and wine.

The Rapid City Fire Department has reviewed the requested use and has noted that all applicable provisions of the currently adopted International Fire Code must be continually met. The building address must be posted in 12 inch high numbers in contrasting colors, and the suite number must be posted in 4 inch high numbers in contrasting colors. In addition, the Rapid City Fire Department has noted that installation of an approved fire sprinkler protection system is strongly encouraged, although it is not required as a part of the review of this proposed on-sale liquor use for beer.

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

The Future Land Use designation for this property is commercial. The property is zoned General Commercial District. The proposed use on the property complies with the Comprehensive Plan and the Zoning Ordinance.

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

Submitted plans show that the property meets all the setback requirements of the General Commercial District. In addition, the proposed structure is one story tall and approximately 6,955 square feet of space. The suite is located on a lot comprising approximately 0.68 acres. The property meets all the land use regulations of the General Commercial District.

*11. The effects of noise, odor, smoke, dust, air, and water pollution and the degree of control*

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*through the use of clarifiers, screening, setbacks, and orientations:*

The proposed on-sale liquor use for beer is located entirely on the inside of the suite and is accessory to the primary use. The Conditional Use Permit will allow for the existing full-service restaurant to include the sale and service of beer as an accessory to the primary use. No outdoor seating is being proposed. It does not appear that the request will create excessive noise, odor, smoke, dust, air, or water pollution.

Building Inspections staff has noted that documentation on the status of all commercial kitchen equipment, including all hoods, fire suppression, dishwashers, and other commercial equipment will be required upon submittal of a building permit application. However, submittal of the documentation is not required as a part of this review.

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

The on-sale alcohol use for beer on the property must comply with the hours/days/holiday restrictions that apply for the type of license secured. The stipulations of approval of this Conditional Use Permit will serve as the tool to ensure that the proposed use will maintain parking, sufficient buffering from neighboring residential uses, and not create additional light or noise that may have an adverse impact on the area. The proposed on-sale liquor use is an accessory to the primary restaurant use. The General Commercial District is viewed as the appropriate zoning classification for on-sale liquor uses, especially as an accessory to other primary uses. In addition, the applicant is proposing the sale and service of beer only, and is not proposing the sale of liquor. The proposed restaurant is located in one suite of a strip mall meeting all the requirements of the Rapid City Municipal Code. For these reasons, staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment for beer in conjunction with a full service restaurant be approved with the stipulations outlined above.

Notification Requirements: The first class mailings have been returned to Community Planning and Development Services for mailing. The sign has been posted on the property. There have been no inquiries into the requested Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a full-service restaurant.