

STAFF REPORT
February 6, 2014

No. 14UR001 - Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a full service restaurant **ITEM 5**

GENERAL INFORMATION:

APPLICANT	Amanda Martinez
PROPERTY OWNER	Northwestern Engineering Company
REQUEST	No. 14UR001 - Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a full service restaurant
EXISTING LEGAL DESCRIPTION	Tract A and the S1/2 of vacated part of alley adjacent to Tract A of Block 2 of Feigels Subdivision, located in Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.43 acres
LOCATION	1012 East North Street
EXISTING ZONING	General Commercial District
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	January 10, 2014
REVIEWED BY	Fletcher Lacock / Ted Johnson

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 any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
2. A minimum of 47 parking spaces shall be provided. Two of the parking spaces shall be handicap accessible. One of the handicap spaces shall be "van accessible." All provisions of the Off-Street Parking Ordinance shall be continually met;
3. A minimum of 12,231 landscaping points shall be provided. All provisions of Section 17.50.300, the Landscape Regulations of the Rapid City Municipal Code shall be

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- 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;
 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 continually conform to 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 shall require a Major Amendment to the Conditional Use Permit. 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;
 7. The maximum occupancy for the restaurant shall be 50, including staff. If the occupancy exceeds 50 including staff, the structure shall be fully fire sprinkler protected and fire alarmed/protected or an Exception shall be obtained from the International Fire Code. All applicable provisions of the adopted International Fire Code shall continually be met; and,
 8. The Conditional Use Permit shall allow for an on-sale liquor establishment in conjunction with a full service restaurant for the property. 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 in compliance with the minimum requirements of the Zoning Ordinance shall require a building permit. All conditional uses 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 an on-sale liquor establishment in conjunction with a full service restaurant. In particular, the applicant is proposing to open "El Mariachi" an authentic Mexican restaurant. The applicant is proposing to serve beer and wine based margaritas with meals. The restaurant is approximately 2,245 square feet in size. The applicant has indicated that they will have seating for up to 50 customers. The hours of operation will be from 11:00 a.m. to 9:00 p.m.

On January 4, 2007, the Planning Commission approved a Conditional Use Permit (File #06UR025) to allow an on-sale liquor establishment in the same location as this application. However, the Conditional Use Permit expired because the use had ceased for a period of over two years. As such, a new Conditional Use Permit must be obtained.

The property is located on the northeast corner of the intersection of East North Street and Riley Avenue. Currently, a one-story commercial strip mall is located on the property. The strip mall includes the following businesses; "Asian Grocery", "Great Clips" and "Cash Spot".

STAFF REVIEW:

Staff has also reviewed the Final Planned Development Overlay with respect to Chapter

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17.50.185 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. The property is located in a commercial corridor that abuts East North Street. The City’s Major Street Plan identifies East North Street as a principal arterial street. 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.*

East North Street is identified as a Principal Arterial Street on the City’s Major Street Plan. The properties to the north, south, east and west are zoned General Commercial District and developed with commercial uses. The closest property zoned Residential is located approximately 160 feet to the north on the east side of Riley Avenue. The property is developed with a mobile home park. The proposed on-sale liquor use will be located within an existing commercial strip mall facing south away from the residential use. In addition, the proposed on-sale liquor use is in conjunction with a full-service restaurant. The hours of operation are from 11:00 a.m. to 9:00 p.m.

The Conditional Use Permit will allow for an on-sale liquor establishment in conjunction with a full service restaurant for the property. Any 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 in compliance with the minimum requirements of the Zoning Ordinance will require a building permit. All conditional uses will require the review and approval of a Major Amendment to the Conditional Use Permit.

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.”*

Currently, there are multiple on-sale liquor uses located along East North Street. “Golden Fortune” is located approximately 250 feet to the east. “Dean’O’s Casino” is located on the south side of East North Street approximately 470 feet to the west. “Hong Kong Buffet” is located approximately 500 feet to the south. East North Street is identified as a Principal Arterial Street on the City’s Major Street Plan and is an established commercial corridor. It does not appear that the proposed on-sale liquor use in conjunction with a full service restaurant will create an undue concentration causing blight or deterioration or diminish the 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:

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

The property is approximately 18,730 square feet in size and is located on the northeast corner of the intersection of East North Street and Riley Avenue. Currently, the property is fully developed with a one-story commercial strip mall. The property is the location of the following businesses; "Asian Grocery", "Great Clips" and "Cash Spot".

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

The property to the west is zoned General Commercial District and is developed with a fast food restaurant. The property to the south is zoned General Commercial District and is the location of a fast food restaurant and a big box store. The property to the east is zoned General Commercial District and is developed with a one-story commercial building. The property to north is zoned General Commercial District and is developed with a parking lot for the businesses on the subject property. A Developmental Lot Agreement is in place to secure the parking.

3. *Proposed fencing, screening and landscaping:*

The applicant is not proposing any additional fencing, screening or landscaping. There is an existing screening fence located on the adjacent property to the north along the property line abutting the mobile home park. The existing 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.

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

Property line sidewalk is located along East North Street and Riley Avenue. Vehicular access is from East North Street which is identified as a Principal Arterial Street on the City's Major Street Plan as well as from Riley Avenue.

A minimum of 47 parking spaces must be provided for the uses on the property. The site plan identifies 49 parking spaces with two parking spaces handicap accessible and one space being "van accessible". The parking is in compliance with Chapter 17.50.270 of the Rapid City Municipal Code.

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

The proposed on-sale liquor use in conjunction with a full service restaurant is not a change in use for the site. The previous Conditional Use Permit to allow an on-sale liquor establishment has expired and a new Conditional Use Permit must be obtained.

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7. Proposed signs and lighting:

The applicant has submitted a sign package that shows a wall sign in the same place as the existing sign. The sign will include the wording “El Mariachi” and “Restaurante”. The applicant has indicated that the wording of the sign may change. The proposed signage is in compliance with the Sign Code.

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 is a conditional use in the General Commercial District. 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 ensure that there is sufficient separation of conflicting uses. To ensure this objective, the Comprehensive Plan encourages commercial development along major streets and that a sufficient separation and buffering be provided between residential areas. This site meets both of these objectives.

The proposed on-sale liquor establishment is located in a commercial corridor adjacent to East North Street which is identified as a Principal Arterial Street on the City’s Major Street Plan. Properties to the north, south, east and west are zoned General Commercial District.

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

The existing development is in compliance with the Zoning Ordinance. The applicant is not proposing to expand the existing structure. All provisions of the General Commercial District must be met.

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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 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 on-sale liquor use is operated in conjunction with a full service restaurant and in compliance with the International Fire Code and the City's Sign Code. In addition, any expansion of the on-sale liquor use will require that a Major Amendment to the Conditional Use Permit be obtained.

Building Permit: A Building Permit must be obtained prior to any construction and a Certificate of Occupancy must be obtained prior to occupancy.

Fire Department: The applicant has indicated that the restaurant will be able to seat 50 customers. The applicant should be aware that occupancy of over 50 will require that the structure be fire sprinkler protected and fire alarmed. All applicable provisions of the adopted International Fire Code must continually be met.

Notification: The mailings and sign have been picked up. In addition, the mailings have been returned to Community Planning and Development Services for posting. Staff has not confirmed that the sign has been posted on the property. Staff will notify the Planning Commission at the February 6, 2014 Planning Commission meeting if this requirement has been met.