

STAFF REPORT
May 8, 2014

No. 14UR009 - Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant **ITEM 6**

GENERAL INFORMATION:

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| APPLICANT | China Wok |
| AGENT | Brian Bach |
| PROPERTY OWNER | Bach Investment Company |
| REQUEST | No. 14UR009 - Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant |
| EXISTING LEGAL DESCRIPTION | Lot B of Lot 6 of 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 N. Lacrosse 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 (Planned Development) |
| West: | Medium Density Residential District |
| PUBLIC UTILITIES | Rapid City water and sewer |
| DATE OF APPLICATION | April 1, 2014 |
| REVIEWED BY | Fletcher Lacock / Nicole Lecy |

RECOMMENDATION:

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

1. A minimum of 87 parking spaces shall continually be provided. Four 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;
2. 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

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- and replaced as necessary;
3. 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;
 4. 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;
 5. All signage shall conform to the Sign Code. No electronic signs are being approved as a part of this Major Amendment. 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. 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 all signs;
 6. All applicable provisions of the adopted International Fire Code shall continually be met; and,
 7. The Conditional Use Permit shall allow for an on-sale liquor establishment operated in conjunction with a full-service restaurant. Any expansion to the on-sale liquor establishment shall require a Major Amendment. Any change in use that is a permitted use in the General Commercial District and is in compliance with the Parking Ordinance shall require the review and approval of a Building Permit. Any change in use that is a Conditional Use in the General Commercial District shall require the review and approval of a Major Amendment.

GENERAL COMMENTS:

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

On May 24, 2012, the Planning Commission denied a Conditional Use Permit (File #12UR005) to allow an on-sale liquor establishment because the stipulations of approval required to be met prior to Planning Commission approval were not addressed. Those stipulations included: entering a covenant agreement to fire sprinkler protect the structure, to revise the landscaping plan and to provide handicap accessible parking. These issues have since been addressed.

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 "La Crossroads 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 to constitute an undue concentration that would cause blight or deterioration or diminish land values in the surrounding area since it is being operated in conjunction with a full service restaurant.

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 towards 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 east 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:*

A six foot screening fence is currently located along the west side of the property. The applicant is not proposing any additional fencing or screening.

A minimum of 71,597 landscaping points must be provided. The applicant has recently planted additional trees and shrubs on the property and has submitted a revised landscaping plan showing that the minimum point requirement has been met. Staff has inspected the property and confirmed that the applicant has planted additional trees and shrubs.

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. A minimum of 87 parking spaces must be provided for the uses on the property. There are currently 98 parking stalls with four handicapped accessible stalls. During the previous review of the Conditional Use Permit in 2012, the site did not have four handicap accessible parking spaces in compliance with the parking regulations. Subsequently, the applicant has restriped the handicap accessible parking spaces on the west side of the property. Staff has inspected the property and confirmed that the handicap accessible parking is in compliance with the parking regulations.

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:*

The applicant is not proposing any additional signage or lighting as a part of this Conditional Use Permit application.

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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 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 and a six foot screening fence is located along the west property line. 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 is a conditional use in the General Commercial Zoning District. The on-sale liquor establishment must operate in conjunction with a full-service restaurant as proposed. Any expansion to the on-sale liquor establishment will require a Major Amendment. Any change in use that is a permitted use in the General Commercial District and is in compliance with the Parking Ordinance will require the review and approval of a Building Permit. Any change in use that is a Conditional Use in the General Commercial District will require the review and approval of a Major Amendment.

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, opaque 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.

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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.

Fire Department: The applicant has installed a fire sprinkler protection system in the existing structure. All applicable provisions of the adopted International Fire Code must continually be met.

Notification: 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 May 8, 2014 Planning Commission meeting if this requirement has been met.