

## STAFF REPORT

March 5, 2015

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### **No. 15UR004 - Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant** **ITEM 11**

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#### GENERAL INFORMATION:

APPLICANT	Colonial House, Inc.
PROPERTY OWNER	Colonial House Inc.
REQUEST	<b>No. 15UR004 - Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant</b>
EXISTING LEGAL DESCRIPTION	The north 125 feet of Tract E; the north 50 of the south 250 feet of Tract E; the west 200 feet of the south 200 feet of Tract E; said Tract E being in the S1/2 of the NE1/4 of Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 2.87 acres
LOCATION	2315 Mount Rushmore Road
EXISTING ZONING	General Commercial District
FUTURE LAND USE DESIGNATION	Urban Neighborhood and Mixed Use Commercial
SURROUNDING ZONING	
North:	General Commercial District - Low Density Residential District (Planned Development)
South:	General Commercial District - Low Density Residential District (Planned Development)
East:	General Commercial District
West:	Low Density Residential District (Planned Development)
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	February 6, 2015
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 restaurant be approved with the following stipulations:

1. A landscape buffer consisting of evergreen trees shall be installed and maintained as shown on the approved landscape plan;
2. A Certificate of Occupancy shall be obtained prior to occupancy;
3. A minimum of 102 parking spaces shall be provided. Five of the parking spaces shall be

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- handicap accessible. One of the handicap spaces shall be "van accessible." All provisions of the Off-Street Parking Ordinance shall be continually met;
4. A minimum of 117,529 landscaping points shall be provided. All provisions of Section 17.50.300, the Landscape 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. All provisions of the General Commercial District shall be met;
  6. 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;
  7. 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 new 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;
  8. All applicable provisions of the adopted International Fire Code shall continually be met; and,
  9. 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 and in compliance with the Parking Ordinance shall require the review and approval of a Building Permit. All conditional uses 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 an on-sale liquor establishment in conjunction with a full service restaurant. In particular, the applicant is in the process of renovating an existing property to relocate the "Colonial House" restaurant. The proposed restaurant will be approximately 9,666 square feet in size. The hours of operation will be from 7:00 a.m. to 9:30 p.m.

A Conditional Use Permit to allow an on-sale liquor establishment (File #UR1426) on the subject property was approved by the City Council on August 21, 1995. On November 5, 2007, a Minimal Amendment to the Conditional Use Permit was approved to allow an on-sale liquor establishment in conjunction with a restaurant for "Casa Real". The on-sale liquor use has ceased for a period of over two years and as such, a new Conditional Use Permit must be obtained.

The property is located on the west side of Mount Rushmore Road approximately 105 feet southwest of the intersection of Mount Rushmore Road and Meade Street. Currently, a two-story commercial building is located on the property.

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#### STAFF REVIEW:

Staff has reviewed the proposed use with respect to Chapter 17.54.030(E) and has noted the following issues:

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 Mount Rushmore Road. The City's Major Street Plan identifies Mount Rushmore Road 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.*

Mount Rushmore Road is identified as a Principal Arterial Street on the City's Major Street Plan. The properties to the north, south, and east are zoned General Commercial District and developed with commercial uses. The properties to the west are zoned Low Density Residential District with a Planned Development and are developed with townhomes. A Variance was previously granted to waive the fencing requirement provided that a landscape buffer be installed. The applicant has obtained a Building Permit to expand the parking lot to the west on the subject property. The landscape plan shows that a evergreen landscape buffer consisting of evergreen trees will be installed. The proposed evergreen landscaping should provide the buffer intended by the Zoning Ordinance.

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 and in compliance with the Parking Ordinance will require the review and approval of a Building Permit. All conditional uses in the General Commercial District 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 Mount Rushmore Road. “Happy Jacks Casino” is located on the west side of Mount Rushmore Road approximately 370 feet to the north. The “Rhodeway Inn” is located approximately 350 feet to the north on the east side of Mount Rushmore Road. The current “Colonial House” restaurant is located approximately 360 feet to the south. Mount Rushmore Road 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.

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*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 approximately 2.87 acres in size and is located on the west side of Mount Rushmore Road. The applicant has obtained a Building Permit to renovate the existing two-story commercial structure and to construct additional parking on the west side of the property.

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

The property to the west is zoned Low Density Residential District with a Planned Development and is developed with townhomes. The properties to the north, south, and east are zoned General Commercial District. The property to the east is developed with a "Sonic" fast food restaurant. The property to north is developed with a "Perkins" restaurant and bakery. The property to the south is developed with a two-story motel.

*3. Proposed fencing, screening and landscaping:*

On July 21, 2009, the Zoning Board of Adjustment granted a Variance to waive the requirement to provide a property line screening fence to the north and west where the property abuts a residential district. In lieu of fencing, a landscape buffer consisting of evergreen trees must be provided. The applicant has submitted a landscape plan identifying an evergreen landscape buffer on the west side of the property and on the property line to the north.

The proposed development requires that a minimum of 117,529 landscape points be provided. The applicant has submitted a landscape plan showing that 138,200 landscape points will be provided. The proposed landscape plan is in compliance with Chapter 17.50.300 of the Rapid City Municipal Code.

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

A Building Permit has been issued for the proposed renovation of the existing structure and the parking lot expansion. The proposed redevelopment includes the grading of the hillside on the west side of the property which will redirect stormwater to an existing water quality feature under the parking lot before the water is discharged.

*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 Mount Rushmore Road. Vehicular access is also from Mount Rushmore Road which is identified as a Principal Arterial Street on the City's Major Street Plan.

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A minimum of 102 parking spaces must be provided for the use on the property. The site plan identifies 104 parking spaces with five 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 previous on-sale liquor use in conjunction with a restaurant ceased approximately two years ago. The property has been vacant since that time. The new restaurant use will generate approximately 92 peak hour trips.

*7. Proposed signs and lighting:*

The applicant has submitted building elevations showing the proposed wall signage on the east side of the building. The proposed signs read "Colonial House Restaurant and Bar". In addition, there are two existing pole signs located on the property. The applicant is proposing to relocate the pole signs once the parking lot construction has been completed. Located on the southernmost pole sign is a double-sided Light Emitting Diode (LED) sign. The existing sign measures approximately 4 feet 2 inches high by 9 feet 5 inches wide. The proposed and existing signage is in compliance with the Sign Code. A Sign Permit must be obtained for each sign.

The site plan shows parking lot lighting. 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. 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.

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

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The proposed renovation of the structure and the parking lot expansion are in compliance with the Zoning Ordinance and the approved Variance to waive the fencing requirement. A Building Permit has been issued for the proposed redevelopment of the property. The applicant should be aware that a Certificate of Occupancy must be obtained prior to occupying the structure. All provisions of the General Commercial District must be met.

*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 restaurant and in compliance with the International Fire Code and the City's Sign Code. Any expansion of the on-sale liquor use will require that a Major Amendment to the Conditional Use Permit be obtained. In addition, the stipulations will ensure that an evergreen landscape buffer is provided and maintained.

Fire Department: 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 March 5, 2015 Planning Commission meeting if this requirement has been met.