

STAFF REPORT  
June 25, 2009

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**No. 09UR014 - Major Amendment to a Conditional Use Permit to allow an on-sale liquor establishment**      **ITEM 39**

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GENERAL INFORMATION:

|                            |   |
|----------------------------|---|
| APPLICANT/AGENT            | Khoury's Mediterranean Cuisine  |
| PROPERTY OWNER             | C&H Plaza/Michele Carlin  |
| REQUEST                    | <b>No. 09UR014 - Major Amendment to a Conditional Use Permit to allow an on-sale liquor establishment</b>                                     |
| EXISTING LEGAL DESCRIPTION | The W1/2 of Lot 4 and Lots 5 thru 13 of Block 3 of Riverside Addition, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE             | Approximately 0.76 acres  |
| LOCATION                   | 1109 Omaha Street   |
| EXISTING ZONING            | General Commercial District   |
| SURROUNDING ZONING         |   |
| North:                     | General Commercial District   |
| South:                     | General Commercial District - Light Industrial District   |
| East:                      | General Commercial District   |
| West:                      | General Commercial District   |
| PUBLIC UTILITIES           | City water and sewer  |
| DATE OF APPLICATION        | 5/14/2009   |
| REVIEWED BY                | Travis Tegethoff / Ted Johnson  |

RECOMMENDATION:

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

1. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, may be allowed as a Minimal Amendment to the Conditional Use Permit. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The 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 each individual sign;
2. The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;
3. The landscape plan shall continually comply with all requirements of the Zoning

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- Ordinance and the approved landscape plan;
4. All applicable provisions of the International Fire Codes shall be continually met; and,
  5. The Major Amendment to a Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years.

GENERAL COMMENTS: The property is located at 1109 Omaha Street between 11<sup>th</sup> Street and 12<sup>th</sup> Street. There is an existing one story commercial complex with restaurants and retail spaces located on the property. Ichiban restaurant is located on the east end of the strip mall and Happy Jacks Casino is located on the west end of the strip mall and currently serve alcoholic beverages.

On January 12, 2007, Planning Commission approved a Conditional Use Permit (#05UR020) allowing an on-sale liquor establishment in conjunction with a full service restaurant for Suite "A" (Ichiban) of this property with the following stipulations for the property:

1. The on-sale liquor establishment shall be operated in conjunction with a full service restaurant;
2. All applicable provisions of the International Fire Codes shall be continually met;
3. The parking plan shall continually comply with all requirements of the Zoning Ordinance;
4. The landscaping plan shall continually comply with all provisions of the Zoning Ordinance and be maintained in a live vegetative state and replaced as necessary; and,
5. The Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years.

The applicant is now requesting a Major Amendment to a Conditional Use Permit by proposing to add another on-sale liquor establishment in conjunction with the restaurant to suite "D" of this commercial plaza.

STAFF REVIEW: Staff has reviewed this request with respect to the four criteria established for on-sale liquor establishments as identified in Section 17.50.185 of the Rapid City Municipal Code:

1. *The request will not "adversely affect" the use of any place used for religious worship, school, park, playground, or similar use within a five hundred foot radius.*

There are no places of religious worship, schools or parks located within a 500 foot radius of the property. The property is located in a corridor of existing general commercial and light industrial uses. Staff's review of the proposed on-sale liquor establishment operated in conjunction with a full service restaurant would appear to have no significant adverse effect on the surrounding area.

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

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The property is currently zoned General Commercial. There are no residential properties located adjacent to the property. The property appears to be sufficiently buffered from residential areas by the surrounding properties.

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."*

The proposed on-sale liquor use will be associated with the food service establishment located on the property. The provision of on-sale liquor to restaurant patrons as an accompaniment to meals would appear to be consistent with what the City has supported in the past. Currently, there are two on-sale liquor establishments with full service restaurants and one video lottery casino the immediate area. Specifically, Ichiban restaurant is located on the east end of the strip mall and Happy Jacks Casino is located on the west end of the strip mall. In addition, Panchero's Mexican Grill is located approximately 200 feet to the west of the property on the west side of 12<sup>th</sup> Street. Since this establishment will have a full service restaurant and two of the three existing on-sale liquor establishments also have full service restaurants staff does not find this request for on-sale liquor use in conjunction with a food service establishment to constitute an undue concentration which would cause blight or deterioration or diminish 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 17.18 of the Rapid City Municipal Code and notes the following issues:

Sign Permit: Staff noted that a sign permit was previously approved for the business during a previous building permit submittal. The existing pole sign is 12 feet wide by 34 feet tall. It includes seven panels with back lighting for the businesses in the commercial plaza. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, may be allowed as a Minimal Amendment to the Conditional Use Permit. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The 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 each individual sign.

Parking: Staff noted that a parking plan was previously reviewed and approved during a previous building permit submittal. The site plan meets all the requirements of Section 17.50.270 of the Rapid City Municipal Code.

Landscaping: Staff noted that a landscape plan was previously reviewed, approved and installed as part of a previous building permit application. The landscape plan meets all the requirements of Section 17.50.300 of the Rapid City Municipal Code.

Design Features: The building is a one story masonry structure with earth tone colors. The

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dumpsters will be screened and will not be visible to the adjacent properties. The applicant is not proposing any changes to the existing structure.

Fire Code: Staff noted that all applicable provisions of the International Fire Code shall be continually met.

Notification: The green cards from the required notification of surrounding property owners have not been returned and the sign stating that a Conditional Use Permit has been requested has not been posted on the property. Staff will notify the Planning Commission at the June 25, 2009 Planning Commission meeting if the legal notification requirements have not been met.

Staff is recommending that the Major Amendment to a Conditional Use Permit to allow an on-sale liquor establishment in the General Commercial Zoning District be approved with the previously stated stipulations.