

STAFF REPORT  
January 10, 2013

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**No. 12UR024 - Major Amendment to a Conditional Use Permit to Allow an On-Sale Liquor Establishment in Conjunction with a Full Service Restaurant**

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**ITEM 9**

GENERAL INFORMATION:

APPLICANT	Kennedy Design Group Inc.
AGENT	Benneco, LLC
PROPERTY OWNER	Benneco, LLC
REQUEST	<b>No. 12UR024 - Major Amendment to a Conditional Use Permit to Allow an On-Sale Liquor Establishment in Conjunction with a Full Service Restaurant</b>
EXISTING LEGAL DESCRIPTION	Tract A of Harter Subdivision, located in Section 3, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 1.16 acres
LOCATION	2335 West Main Street
EXISTING ZONING	General Commercial District
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	General Commercial District
South:	Medium Residential District
East:	General Commercial District - Medium Residential District
West:	General Commercial District - Medium Residential District
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	December 14, 2012
REVIEWED BY	Robert Laroco / Brandon Quiett

RECOMMENDATION:

Staff recommends that the Major Amendment to a 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. A Certificate of Occupancy

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- shall be required prior to occupancy;
2. Prior to issuance of a building permit, final signed and sealed construction plans shall be submitted for review and approval. Final construction plans shall show that the required grease interceptor is being provided;
3. A 5 foot tall screening fence shall continue to be maintained on the southern property line, separating the commercial development from the residential uses to the south;
4. A minimum of 40,010 landscape points shall be provided as shown on the approved landscaping plan. Changes to the landscaping which the Director of Community Planning and Development Services determines are consistent with the original approved landscaping plan may be approved as a Minimal Amendment to the Conditional Use Permit. All landscaping shall be maintained in a live vegetative state and replaced as required by the City's Adopted Landscaping Ordinance;
5. A minimum of 62 parking spaces shall be provided. Three of these parking spaces shall be handicap accessible, with at least one of these handicap accessible parking spaces being "van" accessible. All parking shall comply with the requirements of the Rapid City Parking Ordinance;
6. All signage shall comply with Chapter 15.28 of the Rapid City Municipal Code. No electronic signage is being approved with approval of this Major Amendment to the Conditional Use Permit. Changes to the signage which the Director of Community Planning and Development Services determines are consistent with the original approved sign package may be permitted as a Minimal Amendment to the Conditional Use Permit. Any proposed signage that does not comply with Chapter 15.28 of the Rapid City Municipal Code or any electronic signage will require a Major Amendment to the Conditional Use Permit. A sign permit is required for each individual sign.
7. All provisions of the most recently adopted International Fire Code shall be continually maintained;
8. The restaurant shall be operated in compliance with the applicant's approved operations plan. Changes to the operation of the restaurant shall be in compliance with the requirements of the Rapid City Municipal Code;
9. All provisions of the General Commercial District shall be met unless specifically authorized as a stipulation of this Major Amendment to the Conditional Use Permit or a subsequent Major Amendment to the Conditional Use Permit; and,
10. This Major Amendment to the Conditional Use Permit shall allow for an on-sale liquor establishment to be operated in conjunction with a full-service restaurant. Changes to the operation of the full-service restaurant which comply with the Rapid City Municipal Code shall be permitted. Changes to the operation of the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit.

**GENERAL COMMENTS:** The applicant has submitted a request for a Major Amendment to the Conditional Use Permit to allow construction of an on-sale liquor establishment in conjunction with a full service restaurant. On December 7, 1992, City Council approved a Conditional Use Permit (File #UR1140) to allow a car wash to be located in the General Commercial District on the property. The property was subsequently developed as Graffiti's, more generally known as 2335 West Main Street. On August 31, 2012, a Minor Amendment to the Conditional Use Permit (File #UR1140A) was approved by City staff to reduce the size of the existing car wash and alter on-site parking and circulation. The applicant has

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returned with a request to expand the existing structure on the site to allow for construction of a restaurant. The proposed full-service restaurant, known as Z'Mariks, will serve a variety of noodle, rice and salad dishes and wishes to sell beer and wine as a part of its menu. An on-sale liquor establishment is a conditional use in the General Commercial District and, as such, the applicant has requested this Major Amendment to the Conditional Use Permit.

The property is located at 2335 West Main Street and is currently developed with a car wash and a salon.

STAFF REVIEW: Staff has reviewed the proposed on-sale liquor establishment pursuant to Chapters 17.50.185 and 17.54.030 of the Rapid City Municipal Code and has noted the following considerations:

On-sale Liquor Establishment: Pursuant to Chapter 17.50.185, an on-sale liquor establishment must be issued if:

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

There are no places of religious worship, schools, parks, playgrounds, or other similar uses in the area. In addition, there are a number of on-sale liquor establishments operating in conjunction with full-service restaurants as well as stand-alone on-sale liquor establishments along the West Main Street commercial corridor as well as to the Baken Park commercial district to the east. It appears the proposed on-sale use will not adversely affect area places of religious worship, schools, parks, playgrounds, or other similar uses.

*The requested use is sufficiently buffered with respected to residential areas so as not to adversely affect the areas:*

Property abutting the existing property to the south is zoned Medium Density Residential District and is developed with a mix of single family and multi-family housing. An existing 6 foot tall screening fence is located on the south, east, and portions of the western property line and serves as a buffer between the existing conditional use on the property and residential uses south of the property. West Main Street is classified as a principal arterial street on the City's Major Street Plan and anchors a major commercial corridor. The requested on-sale liquor use is in conjunction with a full service restaurant, and is not the primary use on the property. Based on the existing conditional uses approved for the property in the past, as well as the character of West Main Street as a major commercial corridor, it appears that the existing screening fence should be sufficient to buffer the requested on-sale liquor use from the residential uses to the south.

*The proposed use will note create an undue concentration of similar uses, so as to cause blight, deterioration, or substantially diminish or impair property values:*

Currently, there is a number of on-sale liquor establishments operating in conjunction with full-service restaurants in proximity to the proposed restaurant. The Golden Phoenix

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Chinese restaurant is located approximately 200 feet to the west of the property and includes an on-sale liquor use. In addition, Shooters is located on the north side of West Main Street approximately 250 feet to the west and also includes an on-sale liquor use. The applicant's submitted letter of intent shows that the restaurant will be open from 10:30 am to 9:00 pm Monday through Sunday. While there are several full-service restaurants with on-sale liquor use in the area, the General Commercial District is considered the appropriate district for eating establishments with an on-sale liquor use. In addition, the on-sale liquor use on the property will cease by 9:00 pm each night. It does not appear that the proposed use will create an undue concentration of similar uses so as to cause blight, deteriorations, or substantially diminish or impair property values since it is being operated in conjunction with a full-service restaurant.

*The proposed use complies with the standards of Rapid City Municipal Code Chapter 17.54.030. The requirements of Chapter 17.54.030 are as follows:*

*The location, character, and natural features of the property;*

The existing car wash and salon are located in a single structure on property zoned General Commercial District. A full-service restaurant is a permitted use in the General Commercial District. An on-sale liquor establishment is a conditional use in the General Commercial District. The existing car wash on the property is a conditional use, but is not proposed for expansion or alteration at this time. Submitted plans show that the proposed on-sale liquor use will be limited to an approximately 2,949 square foot expansion of the existing structure that is proposed for the new restaurant. Currently, the area is a mix of established residential and commercial uses.

*The location, character, and design of adjacent buildings;*

Property to the east and west located along both sides of West Main Street is zoned General Commercial District. Main Street is classified as a principal arterial street on the City's Major Street Plan. Property located to the south of the development is zoned Medium Density Residential District and is developed with a mix of residential uses.

*Proposed fencing, screening, and landscaping;*

The submitted plans include pictures of the existing screening fence located on the southern, eastern and western portions of the property. A minimum of 40,811 landscape points are required for the proposed development. The submitted landscaping plan shows that a minimum of 41,010 landscape points are proposed. It appears the landscaping meets the requirements of the Rapid City Municipal Code. Staff recommends that a minimum of 40,811 landscape points be installed as shown in the approved landscaping plan. All landscaping must be maintained in a live vegetative state and replaced as required by the City's Adopted Landscaping Ordinance.

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*Proposed vegetations, topography, and natural drainage;*

The existing commercial development is fully constructed and no additional grading, or impervious surfaces are being proposed as a part of the Major Amendment. Public Works staff has noted there are no issues with site drainage or grading.

*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 62 parking spaces are required for the existing and proposed uses on the property. Plans show that 67 parking spaces are being provided, with three of those spaces handicap spaces being handicap accessible. The applicant should note that if the existing car wash on the property ceases or changes use in the futures, there may not be adequate parking to accommodate future uses.

Staff recommends that a minimum of 62 parking spaces be provided for the property. Three of those parking spaces must be handicap accessible, with at least one of those handicap accessible parking spaces being "van" accessible. All parking must comply with the requirements of the Rapid City Parking Ordinance.

*Existing traffic and traffic to be generated by the proposed use;*

The proposed restaurant is an approximately 2,949 square foot expansion of the building, requiring an additional 33 parking spaces on-site. The required parking is being provided. The addition of the full-service restaurant space may cause an increase in traffic on the property. The proposed on-sale liquor use is permitted in conjunction with the full-service restaurant and only for customers of the restaurant. Based on the Institute of Traffic Engineers Trip Generation data, 468 trips per weekend day can be expected. West Main Street is a principal arterial street designed to handle the residential and commercial traffic generated by area uses.

*Proposed signs and lighting;*

Currently, there are two ground signs advertising all businesses within the development and a number of wall signs located on the property. It appears that all existing signage meets the requirements of the Rapid City Sign Code. The submitted plans include the location of proposed wall signage, but do not include a design of proposed signage. It appears the proposed signage will meet the square footage requirements of the Rapid City Sign Code. Upon submittal of a sign permit, all signage must comply with Chapter 15.28 of the Rapid City Municipal Code. No electronic signage is being approved with approval of this Major Amendment to the Planned Development. Changes to the proposed signage which the Director determines are consistent with the original approved sign package may be permitted as a Minimal Amendment to the Conditional Use Permit. Any proposed signage that does not comply with Chapter 15.28 of the Rapid City Municipal Code or any electronic signage will require a Major Amendment to the Conditional Use Permit. A sign permit is required for each individual sign.

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*The availability of public utilities and services;*

The existing commercial development is serviced by Rapid City water and sewer. Public Works staff has noted the proposed on-sale liquor use will not create an increase in the demand on public utilities. In addition, Public Works staff has noted that a grease interceptor must be installed for the new restaurant use. Prior to issuance of a building permit, revised plans must be submitted showing that the required grease interceptor is being provided.

*The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein;*

The City's adopted Future Land Use Plan shows that this area is appropriate for commercial development.

*The effect of noise, odor, smoke, dust, air, and water pollution and the degree of control through the use of clarifiers, screening, setbacks, and orientation;*

The proposed on-sale liquor use should not create additional noise, odor, smoke, dust, air and water pollution since it is being operated in conjunction with a full-service restaurant. Existing screening, fencing and proposed landscaping should suffice to provide an additional buffer of the use from neighboring residential development.

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

Operating the on-sale liquor establishment in conjunction with a full-service restaurant in compliance with the stipulations of approval for this Major Amendment to the Conditional Use Permit will serve as the tool to mitigate any probable adverse impacts of the proposed use on existing adjacent uses.

**Summary:** The proposed on-sale liquor use is complimentary to the full-service restaurant and is only for customers of the restaurant. The hours of operation, limited size of the service area, and the nature of the on-sale liquor use as accessory to the primary use should mitigate any adverse affects of this use on the surrounding area. The proposed use is sufficiently buffered from area residential uses to the south and is not near any places of worship, schools, parks, playgrounds, or other similar uses. West Main Street is a principal arterial on the City's Major Street Plan and capable of handling the increase in commercial traffic expected for the development. The use is appropriate for the commercial nature of the development. Based on these reasons, staff recommends the request for a Major Amendment to allow an on-sale liquor establishment in conjunction with a full-service restaurant be approved with the stipulations outlined above.

**Notification Requirements:** The required sign has been posted on the property. The white receipts and green cards have been returned to Community Planning and Development

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Services. As of this writing, there have been no inquiries into the requested Major Amendment to the Conditional Use Permit.