



Rapid City Planning Commission

Conditional Use Permit Project Report

August 24, 2017

Item #10
Applicant Request(s)
Case # 17UR017 – Conditional Use Permit to allow a sexually oriented business in the General Commercial District
Companion Case(s) # N/A

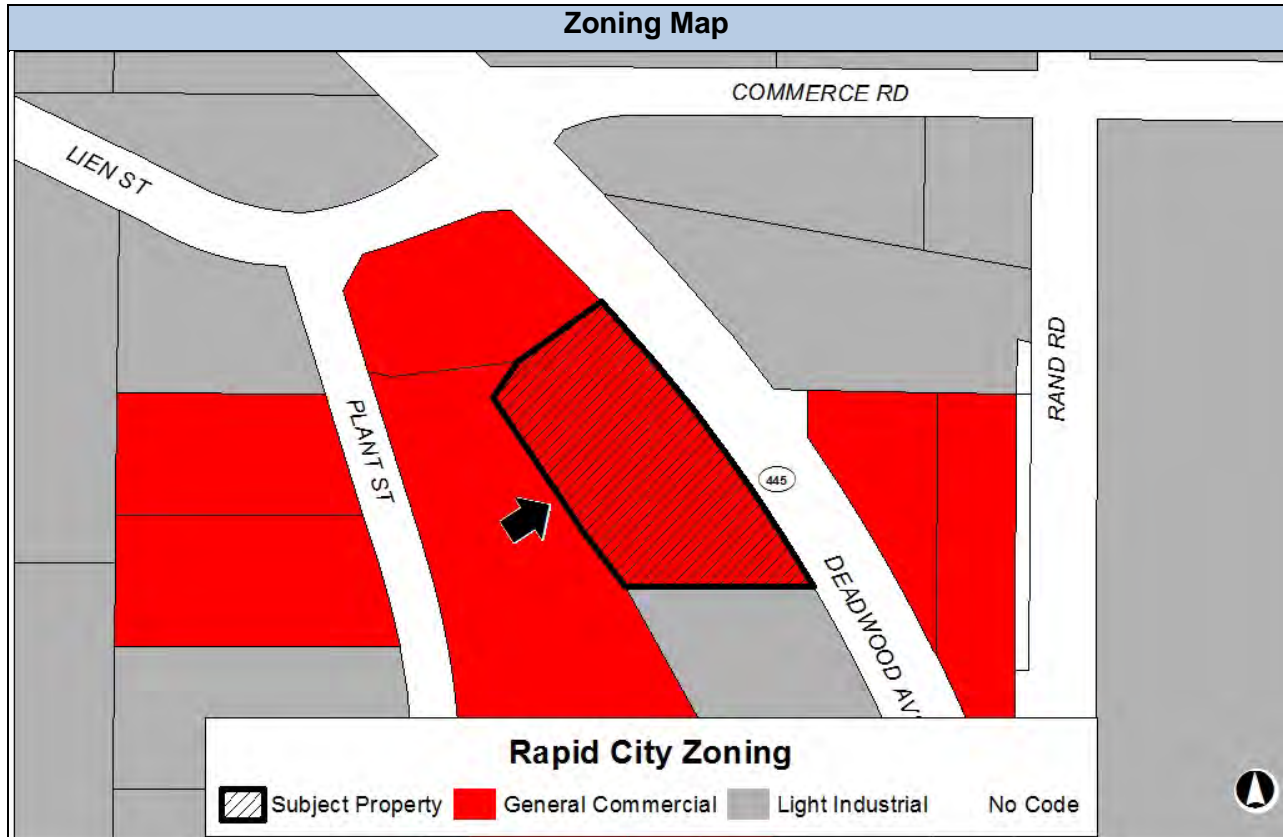
Development Review Team Recommendation(s)
The Development Review Team recommends that the Conditional Use Permit be approved with the stipulation(s) noted below

Project Summary Brief
The applicant has submitted a Conditional Use Permit to allow a sexually oriented business in the General Commercial District. In particular, the applicant is proposing to open “Dick and Jane’s Naughty Spot” in a strip mall located at 1141 Deadwood Avenue. The hours of operation will be Monday through Saturday from 9:00 a.m. to 11:00 p.m. and Sundays from 10:00 a.m. to 10:00 p.m.

Applicant Information	Development Review Team Contacts
Applicant: David Eliason	Planner: Fletcher Lacock
Property Owner: Jed Spectrum Inc	Engineer: Dan Kools
Architect: N/A	Fire District: Tim Behlings
Engineer: Renner Associates, LLC	School District: N/A
Surveyor: N/A	Water/Sewer: Dan Kools
Other: N/A	DOT: Stacy Bartlett

Subject Property Information	
Address/Location	1141 Deadwood Avenue, Suite 7
Neighborhood	Deadwood Avenue Neighborhood Area
Subdivision	Deadwood Avenue Business Park
Land Area	2.04 acres
Existing Buildings	26,755 square feet
Topography	Rises in elevation from south to north approximately 14 feet
Access	Deadwood Avenue
Water Provider	Rapid City
Sewer Provider	Rapid City
Electric/Gas Provider	Black Hills Power / MDU
Floodplain	N/A

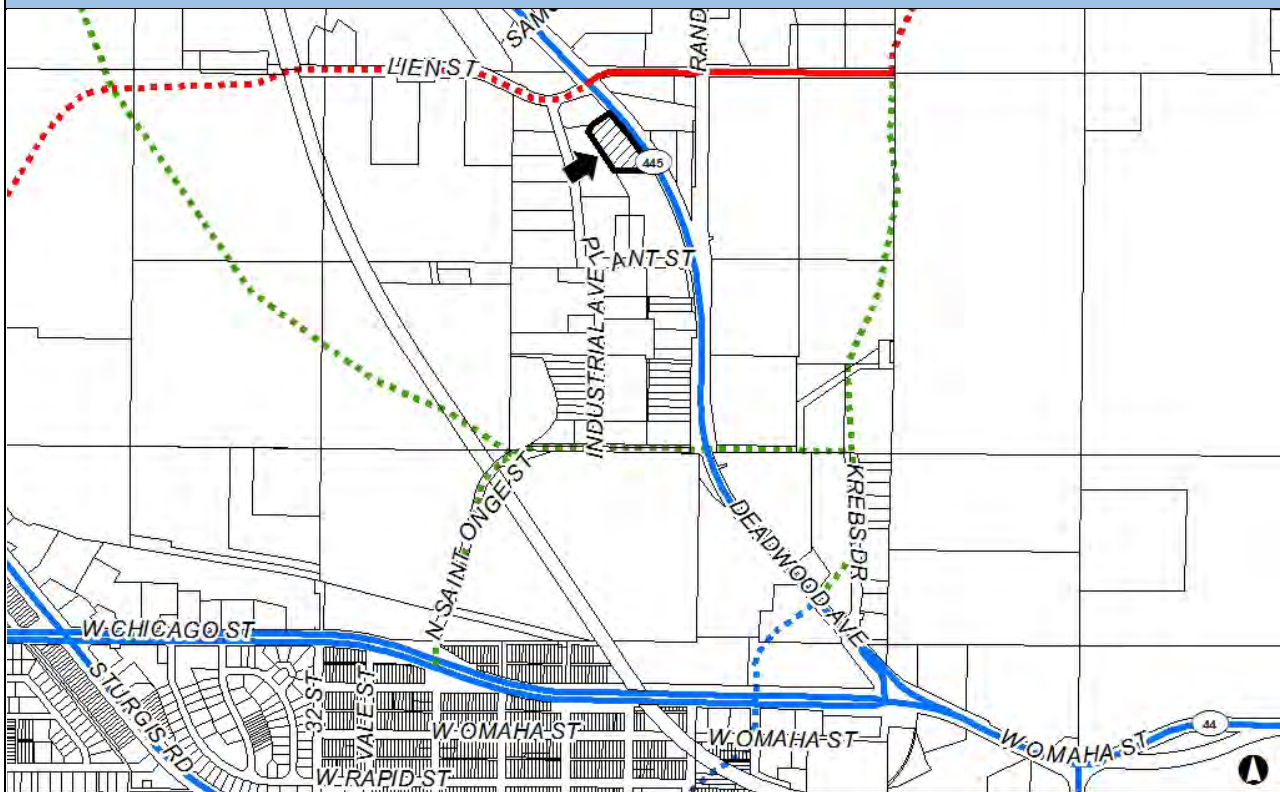
Subject Property and Adjacent Property Designations			
	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	GC	LI – Entrance Corridor	Commercial strip mall
Adjacent North	GC	LI – Entrance Corridor	Commercial strip mall
Adjacent South	LI	LI – Entrance Corridor	Warehouse
Adjacent East	GC and LI	LI – Entrance Corridor	Industrial buildings
Adjacent West	GC	LI	Office building



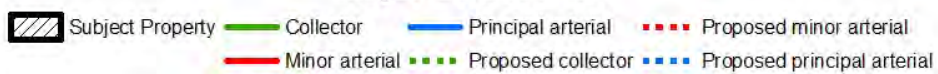
Comprehensive Plan Future Land Use



Parks or Transportation Plan



Major Street Plan








Relevant Case History			
Case/File#	Date	Request	Action
N/A			
Relevant Zoning District Regulations			
General Commercial District	Required	Proposed	
Lot Area	N/A	2.04 acres	
Lot Frontage	N/A	Approximately 500 feet	
Maximum Building Heights	4 stories or 45 feet	One story	
Maximum Density	75%	30.1%	
Minimum Building Setback:			
• Front	25 feet	49.5 feet	
• Rear	Zero feet	75 feet	
• Side	Zero feet	26.4 feet to the north / 45.9 feet to the south	
• Street Side	25 feet	N/A	
Minimum Landscape Requirements:			
• # of landscape points	62107	Legal non-conforming – 6,000 points	
• # of landscape islands	3	Legal non-conforming - zero	
Minimum Parking Requirements:			
• # of parking spaces	86	126	
• # of ADA spaces	4	3	
Signage	As per Sign Code	Proposed wall sign and window sign / existing LED message center pole sign	
Fencing	6 feet	None proposed	

Planning Commission Criteria and Findings for Approval or Denial	
Pursuant to Section 17.54.030(E) of the Rapid City Municipal Code the Planning Commission shall consider the following criteria for a request to allow a sexually oriented business	
1. The location, character and natural features of the property:	The property is located at 1141 Deadwood Avenue. The property is the location of the “Deadwood Avenue Business Park”. The strip mall tenants include “Safelite Auto Glass”, “Bad Cat Tattoo”, “Rare Finds Décor”, “Riley Salon Supply”, and “Merry Maids”.
2. The location, character and design of adjacent buildings:	Property to the north is also developed with a commercial strip mall. Property to the east is developed with industrial buildings including a contractors office and auto repair. Property to the west is developed with an office building. The property to the south is developed with a warehouse.
3. Proposed fencing, screening and landscaping:	No new fencing, screening, or landscaping is proposed.
4. Proposed vegetation, topography and natural drainage:	The applicant is not proposing to expand the existing structure. The only vegetation located on the property is in the southeast corner. The property drops in elevation from north to south approximately 15 feet.
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 to the property is from Deadwood Avenue which is identified as a Principal Arterial Street on the City’s Major Street Plan. There are no sidewalks.
6. Existing traffic and traffic to be generated by the proposed use:	The proposed sexually oriented business will generate approximately 11 peak hour trips. The total number of anticipated trips does not trigger a Traffic Impact Study.

7. Proposed signs and lighting:	The applicant has submitted a sign package identifying that the proposed wall signs will state “Dick and Jane’s Naughty Spot” and will be located on the store frontage. There is a total of 400 square feet of existing signage. A total of approximately 1,000 square feet is allowed for the strip mall. In addition, there is an existing LED message pole sign located on the property. Upon submittal of a Sign Permit, a complete sign package must be submitted for review and approval including dimensions. No new electronic signage is being allowed as a part of this Conditional Use Permit.
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:	Chapter 17.50.186 of the Rapid City Municipal Code identifies that sexually oriented businesses are required to obtain a Conditional Use Permit and outlines the location requirements. Sexually oriented businesses cannot be within 1,000 feet of a religious building, public or private school, childcare facility, residential districts, the Central Business District, public parks or recreational areas, auditoriums, convention centers, fairgrounds, museums, art or music centers, and theaters. In addition, sexually oriented businesses cannot be within 1,000 feet of another sexually oriented business. Staff reviewed the area and did not identify any restricted uses within 1,000 feet of the subject property. It appears that the subject property is in compliance with these requirements.
10. The overall density, yard, height and other requirements of the zone in which it is located:	The proposed expansion is less than a 20% change in occupancy. The property is legal non-conforming to landscaping and landscaped islands. A minimum of 86 parking spaces are required and 126 parking spaces are constructed on the property. The applicant should be aware that the total parking provided requires a minimum of 5 ADA accessible parking spaces. There appear to be only 3 ADA accessible parking spaces located on the property. As such, upon submittal of a Building Permit, a revised site plan must be submitted identifying a total of 5 ADA accessible parking spaces with one being “van accessible”. Prior to issuance of a Certificate of Occupancy, the 5 ADA spaces must be striped.
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:	A requirement of Chapter 17.50.186 of the Rapid City Municipal Code regarding sexually oriented businesses is that window areas be covered and opaque and no merchandise or pictures can be displayed or be visible from persons walking or driving by the premises. The applicant has stated in the operations plan that all requirements of Chapter 17.50.186 of the Rapid City Municipal Code will be adhered.
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 will ensure that the sexually oriented business is operated in compliance with Chapter 17.50.186 of the Rapid City Municipal Code and the submitted operations plan. Any expansion of use will require a Major Amendment to the Conditional Use Permit.

Planning Commission Comprehensive Plan Policy Guidance for Approval or Denial

In considering an application for approval or denial the Planning Commission finds that the application either complies or does not comply with the following values, principles, goals, and policies within the Rapid City Comprehensive Plan:

Comprehensive Plan Conformance – Core Values Chapters	
	A Balanced Pattern of Growth
	N/A
	A Vibrant, Livable Community
	N/A
	A Safe, Healthy, Inclusive, and Skilled Community
	N/A
	Efficient Transportation and Infrastructure Systems
TI-2.1A	Major Street Plan Integration: The property abuts Deadwood Avenue which is identified as a Principal Arterial Street on the City's Major Street Plan.
	Economic Stability and Growth
	N/A
	Outstanding Recreational and Cultural Opportunities
	N/A
	Responsive, Accessible, and Effective Governance
GOV-2.1A	Public Input Opportunities: The proposed Conditional Use Permit requires that public notice be advertized in the newspaper and that mailings are sent to property owners within 250 feet of the proposed development. The requested Conditional Use Permit is before the Planning Commission for review and approval. The public has an opportunity to provide input at this meeting.

Comprehensive Plan Conformance – Growth and Reinvestment Chapter	
Future Land Use Plan Designation(s):	Light Industrial – Entrance Corridor
	Design Standards:
N/A	Deadwood Avenue is identified as an Entrance Corridor moving traffic between Interstate 90 and Omaha Street. Deadwood Avenue is also an established commercial and industrial corridor.

Comprehensive Plan Conformance – Neighborhood Area Policies Chapter	
Neighborhood:	Deadwood Avenue Neighborhood Area
	Neighborhood Goal/Policy:
N/A	As noted above, Deadwood Avenue is an established mixed-use industrial corridor moving traffic in the City between Omaha Street and Interstate 90.

Findings	
Staff has reviewed the Conditional Use Permit to allow a sexually oriented business pursuant to Chapter 17.18, Chapter 17.50.186, and Chapter 17.54.030 of the Rapid City Municipal Code and the goals, policies, and objectives of the adopted Comprehensive Plan. Chapter 17.50.186 of the Rapid City Municipal Code identifies that sexually oriented businesses are required to obtain a Conditional Use Permit and outlines the location requirements. Sexually oriented businesses cannot be within 1,000 feet of a religious building, public or private school, childcare facility, residential districts, the Central Business District, public parks or recreational areas,	

auditoriums, convention centers, fairgrounds, museums, art or music centers, and theaters. In addition, sexually oriented businesses cannot be within 1,000 feet of another sexually oriented business. Staff reviewed the area and did not identify any restricted uses within 1,000 feet of the subject property. It appears that the subject property is in compliance with these requirements.

Planning Commission Recommendation and Stipulations of Approval

Staff recommends that the Conditional Use Permit to allow a sexually oriented business be approved with the following stipulation(s):

1.	Upon submittal of a Building Permit, a revised site plan shall be submitted identifying a total of 5 ADA accessible parking spaces with one being “van accessible”. Prior to issuance of a Certificate of Occupancy, the 5 ADA spaces shall be striped;
2.	Upon submittal of a Sign Permit, a complete sign package shall be submitted for review and approval. No new Light Emitting Diode (LED) message centers are being approved as a part of this request. The inclusion or addition of any new LED message centers shall require a Major Amendment to the Conditional Use Permit. All signage shall meet the requirements of the Rapid City Sign Code. A sign permit shall be obtained for each sign;
3.	The proposed sexually oriented business shall operate in compliance with Chapter 17.50.186 of the Rapid City Municipal Code and with the submitted operations plan. Changes in the operator of this facility or the operations plan shall require a Major Amendment to the Conditional Use Permit; and,
4.	The Conditional Use Permit shall allow a sexually oriented business in the General Commercial District. Any expansion of the use shall require a Major Amendment to the Conditional Use Permit. Permitted uses within the General Commercial District in compliance with the Parking Ordinance shall be allowed with a Building Permit. Any conditional use shall require the review and approval of a Major Amendment to the Conditional Use Permit.



Rapid City Community Planning & Development Services

Development Review Advisories

*Disclosure: The Development Review Team has created this list of Advisories as a courtesy for your specific application. **This is not a complete list.** All City, District, State, and Federal requirements must be continually met.*

Applicant Request(s)	
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ADVISORIES: Please read carefully!	
1.	A building permit shall be obtained prior to any construction. A Certificate of Occupancy shall be obtained prior to use;
2.	All requirements of the currently adopted Building Code shall be met;
3.	All requirements of the International Fire Code shall be met;
4.	All requirements of the Rapid City Infrastructure Design Criteria Manual and Rapid City Standard Specifications shall be met;
5.	ADA accessibility shall be maintained as necessary;
6.	All parking shall be continually maintained in compliance with the requirements of the Rapid City Parking Ordinance;
7.	All landscaping shall be continually maintained in compliance with the requirements of the Rapid City Landscaping Ordinance;
8.	All lighting shall be designed to preclude shining on adjacent properties and rights-of-ways, so as not to create a nuisance to neighboring properties and traffic.