

STAFF REPORT  
August 25, 2011

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**No. 11UR022 - Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a Restaurant**

**ITEM 36**

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GENERAL INFORMATION:

|                            |  |
|----------------------------|--|
| APPLICANT                  | Julie Smoragiewicz - Dakota Thyme, LLC   |
| AGENT                      | MHL, LLC   |
| PROPERTY OWNER             | MHL, LLC - Ray Hillenbrand   |
| REQUEST                    | <b>No. 11UR022 - Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a Restaurant</b>  |
| EXISTING LEGAL DESCRIPTION | Lots 29, 30, 31 and 32 and vacated alley adjacent to said lots all of Block 75 of the Original Town of Rapid City located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota |
| PARCEL ACREAGE             | Approximately .33 acres  |
| LOCATION                   | 502 Main Street, Suite 200 and private courtyard   |
| EXISTING ZONING            | Central Business District  |
| SURROUNDING ZONING         |  |
| North:                     | General Commercial District (Planned Commercial Development)   |
| South:                     | Central Business District  |
| East:                      | Central Business District  |
| West:                      | Central Business District  |
| PUBLIC UTILITIES           | Rapid City   |
| DATE OF APPLICATION        | 7/28/2011  |
| REVIEWED BY                | Fletcher Lacock / Brandon Quiett   |

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. The on-sale liquor establishment shall operate in conjunction with a full-service restaurant. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Other permitted uses within the Central Business District shall be allowed, with the exception of conditional uses which shall require the review and approval of a Major Amendment to the Conditional Use Permit;

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2. All applicable provisions of the currently adopted International Fire Code shall continually be met;
3. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
4. All provisions of the Central Business Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment;
5. The private courtyard shall be enclosed by a barrier;
6. All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;
7. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an On-Sale Liquor Establishment. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any 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. The approval of the Historic Sign Review Committee shall be obtained prior to obtaining the Sign Permit;
8. 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; and,
9. 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.

**GENERAL COMMENTS:**

The applicant has submitted a Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a restaurant. In particular, Dakota Thyme is a bakery, deli, specialty foods market and culinary education business, and proposes serving wine and beer to customers inside the building and in the private courtyard areas located on the east and west sides of the suite.

A building permit has been issued to renovate the interior and exterior of the building located on the property. The Historic Preservation Committee approved the plans prior to issuance of the building permit. A Vacation of Right-of-Way (File #10VR003) was approved with stipulations by City Council on August 11, 2010 to vacate a portion of Main Street as it abuts the property. A Vacation of Right-of-Way (File #10VR004) was approved by City Council on August 11, 2010 to vacate a portion of 6<sup>th</sup> Street as it abuts the property.

The property is located northwest of the intersection of 5<sup>th</sup> Street and Main Street. A two story commercial building and is currently located on the property.

**STAFF REVIEW:**

Staff has reviewed the Conditional Use Permit and has noted the following considerations:

1. *The request will not "adversely affect" the use of any place used for religious worship,*

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*school, park, playground, or similar use within (500) foot radius.*

There are no places of religious worship or schools within a five hundred foot radius of the subject property. The properties to the north are currently zoned General Commercial District. The properties to the south, east and west are currently zoned Central Business District. The property is located in a concentrated commercial corridor. It does not appear that the conditional use permit to allow an on-sale liquor establishment in conjunction with a restaurant will have an adverse effect on any places of worship, schools, parks, playgrounds or similar uses.

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

The property is not within 500 feet of a residential district. The properties to the north are zoned General Commercial District. The properties to the south, east and west are zoned Central Business District.

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. The applicant has submitted three additional Conditional Use Permit applications to allow three additional On-Sale Liquor Establishments in conjunction with restaurants to be known as the Wobbly Bobby, Dakota Soda Company and Manchego. Additionally, Main Street Square located west of this site is applying for a Conditional Use Permit to allow On-Sale Liquor as a part of their activities. Located approximately 200 feet to the west is the Firehouse Brewing Company. Located approximately 270 feet to the southwest is the Alex Johnson Hotel. Located approximately 270 feet to the east is Rushmore Post 1273. Located approximately 450 feet to the southwest is the Brass Rail. Located approximately 490 feet to the northeast is Sanford's Pub & Grub. This is the established Central Business District. Staff does not find that this will cause blight, deterioration or diminish or impair property values.

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 502 Main Street, Suite 200 and private courtyard. The existing building is a two story commercial structure.

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

To the north of the subject property is a three level parking garage. Located to the west,

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south and east of the subject property are one and two story commercial structures.

3. Proposed fencing, screening and landscaping:

The applicant proposes serving beer and wine to customers in private courtyards located on the east and west sides of the suite. The courtyard areas will be enclosed by a fence in the alley and a planter wall facing 5<sup>th</sup> Street. The proposed fencing will be custom wrought iron.

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:

There is no vehicular access to the site. The property is zoned Central Business District and does not require off-street parking. The alley located along the north lot line of the property provides pedestrian access to Dakota Thyme. There is also pedestrian access to the suite from Main Street through Manchego.

6. Existing traffic and traffic to be generated by the proposed use:

The proposed use will generate approximately 868.3 maximum trips per day and approximately 101.4 trips per peak hour.

7. Proposed signs and lighting:

There are no additional proposed signs or lighting. All signage must conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an On-Sale Liquor Establishment. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. 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. The approval of the Historic Sign Review Committee must be obtained prior to obtaining the Sign 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:

The property is intended to be used for commercial, financial, professional,

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governmental and cultural activities. The proposed on-sale liquor establishment requires a Conditional Use Permit. The proposed on-sale liquor use is allowed with approval of a Conditional Use Permit in the Central Business District. 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. It appears that there is sufficient buffering between the on-sale liquor establishment and residential districts and therefore is 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 Central Business District.

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:

The property is not adjacent to, nor does it abut a residential district.

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 insure that the proposed expansion will provide that the currently adopted International Fire Codes are continually met and that further changes will require a Major Amendment to the Conditional Use Permit or Historic Sign Review Committee approval. The site is sufficiently buffered from existing residential development.

Notification: As of this writing, the white slips and green cards have not been returned and the required sign has not been posted on the property. Staff will notify the Planning Commission at the August 25, 2011 Planning Commission meeting if these requirements have not been met.