

STAFF REPORT
April 26, 2007

No. 07UR003 - Conditional Use Permit to allow an on-sale liquor establishment ITEM 37

GENERAL INFORMATION:

PETITIONER	Erich D. Orris
REQUEST	No. 07UR003 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lots 17 and 18 and north 55 feet of Lots 19 thru 21 on Block 84 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .26 acres
LOCATION	520 7th Street
EXISTING ZONING	Central Business District
SURROUNDING ZONING	
North:	Central Business District
South:	Central Business District
East:	Central Business District
West:	Central Business District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	3/2/2007
REVIEWED BY	Travis Tegethoff / Mary Bosworth

RECOMMENDATION:

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

- 1. The hours of operation shall be from 10:00 a.m. until 10:00 p.m.;**
- 2. All applicable provisions of the International Fire Code shall be continually met;**
- 3. The proposed structure shall conform architecturally to the plans and elevations submitted. Any expansion to the use will require a Major Amendment to the Conditional Use Permit;**
- 4. The on-sale liquor establishment shall be for on-sale malt beverages only. Any change in use shall require a Major Amendment to the Conditional Use Permit;**
- 5. No outside patio or open air windows are allowed. Any expansion of the use will require a Major Amendment to a Conditional Use Permit;**
- 6. 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.**

STAFF REPORT
April 26, 2007

No. 07UR003 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 37**

GENERAL COMMENTS: **This staff report has been revised as of April 17, 2007. All revised and/or added text is shown in bold print.** The subject property is located in the Central Business District at 520 Seventh Street, south of Main Street, east of Seventh Street and north of Saint Joseph Street. The subject property is currently the location of a retail wine business. The surrounding properties east, west, north and south are also zoned Central Business District. Retail and office establishments surround the subject property.

The applicant is requesting approval of a Conditional Use Permit to allow an on-sale liquor establishment for the sale of malt beverages and wine. The hours of operation will be from 10 am to approximately 10 pm. The applicant is proposing to add a few tables to the existing business to provide a "wine-bar" and an area for special events such as wine education classes.

STAFF REVIEW: Staff has reviewed this request with respect to the four criteria established for On-Sale Liquor establishments identified in Section 17.50.185:

1. The request will not "adversely affect" the use of any place used for religious worship, school, park, playground, or similar use within five hundred (500) feet radius.

There is one place of religious worship located within a five hundred foot radius of the subject property. However, that structure is sufficiently buffer from the subject property by Saint Joseph Street and existing commercial development. There are no schools or playgrounds located within a five hundred foot radius of the subject property. There are seven similar uses located within a 500 foot radius of the subject property. There have been complaints regarding the noise from the bars in this location, specifically due to the outdoor open air venues. Central Business Zoning Districts surround the subject property. The Police Department does not oppose this application as there is no evidence that this establishment will cause additional adverse affects in the area. Staff's review of the proposed on-sale liquor establishment finds that the proposed use provides a concentration of similar uses within the area but does not appear to have a significant adverse affect on the surrounding uses.

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

There are no residential zoning districts adjacent to the subject property as the property is surrounded by Central Business District. There are no residential units located in the area and staff does not anticipate that the proposed on-sale liquor use will have a significant negative impact on any residences.

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 existing business is currently a wine shop and the applicant is proposing to add on-sale wine to the business for a "wine-bar" and special events such as wine classes.

STAFF REPORT
April 26, 2007

No. 07UR003 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 37**

Currently, there are seven on-sale liquor establishments within 500 feet of the subject property. In 1975, the City Council passed a resolution establishing a policy on locations of liquor licenses especially in the Central Business District. The resolution stated that the number of liquor establishments was creating a police problem and that the Council would seriously look at any transfer or issuance of any new licenses in the Central Business District. Some of the issues that created this resolution have been eliminated over the years. However, the Police Department does not oppose this application as there is no evidence that this establishment will cause additional concerns. In addition, as this on-sale liquor establishment is proposed to operate from the hours of 10 am to 10 pm, any impacts may be substantially mitigated.

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:

Land Use: The applicant has indicated that the on-sale alcohol use will be during the hours from 10 am to approximately 10 pm. The applicant plans to apply for a wine license for the subject property. However, state law only allows for a wine license in conjunction with a restaurant. Prior to obtaining a wine license the state law will have to be revised or the applicant will have to obtain a Major Amendment to the Conditional Use Permit to add a restaurant to the facility. There will be no outside patio or open air windows. As the use as currently proposed does not comply with state law, staff is required to recommend denial of the request.

On April 9, 2007 the applicant submitted a revised letter of intent requesting a Conditional Use Permit to allow for on-sale malt beverages on the subject property. The applicant stated that a revised application will be submitted in the future if an on-sale wine establishment is allowed on the subject property in the future.

Parking: Staff noted that no off-street parking is required in the Central Business District.

Landscaping: Staff noted that no landscaping is required for the subject property.

Historic Review: The subject property is located within the Downtown Historic District and as such, the applicant is required to submit building and sign changes to the Historic Preservation Commission and the Historic Sign Review Committee. The applicant has previously submitted a SDCL 11.1 Review to the Historic Preservation Commission and the application has been approved. The Historic Sign Review Committee has approved a sign for the subject property.

Fire Code: Staff noted that all applicable provisions of the International Fire Code shall be continually met. The building is fully fire sprinkled and fire alarmed/detected as per the 2003 International Fire Code.

Notification: As of this writing, the required rezoning sign has been posted on the property

STAFF REPORT
April 26, 2007

No. 07UR003 - Conditional Use Permit to allow an on-sale liquor establishment ITEM 37

and the receipts from the certified mailing have been returned. Staff has received no objections regarding the proposed Conditional Use Permit at the time of this writing.

Staff finds that the proposed use would add to the vitality of Downtown Rapid City and that the proposed location is appropriate. Unfortunately, South Dakota State law does not allow the use as currently proposed. For that reason, staff is recommending that the Conditional Use Permit to allow an on-sale liquor establishment in the General Commercial Zoning District be denied without prejudice.

This item was continued to the April 26, 2007 Planning Commission meeting to allow the applicant to submit additional information. On April 9, 2007 the applicant submitted additional information requesting a Conditional Use Permit for an on-sale malt beverage establishment only. Staff recommends that the Conditional Use Permit be approved with the above stated stipulations.