

STAFF REPORT
February 5, 2009

No. 08UR016 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 27**

GENERAL INFORMATION:

APPLICANT/AGENT	Gillian Avvampato
PROPERTY OWNER	Work OP SD LLC
REQUEST	No. 08UR016 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lot 11 of Block 93 of the Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.08 Acres
LOCATION	725 St. Joseph 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	11/24/2008
REVIEWED BY	Jared Ball / Karley Halsted

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be continued to the **February 19, 2009** Planning Commission meeting.

GENERAL COMMENTS: **(Updated: January 23, 2009. All revised and/or added text is shown in bold print.) This item was continued at the January 22, 2009 Planning Commission meeting because the applicant had not obtained the required building permit and a certificate of occupancy when they moved into their current location. As of this writing, the applicant has not obtained a building permit or certificate of occupancy. Staff met with the applicant on January 23, 2009. During that meeting, the applicant indicated that an architect is currently working on the building permit application. During that meeting, staff also indicated that the Planning Commission had requested the presence of the applicant at the February 5, 2009 Planning Commission meeting. The applicant indicated that they would be present at the**

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February 5, 2009 Planning Commission meeting to answer questions. As such, staff recommends that the Conditional Use Permit to allow and on-sale liquor establishment be continued to the February 19, 2009 Planning Commission meeting to allow the applicant to resolve the outstanding code violations.

(Updated: January 10, 2009. All revised and/or added text is shown in bold print.) This item was continued at the December 18, 2008 Planning Commission meeting because the applicant had not obtained the required building permit and a certificate of occupancy when they moved into their current location. As of this writing, the applicant has not obtained a building permit or certificate of occupancy. As such, staff recommends that the Conditional Use Permit to allow and on-sale liquor establishment be continued to the February 5, 2009 Planning Commission meeting.

The applicant has submitted a Conditional Use Permit to allow an on-sale liquor establishment in the Central Business Zoning District. Section 17.16.030 of the Rapid City Municipal Code allows on-sale liquor establishments as a Conditional Use in the Central Business District. The property is located at 725 Saint Joseph Street.

Currently, a hookah bar is located on the property. A hookah is defined as “a single or multi-stemmed water pipe for smoking flavored tobacco.” The applicant is proposing to expand the existing business to include food service with beer and wine sales. The applicant indicated that the food sales at the business will make up 50% of the businesses sales. A copy of the proposed menu has been linked to this report.

The property is currently zoned Central Business District. The adjacent properties to the north, south, east and west are also zoned Central Business District. The applicant has indicated that the hours of operation will be from 11:30 a.m. until 12:00 midnight Monday through Thursday, from 11:30 am until 2:00 a.m. on Friday and From 5:00 p.m. until 2:00 a.m. on Saturday. The applicant has indicated that the business will be closed on Sundays.

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.*

The location of the proposed use is located within 500 feet of three churches and two similar uses. Two of the existing churches are located approximately one block south of the business on Kansas City Street. The third church is located approximately one block east of the business on Seventh Street. The existing churches are not in direct view of the location of the business. Staff is not aware of any significant adverse affects the proposed use will have on any place used for religious worship.

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

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No residential areas are located adjacent to the proposed on-sale liquor establishment. Staff does not anticipate that the proposed on-sale liquor use will have a significant 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."

Currently, there are two on-sale liquor establishments within 500 feet of the subject property. Dublin Square is a full service restaurant and bar that is located at 504 Mount Rushmore Road. The Corn Exchange is a full service restaurant with beer and wines sales that is located at 727 Main Street.

In 1975, the City Council passed a resolution establishing a policy on the location of liquor licenses in the downtown area. In particular, the policy stated that the Common Council would look at the transfer or issuance of any licenses within the Central Business District. Obtaining an on-sale wine and malt beverage liquor license from the City Council will satisfy this requirement. In 1988, the City Council passed another resolution further limiting the transfer or issuance of on-sale liquor licenses within a portion of the downtown area. However, this property is located outside of that area.

Currently, there are two on-sale liquor establishments located within 500 feet of the property. Dublin Square, located at 504 Mount Rushmore Road, is a full service restaurant and bar. The Corn Exchange, located at 727 Main Street, is a full service restaurant with beer and wine sales. It does not appear that the proposed use will create an undue concentration of similar uses so as to cause blight deterioration or substantially 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 17.16 of the Rapid City Municipal Code and noted the following issues:

Site plan: The site plan that was submitted with this application was not drawn to scale. Prior to the issuance of a building permit, a complete site plan that is drawn to scale and signed by a registered Architect or Engineer for review and approval.

Fire Codes: The Rapid City Fire Department staff indicated that the building is fire sprinklered. However, the addition of food sales will require additional inspections by the Fire Department. These inspections will be done as part of the required building permit process. The Fire Department staff has indicated that further improvements may be required at the site, and that those comments will be submitted at the time that the applicant applies for the required building permit application.

Building Permit: The applicant did not obtain a building permit and a certificate of occupancy when the business moved into the building located at 725 Saint Joseph Street. The applicant is currently in violation of the provisions of the Rapid City Municipal Code. Any time a change of

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use is initiated, a building permit and certificate of occupancy must be obtained. On December 9, 2008 staff met with the applicant and discussed the existing violations. During that meeting the applicant indicated that they would be working with the owner of the property to correct the existing violations.

Prior to Planning Commission approval the applicant must obtain a building permit and obtain a certificate of occupancy. As such, staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be continued to the January 22, 2009 Planning Commission meeting to allow the applicant to submit the necessary information to obtain the building permit and a certificate of occupancy.

(Updated January 10, 2009.) As of this writing, the applicant has not obtained a building permit or a certificate of occupancy. As such, staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be continued to the February 5, 2009 Planning Commission meeting.

(Updated January 23, 2009.) As of this writing, the applicant has not obtained a building permit or a certificate of occupancy. As such, staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be continued to the February 19, 2009 Planning Commission meeting to allow the applicant to resolve the outstanding code violations.