

STAFF REPORT
February 5, 2009

No. 09UR001 - Conditional Use Permit to allow an on-sale liquor establishment ITEM 28

GENERAL INFORMATION:

APPLICANT/AGENT	Aida Compton for Bully Blends Coffee & Tea
PROPERTY OWNER	Staccato Rosebut, LLC
REQUEST	No. 09UR001 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lots 11 thru 16 of Block 76 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
LOCATION	410 Fifth Street
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District (Planned Commercial Development)
South:	Central Business District
East:	General Commercial District
West:	General Commercial District (Planned Commercial Development)
PUBLIC UTILITIES	City Water and Sewer
DATE OF APPLICATION	1/6/2009
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: The property is located at 410 Fifth Street. The property is currently zoned General Commercial District. The adjacent properties to the north and west are currently zoned Commercial District with a Planned Commercial Development. The property to the south is currently zoned Central Business District. The adjacent property to the east is currently zoned General Commercial District.

A restaurant is currently located on the property. The applicant is now applying for a Conditional Use Permit to allow beer and wines sales only in conjunction with the restaurant.

On June 21, 2005 the applicant obtained a Variance from the Zoning Board of Adjustments

STAFF REPORT
February 5, 2009

No. 09UR001 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 28**

to allow a total of twelve off-street parking stalls and zero landscaping points.

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 are no schools, parks, playgrounds or places used for religious worship within 500 feet of the proposed use. Staff is not aware of any significant adverse affects the proposed use will have on any place used for religious worship, schools or playgrounds.

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

While there are residential uses in numerous second story buildings in the Central Business District, there are no residential neighborhoods located in proximity with the proposed on-sale liquor establishment. The proposed on-sale liquor use would not appear to 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 three on-sale liquor establishments within 500 feet of the subject property. Botticelli Ristorante is a full service restaurant with on-sale alcohol that is located at 523 Main Street. Picasso Pizza Barn is a full service restaurant with on-sale alcohol located at 325 Omaha Street and the Veterans of Foreign Wars Outpost is a full service restaurant and fraternal organization with on-sale alcohol located at 420 Main Street. Staff does not anticipate that the proposed use will cause blight, deterioration, or substantially diminish or impair property values in the area if operated in conjunction with a restaurant.

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:

Parking: Staff noted that the site plan identifies 17 parking stalls on the property. As previously noted, on June 21, 2005 the applicant obtained a Variance to the Parking Regulations to allow a minimum of 12 parking spaces at the location. During staff’s review of the proposed use, staff noted that the proposed on-sale beer and wine use will not increase the floor area and will not change the number of required off-street parking spaces.

Upon inspecting the site, staff noted that the parking surface on the property has deteriorated and that the parking stalls are not identified with striping. Due to the lack of a

STAFF REPORT
February 5, 2009

No. 09UR001 - Conditional Use Permit to allow an on-sale liquor establishment ITEM 28

paved surface, the off-street parking area at the location is currently in violation of the Rapid City Municipal Code. Section 17.50.270.G.3 of the Rapid City Municipal Code states that; "all off-street parking areas shall be paved and maintained so as to eliminate dust and mud". On January 22, 2009 staff inspected the site and noted that the off-street parking area identified on the site plan is not paved and consists of loose and hard packed gravel with several large pot holes. In addition, staff noted that none of the required off-street parking spaces are striped.

On October 10, 2005, the applicant obtained a Certificate of Occupancy for the business. However, since that time, the parking lot has deteriorated and significant repairs are necessary. As such, prior to Planning Commission approval, the applicant must repair the parking lot by filling holes and applying additional asphalt millings or post surety for the parking lot improvements.

Landscaping: As previously noted, the applicant obtained a variance to the landscaping regulations to allow zero landscaping points. No additional landscaping requirements will be triggered by the addition of the on-sale liquor establishment in accordance with Section 17.50.300 of the Rapid City Municipal Code.

Fire Codes: The Rapid City Fire Department has indicated that the building will be required to be fully fire sprinklered. The Rapid City Fire Department has indicated that they are working with the applicant regarding the fire sprinkler installation and time frame.

Moratorium: On April 4, 1988, the Common Council took action to limit the future issuance or transfer of on-sale liquor licenses within an area bounded on the west by the west side of Seventh Street, on the east by the east side of Fifth Street, on the north by the alley north of Main Street, and on the south by the alley south of St. Joseph Street. The policy allows for the location of additional on-sale liquor licenses within the area described only when operated in conjunction with a bona fide restaurant. The location of the proposed on-sale alcohol establishment abuts the area described in the moratorium; however, it is not located within the boundaries established in the moratorium. Further, the proposed use is an operating restaurant.

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 correct the outstanding parking lot violation that currently exists on the property.