

STAFF REPORT
June 25, 2009

No. 09UR015 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 35**

GENERAL INFORMATION:

APPLICANT/AGENT Barbara Klinkel for Late Harvest, Inc.

PROPERTY OWNER Duhammel Broadcasting

REQUEST **No. 09UR015 - Conditional Use Permit to allow an on-sale liquor establishment**

EXISTING
LEGAL DESCRIPTION A parcel of land located in the South 90' of Lots 17, 18 and 19 in Block 85 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota and the adjoining vacated Sixth Street and St. Joseph Street rights-of-way (Misc. Book 28, Page 3576 and Misc. Book 29, Page 8191), said parcel more commonly known as 530 Sixth Street and currently occupied by "Tally's Restaurant" and the exterior perimeter of the ground floor which is shown on the attached exhibit and more fully described as follows: Beginning at the intersection of the vacated portions of Sixth Street and St. Joseph Street rights-of-way as they adjoin Lot 17 in Block 85 of the Original Town of Rapid City, thence, northeasterly along the easterly edge of Sixth Street right-of-way and along the westerly edge of the existing building, a distance of 37.9 feet more or less to the northerly wall of said Tally's Restaurant; thence, southeasterly at a right angle and along said northerly wall, a distance of 75 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 3.9 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's Restaurant, a distance of 5.4 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 6.5 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's Restaurant, a distance of 7 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 23.7 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's Restaurant, a distance of 3.8 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 3.8 feet more or less to a point on the northerly line of the vacated portion of St. Joseph Street

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right-of-way as it adjoins Lot 19 in Block 85 of the Original Townsite of Rapid City; thence, northwesterly and along the northerly line of said vacated portion of St. Joseph Street right-of-way a distance of 58.8 feet more or less to the point of beginning, and A parcel of land located in the South 90' of Lots 17, 18 and 19 in Block 85 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota and the adjoining vacated Sixth Street and St. Joseph Street rights-of-way (Misc. Book 28, Page 3576 and Misc. Book 29, Page 8191), said parcel more commonly known as 530 Sixth Street and currently occupied by "Tally's Restaurant", the exterior perimeter of a portion of the basement floor which is shown on the attached exhibit and more fully described as follows: Beginning at the intersection of the vacated portions of Sixth Street and St. Joseph Street rights-of-way as they adjoin Lot 17 in Block 85 of the Original Town of Rapid City, thence, northeasterly along the easterly edge of Sixth Street right-of-way and along the westerly edge of the perimeter basement wall, a distance of 20.9 feet more or less to an interior basement wall; thence, southeasterly at a right angle and along an interior basement wall, a distance of 48.2 feet more or less; thence, southwesterly at a right angle and along an interior basement wall, a distance of 2.5 feet more or less; thence, southeasterly at a right angle and along an interior basement wall and stairway, a distance of 26.7 feet more or less; thence, southwesterly at a right angle and along the interior basement wall, a distance of 18.4 feet more or less; thence, northwesterly at a right angle and along portions of the exterior basement wall, a distance of 74.9 feet more or less to the point of beginning

PARCEL ACREAGE	Approximately 0.09 acres
LOCATION	522 Sixth Street
EXISTING ZONING	Central Business District
SURROUNDING ZONING	
North:	Central Business District
South:	Central Business District
East:	Central Business District
West:	Central Business District

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PUBLIC UTILITIES City water and sewer
DATE OF APPLICATION 5/15/2009
REVIEWED BY Travis Tegethoff / Ted Johnson

RECOMMENDATION:

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

1. No outdoor dining shall be allowed after 10 p.m.;
2. 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;
3. The on-sale liquor establishment shall be operated in conjunction with a full service restaurant;
4. A Sign Permit shall be obtained prior to any signs being placed on the property and shall comply with the Sign Code Regulations. The signs shall meet the site plan as shown and as approved by the Historic Sign Review Committee;
5. A Sidewalk Café Permit shall be obtained prior to any structures being placed in the right-of-way;
6. All applicable provisions of the International Fire Codes shall be continually met;
7. The applicant shall obtain all required approvals from the Preservation Commission and the Historic Sign Review Committee prior to making any changes to the building and/or signage; and,
8. 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 property is located in the Central Business District at 530 Sixth Street and Tally's restaurant is currently located on the property. This Conditional Use Permit application is only for the portion of the building that is currently occupied by Tally's Restaurant. The surrounding properties east, west, north and south are also zoned Central Business District. Two alcohol establishments are located across the street from the property. Another alcohol establishment is located to the north on the same block. A parking lot is located south of the property at the corner of Sixth Street and Saint Joseph Street.

The applicant is requesting approval of a Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant on the property. In addition, the applicant has submitted a Sidewalk Café Permit (#09SC006) to allow table and chairs to be placed in the public right-of-way along Sixth Street and Saint Joseph Street.

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:

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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 places of religious worship, schools, or playgrounds located within a five hundred foot radius of the subject property. Central Business Zoning Districts surround the 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 property as the property is surrounded by Central Business District. However, there are second floor apartments in the downtown area. The applicant has indicated that the hours of operation for the restaurant will be from 7 a.m. to 9 p.m. Staff does not anticipate that the proposed on-sale liquor use will have a significant negative impact on any residences based on the restaurant use and the hours of operation.

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 the vicinity of the 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.

The City Council established a policy for the future issuance or transfer of on-sale liquor licenses to approve only licenses to bona fide restaurant facilities in the 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 Saint Joseph Street. The proposed on-sale liquor establishment is located within this area. Some of the issues that created this resolution have been eliminated over the years. Staff has some concerns that this proposed use will create a concentration of similar uses in this area. 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 in conjunction with a restaurant, the effects may be 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:

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Land Use: The applicant has indicated that the on-sale alcohol use will be in conjunction with the restaurant. In addition, the applicant is proposing outdoor seating along the west and south sides of the building in the public right-of-way.

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 property.

Historic Review: The property is within the Downtown Historic District. As such, the applicant will be required to submit building and sign changes to the Historic Preservation Commission and the Historic Sign Review Committee for review and approval.

Fire Code: Staff noted that all applicable provisions of the International Fire Code shall be continually met.

Notification: As of this writing, the required sign has not been posted on the property and the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the June 25, 2009 Planning Commission meeting if this requirement has not been met. Staff has not received any objections regarding the proposed Conditional Use Permit at the time of this writing.

Staff is recommending that the Conditional Use Permit to allow an on-sale liquor establishment be approved with the previously stated stipulations.