

STAFF REPORT

March 4, 2010

No. 10UR003 – Conditional Use Permit to allow an on-sale liquor establishment

ITEM 32

GENERAL INFORMATION:

APPLICANT/AGENT	Al Rodriguez for Curry Masala
PROPERTY OWNER	AJM Properties, LLC
REQUEST	No. 10UR003 – Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lot 28 of Block 85 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.08 acres
LOCATION	510 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	2/5/2010
REVIEWED BY	Ali DeMersseman / Mary Bosworth

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be continued to the March 25, 2010 Planning Commission meeting.

GENERAL COMMENTS: The applicant has submitted a Conditional Use Permit request to allow an on-sale liquor establishment in conjunction with a restaurant at 510 Saint Joseph Street. In particular, the applicant is requesting to serve beer at the restaurant. The restaurant, Curry Masala, is currently open from 11am to 2pm, Monday through Saturday for lunch and from 5pm to 8pm on Fridays and Saturdays for dinner. The applicant has indicated that they are planning to expand their dinner hours to additional days of the week this summer.

On July 6, 1998, the City Council approved a Use on Review to allow an on-sale liquor establishment in conjunction with Smiley's House of Pizza at 510 Saint Joseph Street.

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However, the Use on Review approval expired because the use as approved ceased for a period of two years.

The property is located approximately 100 feet west of the intersection of Saint Joseph Street and Fifth Street. The property is developed with a two story, mixed use building. The ground floor of the building houses a restaurant, Curry Masala, and the second floor of the building contains apartments. The building was constructed in 1930 and is a contributing structure in the Rapid City Commercial Historic District.

STAFF REVIEW: Staff has reviewed the Conditional Use Permit 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) foot radius.*

The location of the proposed use is within 500 feet of one school, Headlines Academy, which is located on the northwest corner of the block. In addition, there is one church, Trinity Lutheran, located just outside the 500 foot boundary from the proposed use at the corner of Kansas City Street and 4th Street. Staff is not aware of any significant adverse effects the proposed use will have on the above identified place of worship or school located within the vicinity if operated in conjunction with a full service restaurant.

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

There are no single family residences located in the general area of the proposed on-sale liquor establishment. However, there are several apartments located in the upper stories of buildings within the Downtown area, including the upper floor of the building where the use is proposed. All of the residential uses within the immediate vicinity are on sites zoned Central Business District. Staff does not anticipate that the proposed use will have a significant negative impact on the residences because the proposed on-sale liquor will be an accessory to a full service restaurant.

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 six on-sale liquor establishments located within a 500 foot radius of the proposed use. Tally's Silver Spoon and Botticelli's Restaurant are located on the same block as the proposed use, with Tally's at the northwest corner and Botticelli's on Main Street. Tally's and Botticelli's are both full service restaurants with beer and wine sales. Paddy O'Neill's Pub, the Wine Cellar and the Delmonico Grill are all located one block west of the proposed use. Paddy O'Neill's has a retail liquor license, and both the Wine Cellar and the Delmonico Grill are full service restaurants with beer and wine sales. Finally, the VFW Rushmore Post 1273 is located one block to the northeast of the proposed use and maintains a retail liquor license.

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The property at 510 Saint Joseph Street has been operated as a full service restaurant for a number of years. The provision of malt beverages to restaurant patrons as an accompaniment to meals will not alter the nature of the existing restaurant. Therefore, staff does not find this request for on-sale liquor in conjunction with a full service restaurant to constitute an undue concentration of similar uses in the Central Business District that would cause blight, deterioration, and substantially diminish or impair property values.

4. The proposed use has been reviewed under Chapter 17.54.030 (E) Criteria for Review.

Staff has given due consideration during the review of the proposed use as identified in Chapter 17.54.030 (E). Staff does not anticipate that the proposed on-sale liquor use will have a significant impact on any criteria identified in Chapter 17.54.030.

Signage: The applicant is not proposing additional signage as a part of this Conditional Use Permit application. On June 12, 2009, the Historic Sign Review Committee approved two signs for Curry Masala. In particular, the committee approved and awning sign, as well as the removal of neon tubes and repainting of an existing wall sign at the property.

Fire Code: The Rapid City Fire Department has indicated that buildings with assembly areas utilized for the consumption of food and alcohol must be protected throughout with an approved fire sprinkler system. Therefore, the Fire Department has indicated that a plan must be provided to establish an acceptable timeframe to initiate and complete the installation of an approved fire sprinkler system and associated fire alarm system for the building. As such, staff recommends that the Conditional Use Permit request to allow an on-sale liquor establishment be continued to the March 25, 2010 Planning Commission meeting to allow staff to meet with the applicant to establish a fire protection plan for the building.

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 is within the area described in the moratorium; however, the proposed use is accessory to a bona fide restaurant.

Notification: As of this writing, the required sign has been posted on the property; however, the receipts from the certified mailing have not been returned. Staff will notify the Planning Commission at the March 4, 2010 Planning Commission meeting if this requirement has not been met. To date, staff has not received any calls regarding the Conditional Use Permit request.

Staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment be continued to the March 25, 2010 Planning Commission meeting.

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