

STAFF REPORT
February 24, 2011

No. 11UR001 - Conditional Use Permit to allow an On-Sale Liquor Establishment ITEM 22

GENERAL INFORMATION:

APPLICANT	Michael Stanley 42nd Street Design Studio, LLC
PROPERTY OWNER	Carter & Underwood Property Management LLC
REQUEST	No. 11UR001 - Conditional Use Permit to allow an On-Sale Liquor Establishment
EXISTING LEGAL DESCRIPTION	Lot 12 of Block 83 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .08 acres
LOCATION	725 Main 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	1/31/2011
REVIEWED BY	Jim Flaaen / Brandon Quiett

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an On-Sale Liquor Establishment be approved with the following stipulations:

1. Prior to Planning Commission approval, the applicant shall enter into a covenant agreement regarding the completion of the fire sprinkler system and associated alarm equipment throughout the remaining portions of the building;
2. The proposed structure shall conform architecturally to the plans, elevations and color palette approved as part of the Conditional Use Permit;
3. All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Conditional Use Permit. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Conditional Use Permit. The addition of electronic signage will require a Major

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Amendment to the Conditional Use Permit. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign;

4. All applicable provisions of the International Fire Code shall be continually met;
5. No outside patio is allowed. Any expansion of the use will require a Major Amendment to the Conditional Use Permit;
6. The on-sale liquor establishment shall be limited to malt beverages and wine. A Major Amendment to the Conditional Use Permit shall be obtained if full liquor sales is proposed; and,
7. 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 applicant has submitted a Conditional Use Permit request to allow an on-sale liquor establishment in the Central Business District. In particular, the applicant has requested a Conditional Use Permit to allow off-premise wine and beer sales as well as allow on-premise consumption for patrons of the “Potted Rabbit” specialty foods store located at 725 Main Street.

The “Potted Rabbit” operates in conjunction with the “Corn Exchange” located on the adjacent lot, Lot 13, to the west. In 1997, the City Council approved a Conditional Use Permit to allow an on-sale liquor establishment for the “Corn Exchange” on Lot 13, Original Town of Rapid City, with one stipulation. The stipulation of approval stated, “that any change or deviation from the approved use comply with Section 17.50.185 and 17.54.030 of the Rapid City Municipal Code.”

The property is located at 725 Main Street, on the south side of Main Street east of Mount Rushmore Road and west of 7th Street. The property is not located within the historic district. The property and all surrounding properties are zoned Central Business District. A deli, the “Potted Rabbit”, with upper level apartments, is located on the property.

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.*

Staff review has noted that there is one church located within 500 feet of the proposed on-sale liquor use. The First Presbyterian Church is located southeast of the property northwest of the intersection of 7th Street and Kansas City Street. However, there are no schools, parks, playgrounds or similar uses within a 500 foot radius of the property. The proposed on-sale liquor use is for package liquor sales for off-premise consumption and the allowance for on-premise consumption by patrons of the existing retail store. Staff review has not identified any significant adverse affects on any places of religious

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worship, schools, parks, playgrounds or similar uses within the area.

2. *The requested 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. There are some existing apartment units above the businesses located along Main and Saint Joseph Streets. The property is surrounded by Central Business Zoning District. Staff has not identified that the proposed on-sale liquor use will result in any significant adverse effects on any residences.

3. *The proposed use will not create an undue concentration of similar uses, so as to cause “blight, deterioration, or substantially diminished or impair property values.”*

There are currently nine on-sale liquor establishments located within a 500 foot radius of the subject property. The Hookah Lounge is located to the south of the property on Saint Joseph Street between Mount Rushmore Road and 7th Street. VINO 100 and the Brass Rail are located southeast of the property northeast of the intersection of Saint Joseph Street and 7th Street. The Oasis Lounge is located east of the property and the Corn Exchange and Dublin Square are located west of the property within the same block along Main Street between 7th Street and Mount Rushmore Road. Thirsty's is located to the west of the property and Teddy's Sports Bar and the Radisson Hotel are located northwest of the property along Main Street west of Mount Rushmore Road.

In 1988, the City Council passed a resolution to limit the future issuance or transfer of on-sale liquor licenses within an area bounded to the west by Seventh Street, on the east by Fifth Street, on the north by the alley north on Main Street, and on the south by the alley south of St. Joseph Street. This property is located outside of the area of the 1988 policy and thereby not affected by the moratorium.

While there is a significant concentration of alcohol uses in this area, the type of use proposed as part of this application, and the concentration in the area, is typical of a vibrant city center. Staff has not identified any information that would suggest the proposed use would result in blight, deterioration or substantially diminished 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 17.54.030(E) and has noted the following issues:

1. *The location, character and natural features of the property:*

The property is located within the Central Business District and is located at 725 Main Street, on the south side of Main Street east of Mount Rushmore Road and west of 7th Street. An existing building with a 2,000 square foot footprint is located on the property.

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The existing building exterior is finished with wood paneling painted blue with tan stucco on the upper level. Staff recommends that the proposed structure conform architecturally to the plans, elevations and color palette approved as part of the Conditional Use Permit.

2. The location, character and design of adjacent buildings:

The buildings adjacent to the existing building are commercial structures of similar construction and design and are of brick construction and panel or stucco exterior. Staff finds that the design and character of the proposed building is consistent with the design and character of the adjacent buildings.

3. Proposed fencing, screening and landscaping:

The applicant has not proposed any fencing, screening and/or landscaping with this Conditional Use Permit request. As previously stated, the property is located within the Central Business District in which no landscaping is required for the property. In addition, all adjacent properties are zoned Central Business District and no additional screening from adjacent properties is required.

4. Proposed vegetation, topography and natural drainage:

The property is located such that there is no elevation change on the property. In addition, the property is located within the Central Business District and is entirely hard-surfaced; as such no natural or proposed vegetation exists on the property.

5. Proposed pedestrian and vehicular access, circulation and parking, including that related to bicycles and other unpowered vehicles and provisions for handicapped persons:

The property is located on Main Street, a principle arterial on the Major Street Plan. An existing sidewalk is located adjacent to the building which provides access for pedestrians. The property is located within the Central Business District and, as such, no off-street parking is required to be provided. However, on-street parking is provided in front of the building within the Main Street right-of-way. The applicant should be aware that if designated off-street parking is provided on the property in the future, the parking must conform with all requirements of the Off-Street Parking Ordinance, Chapter 17.50.270 of the Rapid City Municipal Code, including the installation and maintenance of handicap and "van handicap" accessible spaces.

6. Existing traffic and traffic to be generated by the proposed use:

A retail store is currently located on the property. The applicant has not proposed to install or convert any new floor space to retail sales nor will the use be expanded to include any new seating areas for the on-sale liquor use. As such, no increased traffic should be generated by the proposed on-sale liquor use.

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7. Proposed signs and lighting:

There are two existing signs located on the property facing Main Street. The first sign is an existing 2 foot high by 16 foot wide sign with the message "Gastronomy" with 15 inch gold letters. The second sign is an existing gold painted sign on the windows facing Main Street with the message "The Potted Rabbit" with 6 inch letters. There are no new signs proposed as a part of this Conditional Use Permit. The property is not located within the historic district and as such, no historical review of future signage will be required.

All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Conditional Use Permit. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Conditional Use Permit. No electronic signs are being proposed as a part of this Conditional Use Permit. The addition of electronic signage will require a Major Amendment to the Conditional Use Permit. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign.

8. The availability of public utilities and services:

The property is served by City water and sewer services. There are no proposed changes to utility services with this Conditional Use Permit.

The Fire Department has indicated that the applicant has begun the process of providing fire sprinkler protection throughout the structure. However, to date the entire building has not been fire sprinkler protected as required. As such, prior to Planning Commission approval of the Conditional Use Permit, a covenant agreement must be signed regarding the completion of the fire sprinkler system and associated alarm equipment throughout the remaining portions of the building.

9. The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein:

The property is zoned Central Business District which forms the metropolitan center for commercial, financial, professional, governmental and cultural activities. The proposed on-sale liquor use proposed and existing retail use will aid in expanding the commercial activities of the metropolitan center.

10. The overall density, yard, height and other requirements of the zone in which it is located:

The property is located within the Central Business Zoning District. As such, no front,

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side or rear yard setbacks are required and there are no maximum height restrictions on buildings. The existing structure has no front or side yard setback and has a 60 foot rear yard setback. The existing structure is two stories in height. In addition, for structures less than 7 stories in height, the allowable lot coverage is 100%. The existing building covers approximately 57% of the lot.

11. The effects of noise, odor, smoke, dust, air and water pollution and the degree of control through which clarifiers, screening, setbacks and orientation:

The existing and proposed use for the property is a retail store. As such, the existing and proposed use does not create an excess of noise, odor, smoke, dust or air and water pollution requiring additional clarifiers, screening, setbacks, and/or orientation.

12. The degree to which conditions imposed will mitigate and probably adverse impacts of the proposed use on existing adjacent uses:

The requirement that the applicant enter into a covenant agreement to provide fire sprinkler protection throughout the building will help to mitigate possible adverse effects of a fire emergency on this or adjacent properties. The property is located within the Central Business District in which no side yard setback is required allowing building to be located in close proximity to one another. The requirement to provide fire sprinkler protection throughout the structure will help to mitigate possible fire spread from building to building within the area.

Notification Requirement: As of this writing, the white receipts from the certified mailing been returned however the green card receipts have not been returned. The required signs have been posted on the property. Staff will notify the Planning Commission at the February 24, 2011 Planning Commission meeting if these requirements have not been met.

Staff recommends that the Conditional Use Permit be approved with the stipulations as identified above.