

STAFF REPORT
March 24, 2011

No. 11UR005 - Conditional Use Permit to allow an on-sale liquor establishment **ITEM 13**

GENERAL INFORMATION:

APPLICANT	Anthony Demaro
PROPERTY OWNER	Slainte, LLC
REQUEST	No. 11UR005 - Conditional Use Permit to allow an on-sale liquor establishment
EXISTING LEGAL DESCRIPTION	Lots 13 thru 16 of Block 82 of the Original Town of Rapid City, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .32 acres
LOCATION	510 9th 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	2/25/2011
REVIEWED BY	Karen Bulman / Brandon Quiett

RECOMMENDATION:

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

1. The approved uses for the property shall be limited to an on-sale liquor establishment operating in conjunction with a full-service restaurant/pub. Any other use of the property shall require a Major Amendment to the Conditional Use Permit;
2. The hours of operation for the outdoor patio shall be limited to 11:00 a.m. to 12:00 a.m. on weekdays and 11:00 a.m. to 1 a.m. on Friday and Saturday, and live entertainment on the outdoor patio shall not be allowed beyond 11:30 p.m.;
3. Prior to initiation of construction, a building permit shall be obtained and a Certificate of Occupancy shall be obtained prior to occupancy of the building;
4. All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;
5. All signage shall conform to the design, color and location as shown in the sign package

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submitted as a part of the Conditional Use Permit. Any new signs or the replacement of signs will require a variance to the Sign Code Board of Appeals if the signs do not conform to the Sign Code requirements. 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 any 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. A sign permit shall also be obtained for any additional signage;

6. All applicable provisions of the currently adopted International Fire Code shall continually be met;
7. All provisions of the Central Business Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment; 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 applicant has submitted a Conditional Use Permit request to allow an on-sale liquor establishment in conjunction with a full-service restaurant/pub at the property located at 510 9th Street. Previously, the property was the location of Murphy's Bar and Restaurant. The applicant has indicated that the signage will remain the same at this time. The property is an Individually Listed Historic Property, and considerable remodeling is taking place inside the building. The remodeling project has had the approval of the Historic Preservation Commission.

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 are no schools, parks, playgrounds or similar uses within a 500 foot radius of the property. The proposed on-sale liquor use is for on-premise consumption for a restaurant/pub. Staff review has not identified any significant adverse effects on any places of religious worship, schools, parks, playgrounds or similar uses within the area.

1. *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 St. Joseph Street. 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.

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2. *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 six on-sale liquor establishments located within a 500 foot radius of the subject property. Thirsty's is located to the east of the property and Teddy's Sports Bar and the Radisson Hotel are located to the north and northeast of the property along Main Street west of Mount Rushmore Road. Bully Blends is located northwest of the property on Main Street. The Corn Exchange and Dublin Square are located east of the property along Main Street between 7th Street and 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 on 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. The Police Department does not oppose this application and there is no evidence that this on-sale alcohol use will cause additional concerns. The Police Department is concerned with any loud noises that may result from the entertainment during the patio use. Therefore, the hours of live entertainment have been reduced. Staff has identified that the proposed use will contribute to a concentration of similar uses in the area, but has not identified any information that would suggest the proposed use would result in blight, deterioration or substantially diminished property values.

3. *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 at 510 9th Street, on the southeast corner of Main Street and 9th Street. The existing brick building was the previous home of Murphy's Bar and Restaurant. The applicant has done significant remodeling to the interior of the building and is restoring the interior and exterior to comply with historic standards.

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. Staff finds that the design and character of the building is consistent with the design and character of the adjacent buildings.

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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 indicating that 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 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 Rapid City's 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 and along the 9th Street side of the building.

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

The building is currently unoccupied, but was previously an on-sale liquor establishment with a restaurant and an outdoor patio. The applicant has not proposed to expand the use 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.

7. *Proposed signs and lighting:*

There are two existing signs located on the east side of the building. The first sign is an existing neon sign with white letters on a green background indicating "Murphy's Pub". The second sign is an existing green wall sign with white letters with the message "Murphy's Sports Saloon". The wall sign located on 9th Street states, "Great Food & Drink" in white letters on a green background. There is also a white sign with black letters indicating the address, 510 9th Street. There are two projection signs, one at the corner of Main and 9th Street and one at the northeast corner of the building, that state "Murphy's Sports Saloon". A neon sign with the message "Murphy's Bar & Restaurant" is also located on the south side of the building, facing the alley. There are no new signs proposed as a part of this Conditional Use Permit. A variance was approved by the Sign Code Board of Appeals to allow the current signs, as they exceeded the size requirement. The applicant should be aware that if any signs are removed, the variance will no longer be applicable. Any replacing of signs that are removed, or any new signs,

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will require a variance if the signs exceed the requirements of the Sign Code. In addition, the property is located within the historic district and as such, historical review of any 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 new sign or replaced 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 structure has fire sprinkler protection within the structure. The fire sprinkler system and the fire alarm system must meet all current requirements as per NFPA 13, NFPA 72 as indicated by the Rapid City Fire Department.

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 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, side or rear yard setbacks are required and there are no maximum height restrictions on buildings. The existing structure has no front, side yard or 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%.

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 proposed use for the property is a restaurant/pub with an outdoor patio. In previous

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years, there has been a noise issue at this location due to loud music on the patio. The applicant has indicated that the hours of operation for the outdoor patio will be from 11 a.m. to 12 a.m. during the week and 11 a.m. to 1 a.m. on Friday and Saturday. In addition, live entertainment on the outdoor patio will not be allowed beyond 11:30 pm. These hours will be similar to the hours of an adjacent on-sale liquor establishments with an outdoor patio.

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

As the proposed on-sale liquor establishment will operate in conjunction with a restaurant, the effects will be significantly mitigated. In addition, the hour of operation for the live entertainment on the outdoor patio will also mitigate any adverse effects that use will serve.

Notification Requirement: As of this writing, the required signs have 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 March 24, 2011 Planning Commission meeting if these requirements have not been met. Staff has received no inquiries or objections regarding the proposed request at the time of this writing.

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