

STAFF REPORT
March 22, 2012

No. 12UR008 - Major Amendment to a Conditional Use Permit to expand an On-Sale Liquor Establishment **ITEM 26**

GENERAL INFORMATION:

APPLICANT	Megan Karbowski - Main Street Square, LLC
PROPERTY OWNER	City of Rapid City
REQUEST	No. 12UR008 - Major Amendment to a Conditional Use Permit to expand an On-Sale Liquor Establishment
EXISTING LEGAL DESCRIPTION	Lot 17 and vacated portions of Main Street and Sixth Street adjacent to Lot 17, Lots 18-22 and the vacated portions of Main Street adjacent to Lots 18-22, Lot 23 excluding the east 15 feet of Lot 23, and the vacated alley located between 5th Street and 6th Street, all located in Block 75 of the Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	approximately 0.10 acres
LOCATION	526 Main Street
EXISTING ZONING	Central Business District - General Commercial District
SURROUNDING ZONING	
North:	General Commercial District (Planned Commercial Development)
South:	Central Business District
East:	Central Business District
West:	Central Business District
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	2/24/2012
REVIEWED BY	Robert Laroco / Ted Johnson

RECOMMENDATION:

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

1. A Building Permit shall be required prior to any construction on the site. A Certificate of Occupancy shall be required prior to occupancy;
2. Prior to issuance of a Building Permit, approval through an 11.1 Historic Review shall be obtained for any construction located within the Downtown Historic District;
3. Prior to issuance of a Building Permit, signed and sealed final plans shall be submitted to

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4. Community Planning and Development Services for review and approval;
4. All applicable provisions of the currently adopted International Fire Code shall continually be met;
5. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an On-Sale Liquor Establishment. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. 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. The approval of the Historic Sign Review Committee shall be obtained prior to obtaining the Sign Permit;
6. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind; and,
7. All areas used for the sale and consumption of alcohol shall be enclosed by a fence with proper exits maintained at all times. Proper exits shall be maintained within fenced areas at all times. When the fenced area is utilized, the maximum occupancy load shall be posted in three inch letters and the proper occupancy load shall be maintained at all times within the fenced area when utilized. Destination Rapid City shall be responsible for the enforcement of all boundaries, access points, and security measures required during any events with on-sale liquor service;
8. All provisions of the Central Business Zoning District shall be met unless an exception is specifically authorized as a stipulation of this Major Amendment to the Conditional Use Permit or a subsequent Major Amendment;
9. This Conditional Use Permit to Expand an On-Sale Liquor Establishment shall allow Destination Rapid City to host events at Main Street Square and the adjacent vacated alley. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Other permitted uses within the Central Business District shall be allowed, with the exception of conditional uses which shall require the review and approval of a Major Amendment to the Conditional Use Permit;
10. This Major Amendment to 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 Major Amendment to the Main Street Square Conditional Use Permit (File #11UR024) to expand an On-Sale Liquor Establishment to include the vacated alley north of the existing Main Street Square site through to the 5th Street right-of-way.

Four separate requests have been approved to vacate portions of the alley right-of-way located to the north of the Main Street Square project (File #10VR003, File #10VR004, File #11VR007, and File #11VR008). The first two requests each vacated two foot wide portions of the alley in order to accommodate redevelopment of properties abutting the alley way. The final two requests vacated the balance of the alleyway between Fifth and Sixth Streets. A permanent utility easement has been retained in the vacated alley.

The vacated alley is located north of Main Street, between 5th Street and 6th Street. The

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vacated alley is developed as pedestrian circulation.

STAFF REVIEW: Staff has reviewed the Major Amendment to the Planned Commercial Development to allow an On-Sale Liquor Establishment according to Chapter 17.50.185 of the Rapid City Municipal Code and has noted the following considerations:

A. The requested use will not adversely affect the use of any place used for religious worship, school, park, playground, or similar use within a 500-foot radius:

There are no places of religious worship or schools within a five hundred foot radius of the subject property. The properties to the north are zoned General Commercial District. The properties to the south, east and west are zoned Central Business District. The property is located in a concentrated commercial corridor. It does not appear that the conditional use permit to expand an on-sale liquor establishment will have an adverse effect on any places of worship, schools, parks, playgrounds or similar uses.

B. The requested use is sufficiently buffered with respect to residential areas so as not to adversely affect the area:

The property is not within 500 feet of a residential district. As previously noted, the properties to the north are zoned General Commercial District. The properties to the south, east and west are zoned Central Business District. It appears that the requested use is sufficiently buffered from residential areas.

C. 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:

There are several on-sale liquor establishments located within the area of the subject property. The property is located in the Central Business District. It does not appear that the proposed on-sale liquor establishment will cause blight, deterioration, or diminish or impair property values. The property located to the south of the vacated alley has Conditional Use Permits approved for four additional On-Sale Liquor Establishments. The Wobbly Bobby, Dakota Soda Company, Dakota Thyme and Manchego are located on this property. The following businesses also have approved on-sale liquor Conditional Use Permits:

- Firehouse Brewing Company: approximately 200 feet west.
- Alex Johnson Hotel: approximately 270 feet southwest.
- Rushmore Post 1273: approximately 270 feet east.
- The Brass Rail: approximately 450 feet southwest.
- Sanford's Grill and Pub: approximately 490 feet northeast.

D. The proposed use complies with the standards of Rapid City Municipal Code Chapter 17.54.030:

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

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The property is located at 526 Main Street. Main Street Square is located on the property.

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

To the north of the subject property is a three level parking garage. Located to the west, south and east of the subject property are one and two story commercial structures.

3. Proposed fencing, screening, and landscaping:

The applicant proposes to serve wine and beer at public events hosted in the Square which will include, but not be limited to: Rapid City Bierbourse, Rapid City Art and Wine Festival, Rushmore Rollerz Bouts and Fall and Winter Markets. The areas for sale and consumption of beer and wine must be fenced off during events. The submitted application includes elevations of the proposed fencing to be used during events with on-sale liquor service. The proposed fencing will be brown in color and reconfigurable to suit the needs of each event. In addition, submitted plans show that the placement of fencing, including access points and security, will be addressed on a per event basis. Destination Rapid City must be responsible for the enforcement of all boundaries, access, and security utilized during events with on-sale liquor.

4. Proposed vegetation, topography and natural drainage:

There will be no changes in impervious surfaces, topography or drainage on site.

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

There is no vehicular access to the site. The property is zoned Central Business District and does not require off-street parking. A sidewalk is located along Main Street and 6th Street, and the alley located on the north property line will provide pedestrian access to the site.

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

Traffic generated by the use will vary depending on the type of event hosted. The Central Business District does not require off-street parking. There is on-street parking and the parking garage located to the north of the subject property will accommodate any additional traffic generated by the various events. It is anticipated that a significant portion of the traffic load will be pedestrian traffic.

7. Proposed signs and lighting:

There are no additional proposed signs or lighting. All signage must conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being

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approved as a part of this Conditional Use Permit to allow an On-Sale Liquor Establishment. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. Lighting for the signs must be designed to preclude shining on the adjacent properties and/or street(s). A sign permit must also be obtained for each individual sign. The approval of the Historic Sign Review Committee must be obtained prior to obtaining the Sign Permit.

8. The availability of public utilities and services:

The property is currently served by public utilities including Rapid City sewer and water.

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

The property will be used for commercial, financial, professional, governmental and cultural activities. Service of alcohol is a Conditional Use in the Central Business District. The originally approved Conditional Use Permit for Main Street Square included a portion of the vacated alley. The balance of the alley has been vacated and, as such, the applicant has requested that the boundaries of the Conditional Use Permit be expanded to include the balance of the alley. The request to expand the boundaries of the original Conditional Use Permit requires a Major Amendment. One of the goals of the Comprehensive Plan as identified in the Future Land Use Plan Overview adopted in 2008 is to provide a variety of centers for community activities and employment that meet the needs of residents and are integrated into the fabric of the community. The objective of the adopted comprehensive plan is to encourage retail establishments and businesses that are convenient to neighborhood residents, yet compatible with but not intrusive upon residential neighborhoods. Additionally, the objective of the adopted comprehensive plan is to ensure that there is sufficient separation of conflicting uses. Main Street Square serves as a center for activity and employment for the Downtown neighborhood. Several commercial developments have been created in the vicinity of the Main Street Square, and the Central Business District forms the metropolitan center for commercial, financial, professional, governmental, and cultural activities. It appears that there is sufficient buffering between the on-sale liquor establishment and residential districts and therefore is in compliance with the adopted comprehensive plan.

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

The existing development on the property is in compliance with the density, yard and height requirements of the Central Business District.

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

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The property is not adjacent to, nor does it abut a residential district.

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

The stipulations of approval of this Major Amendment will serve as a tool to insure that the proposed expansion will provide that the currently adopted International Fire Codes are continually met and that further changes will require a Major Amendment to the Conditional Use Permit or Historic Sign Review Committee approval. The site is sufficiently buffered from existing residential development.

Notification Requirements: The required notification sign has been posted on the property. As of this writing, the green cards and white receipts from the certified mailing have not been returned to Community Planning and Development Services. Staff will inform the Planning Commission at the March 22, 2012 Planning Commission meeting if these requirements have not been met.