

STAFF REPORT

March 7, 2013

**No. 13UR003 - Major Amendment to a Conditional Use Permit to
Revise the Existing On-Sale Liquor Establishment to Allow a
Second Operator**

ITEM 4

GENERAL INFORMATION:

APPLICANT	Christine Baer
PROPERTY OWNER	Norberg #8 LLC
REQUEST	No. 13UR003 - Major Amendment to a Conditional Use Permit to Revise the Existing On-Sale Liquor Establishment to Allow a Second Operator
EXISTING LEGAL DESCRIPTION	Lots 17 and 18 of Block 72 of the Original Town of Rapid City, located in Section 35, T2N, R7E and located in Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.16 acres
LOCATION	830 Main Street
EXISTING ZONING	Central Business District
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	General Commercial District
South:	Central Business District
East:	Central Business District
West:	Central Business District
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	February 8, 2013
REVIEWED BY	Robert Laroco / Nicole Lecy

RECOMMENDATION:

Staff recommends that the Major Amendment to a Conditional Use Permit to revise the existing on-sale liquor establishment to allow a second operator be approved with the following stipulations:

1. Prior to approval by Planning Commission, a Traffic Impact Study shall be submitted for review and approval, or an Exception waiving the required Traffic Impact Study shall be obtained;
2. Prior to issuance of a building permit, the review and approval of the Historic Preservation Committee shall be obtained as necessary;

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3. A building permit shall be obtained prior to any construction. A Certificate of Occupancy shall be obtained prior to Occupancy;
4. All outdoor lighting shall be designed to reflect within the property boundaries so as to not shine on adjoining properties and rights-of-ways and not be a hazard to the passing motorist or constitute a nuisance of any kind;
5. All signage shall require the review and approval of the Historic Sign Board. All signage shall comply with the requirements of the Rapid City Municipal Code. Changes to the approved sign package which the Historic Sign Board determines is consistent with the original approved sign package may be permitted as a Minimal Amendment to the Conditional Use Permit. No electronic signage is being approved as a part of this Major Amendment to the Conditional Use Permit. The addition of electronic signage or signage which does not comply with the requirements of the Rapid City Municipal Code shall require a Major Amendment to the Conditional Use Permit. A sign permit shall be required for each sign;
6. All provisions of the adopted International Fire Code shall be continually maintained;
7. All provisions of the Central Business District shall continually be met, and;
This Major Amendment to the Conditional Use Permit shall allow a second operator of an on-sale liquor establishment for malt beverage and wine sales only on the property. The operation of the on-sale liquor establishment shall be in compliance with the approved operations plan. Changes to the operation of the on-sale liquor portion of the establishment shall require a Major Amendment to the Conditional Use Permit. All uses permitted in the Central Business District shall be permitted. All conditional uses in the Central Business District shall require a Major Amendment to the Conditional Use Permit.

GENERAL COMMENTS: The applicant has submitted a Major Amendment to a Conditional Use Permit to allow an on-sale liquor establishment. In particular, the applicant is requesting to sell malt beverages and wine in conjunction with a full service restaurant.

On March 23, 2006, a Conditional Use Permit (File #06UR005) was approved to allow an on-sale liquor establishment with full alcohol sales to be located on Lots 17-21 of Block 72 in the Original Town of Rapid City. The location was known as Teddy's Family Sports Grill. Now the location is being redeveloped as two separate establishments. The western portion of the property is being leased out to a second operator and will be developed as the new location for Beaujo's Pizza. The restaurant owner is proposing to include malt beverage and wine sales as an accessory to the restaurant. The proposed on-sale liquor use is for the sale of malt beverages and wine only at a second location operated by an operator separate from the originally approved Conditional Use Permit and, as such, the applicant has submitted this Major Amendment to the Conditional Use Permit to allow a second operator for Lots 17 and 18 of Block 72 in the Original Town of Rapid City. The property is located at 830 Main Street and is currently developed as Moonshiner's and as vacant commercial space.

STAFF REVIEW: Staff has reviewed the requested Major Amendment to allow an on-sale liquor establishment pursuant to Chapters 17.50.185 and 17.54.030 of the Rapid City Municipal Code and has noted the following considerations:

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On-sale Liquor Establishment: Pursuant to Chapter 17.50.185, an on-sale liquor establishment must be issued if:

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

The property is located within the Central Business District. There are no schools, parks, playgrounds or places of worship or similar uses located within a 500 foot radius of the subject property. The on-sale liquor use is not the primary use within the suite, and is being proposed in conjunction with a full service restaurant. In addition, the requested on-sale liquor use is for malt beverages and wine only. It does not appear the proposed on-sale liquor use will adversely affect any place of worship, school, park, playground, or similar use.

The requested use is sufficiently buffered with respected to residential areas so as not to adversely affect the areas:

The property is located within the Central Business District. While residential uses are permitted above the first floor of buildings, the Central Business District has been determined as an appropriate district for on-sale liquor uses. Property to the east, west, and south is zoned Central Business District. Property to the north is zoned General Commercial District. The nearest residential zoning is located approximately 1,000 feet to the southwest in a Medium Density Residential District. The requested use is sufficiently buffered from residential areas.

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 a number of on-sale liquor establishments operating within the Central Business District. The on-sale liquor use as proposed at Beaujo's is supplementary to the restaurant and will include beer and wine only. According the applicant's letter of intent, the restaurant is expected to be a family-oriented business and generally will not operate after 10:00 pm, however; the applicant has stated that some events may last until 12:00 am. In no case will service of alcohol continue after 12:00 am. Staff recommends that the restaurant operate according to the approved operations plan. Based on the facts that the primary purpose of the establishment is not the on-sale use, that the on-sale liquor use is limited to malt beverages and wine only, and that the Central Business District is the appropriate zoning designation for on-sale liquor uses, it does not appear that the proposed use causes an undue concentration of similar uses in the neighborhood.

Staff recommends that the sale of malt beverages and wine be in compliance with the operations plan submitted by Beaujo's. Changes in the operation of the on-sale liquor establishment or a change in ownership of the on-sale liquor establishment will require a Major Amendment to the Conditional Use Permit. Uses permitted in the Central Business District will be permitted. Conditional uses in the Central Business District will require a Major Amendment to the Conditional Use Permit.

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The proposed use complies with the standards of Rapid City Municipal Code Chapter 17.54.030. The requirements of Chapter 17.54.030 are as follows:

The location, character, and natural features of the property;

The proposed location of the on-sale liquor use is the western portions of a single structure formerly known as Teddy's Family Sports Grill. The structure covers 100 percent of the property and is zoned Central Business District. A restaurant is a permitted use in the Central Business District. An on-sale liquor establishment is a conditional use in the Central Business District. There is an existing Conditional Use Permit to allow an on-sale liquor establishment with full alcohol sales on the property, however; the new operator has requested that a Major Amendment to the Conditional Use Permit be granted to allow a second, separate operator to be located on the property. The existing Conditional Use Permit will remain valid for the portions of the property currently developed as Moonshiner's.

The location, character, and design of adjacent buildings;

Downtown Rapid City is comprised of dense commercial and residential development with near 100 percent lot coverage. Property in all directions is located within the boundaries of the Historic District and is zoned Central Business District. The area is completely developed and includes a number of historic properties and structures. Prior to issuance of a building permit, Historic Preservation Committee review and approval must be obtained as needed.

Proposed fencing, screening, and landscaping;

The property is located in the Central Business District. Landscaping is not required.

Proposed vegetations, topography, and natural drainage;

Public Works staff has noted that drainage is not impacted by the proposed use.

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

Sidewalks for the on-site circulation of pedestrian traffic have been provided. There are no off-street parking requirements in the Central Business District.

Existing traffic and traffic to be generated by the proposed use;

The primary use of the location will be a restaurant with seating for approximately 200 people. The malt beverage and wine sales are an accessory use to the restaurant and will not generate additional traffic. Main Street is classified as a principal arterial street on the City's Major Street Plan and is designed to handle high volumes of commercial traffic associated with area uses. Ninth Street is designed as a commercial street. West Boulevard, one block to the west of the location, is classified as a principal arterial street on

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the City's Major Street Plan. Transportation Planning staff has noted that according to the Institute of Transportation Engineers' trip generation data, the proposed restaurant use can be expected to generate approximately 144 trips per weekday peak hour. Typically, a Traffic Impact Study is required for property development creating more than 100 peak hour trips. As such, prior to Planning Commission approval, a Traffic Impact Study must be submitted to Community Planning and Development Services for review and approval, or an Exception to waive the required Traffic Impact Study must be obtained.

Proposed signs and lighting;

The submitted sign package shows that the sign will be located on the front of the structure and will measure approximately 98 inches by 44 inches. All signage requires the review and approval of the Historic Sign Board. All signage must comply with Chapter 15.28 of the Rapid City Municipal Code. Changes to the sign package which the Historic Sign Board has determined is consistent with the original approved sign package may be permitted as a Minimal Amendment to the Conditional Use Permit. No electronic signage is being approved with approval of this Conditional Use Permit. The addition of electronic signage or signage which does not comply with the requirements of the Rapid City Municipal Code will require a Major Amendment to the Conditional Use Permit. A sign permit is required for each sign.

The availability of public utilities and services;

The existing commercial development is serviced by Rapid City water and sewer. Public Works staff has noted the proposed sale of malt beverages and wine will not create an increase in the demand on public utilities.

The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein;

The City's adopted Future Land Use Plan shows that this area is appropriate for commercial development. Commercial development in the area is well established.

The effect of noise, odor, smoke, dust, air, and water pollution and the degree of control through the use of clarifiers, screening, setbacks, and orientation;

It is anticipated that the proposed on-sale liquor use will create minimal noise, odor, smoke, dust, air and water pollution due to the existing uses within the neighboring properties. As such, additional clarifiers, screening, setbacks or changes in orientation are not required.

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

This Conditional Use Permit will serve as the tool to mitigate any probable adverse impacts of the proposed use on existing adjacent uses.

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Summary: The proposed on-sale liquor use is supplementary to the restaurant and is for the sale of malt beverages and wine only. The hours of operation and the nature of the malt beverage and wine sales as an accessory use to the restaurant should mitigate any adverse affects of this use on the surrounding area. The proposed use is sufficiently buffered from residential uses, places of worship, schools, parks, playgrounds, or other similar uses. The proposed restaurant will create a significant increase in traffic for the area but the sale of malt beverages and wine as an accessory use will not create an additional increase in the traffic or parking demands. The use is appropriate for the commercial nature of the development. Based on these reasons, staff recommends the request for a Major Amendment to the Conditional Use Permit to allow a second operator for the sale of malt beverages and wine in conjunction with a full service restaurant be approved with the stipulations outlined above.

Notification Requirements: The sign has been posted on the property. As of this writing, the white cards and green receipts required as proof of the certified mailing have not been returned to Community Planning and Development Services. Staff will inform the Planning Commission at the March 7, 2013 Planning Commission meeting if this requirement has not been met. As of this writing, there have been no inquiries into the requested Major Amendment to the Conditional Use Permit.