

STAFF REPORT
July 25, 2013

No. 13PD023 - Major Amendment to Planned Development to allow a Microbrewery with an On-Sale Liquor Use **ITEM 10**

GENERAL INFORMATION:

APPLICANT	Hay Camp Brewing Company (K&P, LLC)
PROPERTY OWNER	Tensleep, LLC
REQUEST	No. 13PD023 - Major Amendment to the Planned Development to allow a microbrewery with an on-sale liquor use
EXISTING LEGAL DESCRIPTION	Lots 1-5 of Block 88 of Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.04 acres
LOCATION	2012 Main Street, Suite 109
EXISTING ZONING	General Commercial District (Planned Development)
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	General Commercial
South:	General Commercial
East:	General Commercial
West:	General Commercial
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	June 13, 2013
REVIEWED BY	Robert Laroco / Brandon Quiett

RECOMMENDATION:

Staff recommends that the Major Amendment to a Planned Development to allow a microbrewery with an on-sale liquor use within Suite 109 be approved with the following stipulations:

1. An Exception to reduce the required off-street parking spaces from 128 spaces to 0 spaces is hereby approved;
2. Prior to issuance of a building permit, an 11.1 Historic Review shall be obtained;
3. A building permit shall be obtained prior to construction;
4. Prior to issuance of a building permit, final plans signed and sealed by a registered professional engineer shall be submitted. In particular, plans shall show any new utility service lines being installed as a part of construction;
5. All outdoor lighting shall be designed to reflect within the property boundaries so as to

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- not shine on adjoining properties and rights-of-way and not be a hazard to the passing motorist or constitute a nuisance of any kind;
6. Prior to issuance of a sign permit, all signage shall obtain the review and approval of the Historic Sign Board. A copy of the approved sign package shall be submitted to Community Planning and Development Services. All signage shall comply with Chapter 17.50.080 of the Rapid City Municipal Code. Future changes to the sign package shall require the review and approval of the Historic Sign Board. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Major Amendment to the Planned Development. A sign permit shall be required for each sign;
 7. All applicable provisions of the International Fire Code shall be maintained;
 8. Prior to commencement of any brewing or on-sale liquor use, the applicant shall obtain all required state and local licensing. All required licensing shall be continually maintained as required;
 9. The proposed microbrewery and on-sale liquor establishment shall operate in compliance with the submitted operations plan and the requirements of Chapter 17.18.030.31 of the Rapid City Municipal Code. All provisions of the General Commercial District shall be continually maintained unless specifically stipulated as a part of this Major Amendment or a subsequent Major Amendment to the Planned Development. Any uses permitted in the General Commercial District shall require the review and approval of a Minimal Amendment to the Planned Development. Any conditional uses in the General Commercial District shall require a Major Amendment to the Planned Development, and;
 10. This Major Amendment to the Planned Development shall allow for a microbrewery in conjunction with an on-sale liquor establishment to be located within Suite 109 and operated by Hay Camp Brewing Company. Changes in the ownership or operations plan of the business shall require a Major Amendment to the Planned Development. All permitted uses in the General Commercial District that do not require additional parking shall require the review and approval of a Minimal Amendment to the Planned Development. All permitted uses that require additional parking or conditional uses in the General Commercial District shall require a Major Amendment to the Planned Development.

GENERAL COMMENTS: The applicant has requested a Major Amendment to the Planned Development to allow a microbrewery with on-sale alcohol service to be located within one of the suites of the historic Creamery building near downtown Rapid City. In particular, the applicant is proposing to brew approximately 100 barrels of craft beer annually and serve the beer as a part of the microbrewery services. The facility will have seating for approximately 25 customers. The property located at 201 Main Street has been developed with a variety of commercial uses. In 2009, a Planned Development (File #09PD047) was approved by the Planning Commission to allow an on-sale liquor establishment known as "The Beanery" to be located on the lower level of the structure. The restaurant use on the property has since ceased and on May 9, 2013 the Planning Commission approved a Major Amendment to the Planned Development (File #13PD011) to allow a church to be located in the lower level of the structure. A church is generally a permitted use in the General Commercial District, but due to the stipulations of approval of the original Planned Development, any new uses on the property required the review and approval of a Major Amendment to the Planned Development. The previously approved on-sale liquor use on

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the property was nullified upon the approval of the proposed church.

The property is located at 201 Main Street and is the location of the historic "Creamery" building.

STAFF REVIEW: Staff has reviewed the requested an on-sale liquor use pursuant to the requirements of Chapter 17.50.185 of the Rapid City Municipal Code pertaining to on-sale liquor establishments and has noted the following considerations:

1. *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:*

The property is located in a General Commercial District in a central, fully developed area of the City. On May 9, 2013, a Major Amendment to the Planned Development (File #13PD011) was approved to allow a church to be located on the property. The property owner was made aware at that time that future on-sale liquor establishments might not be permitted on the property due to the proximity of the potential on-sale liquor use to a place of religious worship. The applicant of this request for an on-sale liquor use has included a letter in their submittal materials from Bryan Faltynski, the Pastor of Realis Community Church and the applicant for the previously approved Major Amendment to the Planned Development. Mr. Faltynski has been informed as to the nature of this request and has indicated the church is in support of the requested on-sale liquor use.

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

Property to the north, south, east and west are zoned General Commercial District and are fully developed with commercial uses. The General Commercial District has been seen as the appropriate location for microbreweries and on-sale liquor establishments. The nearest residentially zoned property is located approximately 850 feet to the south. The requested Major Amendment to the Planned Development will not adversely affect any residential areas.

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:*

Properties in the vicinity of the proposed microbrewery and on-sale liquor establishment are fully developed with a variety of commercial uses. There is an additional on-sale liquor establishment located within 500 feet of the proposed use. The establishment, known as Roman's, is located in the Imperial Inn and is primarily intended for guests of the hotel. The General Commercial District is intended to provide a location for the personal and business services and general retail business of the city, including businesses with alcohol sales. The proposed on-sale liquor use is proposed as an accessory to the primary microbrewery use. In addition, the applicant is proposing to serve beer only, and is not seeking a full liquor license. It does not appear that the proposed use will create an undue concentration of similar uses, so as to cause blight, deterioration, or substantially diminish or impair property values.

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4. *The proposed use complies with the standards of 5.12.140 and 17.54.030 of this code:*

The criteria for review of a Conditional Use Permit per Chapter 17.54.030 of the Rapid City Municipal Code are included below. The proposed use complies with the standards of the Code.

Criteria for Review: Rapid City Municipal Code Chapter 17.54.030.E sets the criteria required in reviewing a Conditional Use Permit. In reviewing applications for a Conditional Use Permit, due consideration shall be given to the following:

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

The property is comprised of approximately 17,500 square feet of land zoned General Commercial District. The structure has been placed on the National Register of Historic Places as an individually nominated property. The proposed church will require a historic review. It should be noted that the applicant has been working with Historic Preservation Planning staff and is in the process of making an application for historic review. Prior to issuance of a building permit, an 11.1 Historic Review must be approved for the property.

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

The area is developing as a commercial district with retail shops and services. The Creamery building itself contains a variety of commercial uses, including a previously approved church use.

3. *Proposed fencing, screening, and landscaping:*

The structure was constructed in 1929, prior to adoption of the Rapid City Landscaping Ordinance. The existing development does not appear to be in compliance with the Landscaping Ordinance. However, the property is considered legally non-complying with regard to landscaping and no expansion or enlargement of the structure is being proposed. As such, the property remains legally non-complying with regards to landscaping and a landscaping plan is not required for review.

4. *Proposed vegetation, topography, and natural drainage:*

All grading and drainage improvements for the Creamery Building have been installed. The Public Works department has not identified any issues with the drainage or grading of the area.

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

The applicant has submitted a request to reduce the required amount of on-street parking for the building from 128 spaces to 0 spaces. The previously approved Major Amendment to the Planned Development showed that a total of 123 parking spaces were required for the

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church and all existing uses within the structure. An Exception was approved to reduce the required amount of parking from 123 to 0 based on the operations plan of the proposed church. The proposed microbrewery with an on-sale liquor use will require an additional 5 parking spaces. The previously existing restaurant with on-sale liquor use did not appear to over-stress the available parking in the area. The proposed microbrewery does not include food sales and is a smaller, less intense use than the previous restaurant. In addition, the proposed on-sale liquor establishment will have seating for about 25 patrons and will be operating from 4:00 pm to 10:00 pm on Thursdays, Fridays, and Saturdays, opposite most other business hours for the other uses within the Creamery. If operated in compliance with the submitted operations plan, these factors will help to mitigate any pressure the proposed use will have on area parking. For these reasons, staff recommends that the proposed microbrewery and on-sale liquor establishment operate in compliance with the submitted operations plan. In addition, staff recommends that the request to reduce the required off-street parking from 128 spaces to 0 spaces be approved. Future expansion of the structure or changes to the uses in the building which increase the required amount of parking will require a Major Amendment to the Planned Development.

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

Main Street is classified as a principal arterial street on the City's Major Street Plan, meant to accommodate high volumes of commercial traffic. It is not anticipated that the proposed on-sale liquor use will create issues with traffic on Main Street. Second Street is designed as a commercial street. It is anticipated that the proposed on-sale liquor use will create approximately 7 trips per weekday peak hour. It appears that the proposed on-sale liquor use will not have a negative impact on area traffic.

7. *Proposed signs and lighting:*

A sign package has not been finalized by the applicant and, as such, a sign package was not submitted as a part of this Major Amendment to the Planned Development. The property is a contributing structure to the Historic District, requiring that all signage be approved through the Historic Sign Board. Prior to issuance of a sign permit, all signage must obtain the review and approval of the Historic Sign Board. A copy of the approved sign package must be submitted to Community Planning and Development Services. All signage must comply with Chapter 17.50.080 of the Rapid City Municipal Code. Future changes to the sign package will require the review and approval of the Historic Sign Board. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Planned Development. A sign permit is required for each sign.

8. *The availability of public utilities and services:*

The property is served by Rapid City water and sewer services. Public Works staff has noted that if new sanitary sewer or water lines are being installed as a part of this development, final plans must include the proposed changes.

All applicable provisions of the currently adopted International Fire Code must be continually met.

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

The Future Land Use designation for this property is commercial. The property is zoned General Commercial District with a Planned Development. The proposed use on the property complies with the Comprehensive Plan and the Zoning Ordinance. The property is an individually listed structure on the National Register of Historic Places. An 11.1 Historic Review is required for all changes to the structure requiring a building permit.

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

Submitted plans show that the structure is legally non-complying with regard to setbacks, landscaping, and parking. No expansions or changes to the exterior of the structure are being proposed. As such, the legally non-complying setbacks and landscaping may remain. All provisions of the General Commercial District will be continually maintained unless specifically stipulated as a part of this Major Amendment or a subsequent Major Amendment to the Planned Development. Any uses permitted in the General Commercial District will require the review and approval of a Minimal Amendment to the Planned Development. Any conditional uses in the General Commercial District will require a Major Amendment to the Planned Development.

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 orientations:*

The proposed microbrewery and on-sale liquor establishment is located entirely on the inside of the suite. No outdoor seating is being proposed. The addition of outdoor seating would constitute an expansion of the requested on-sale liquor use, requiring a Major Amendment to the Planned Development. Based on the operational plan, it does not appear that the request will create excessive noise, odor, smoke, dust, air, or water pollution.

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 Planned Development will serve as the tool to ensure that the proposed use will meet the design standards of the neighborhood and required by the Rapid City Municipal Code. The General Commercial District is viewed as the appropriate zoning classification for on-sale liquor uses, especially as an accessory to other primary uses. In addition, the applicant is proposing the sale and service of beer only, and is not proposing the sale of liquor. The proposed microbrewery with on-sale liquor use is located in one suite of a historic structure in a central, fully developed area of town. The requested reduction in parking will allow the existing historically significant development to remain on the property with the existing and proposed uses. The sole place of religious worship in proximity to the proposed on-sale liquor establishment has indicated their support of the project. Based on the operations plan for the microbrewery, the parking requirements and impact to area parking appear to be minimal. For these reasons, staff recommends that

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the Major Amendment to the Planned Development to allow a microbrewery in conjunction with an on-sale liquor establishment be approved with the stipulations outlined above.

Microbrewery Criteria for Review: Staff has reviewed the requested microbrewery use pursuant to the requirements of Chapter 17.18.030.31 of the Rapid City Municipal Code pertaining to microbreweries and has noted the following considerations:

1. *A microbrewery is defined as an establishment which manufactures less than 5,000 barrels of malt beverages a year:*

The submitted operations plan shows that the applicant intends to initially produce no more than 100 barrels of malt beverage a year for the first two years and potentially up to 2,500 barrels of year after the first two years. Based on the submitted operations plan, it appears that the facility will meet the requirements of a microbrewery. At no time may the production of beer exceed 5,000 barrels of malt beverage per year.

2. *In addition to the malt beverage manufacturer's license required by SDCL 35-4-2-(14), the operator of a microbrewery must obtain the appropriate city issued retail liquor license if it intends to sell its product directly to the public:*

Prior to commencement of any brewing or on-sale liquor establishment use, the applicant must obtain all required state and local licensing. All required licensing must be continually maintained as required. This Conditional Use Permit to allow a microbrewery and on-sale liquor establishment within Suite 109 is being issued to the applicant only. Changes in the ownership of the business or in the operations plan of the business will require a Major Amendment to the Planned Development.

3. *Accessory uses to the microbrewery specifically include, but are not necessarily limited to, the selling of food, operation of a restaurant, and/or selling of products associated with the microbrewery or manufacture of beer:*

The submitted operations plan does not include any kitchen preparation of food or accessory retail uses. Food will be limited to snacks requiring no kitchen preparation.

Notification Requirements: The first class mailings have not been returned to Community Planning and Development Services for mailing. The sign has been picked up; however, as of this writing, staff has not confirmed that the sign has been posted on the property. Staff will notify the Planning Commission at the July 25, 2013 Planning Commission meeting if these requirements have not been met. There have been several public comments, all in support of the requested Major Amendment to the Planned Development.