

STAFF REPORT
July 25, 2013

No. 13UR012 - Conditional Use Permit to allow an On-Sale Liquor Establishment **ITEM 9**

GENERAL INFORMATION:

APPLICANT	Patrick D Roseland
PROPERTY OWNER	Rapid River Gallery LLC
REQUEST	No. 13UR012 - Conditional Use Permit to allow an On-Sale Liquor Establishment
EXISTING LEGAL DESCRIPTION	Lots 27 and 28 of Block 71 of Original Town of Rapid City, located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately .16 acres
LOCATION	910 Main Street, Suite 120
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
DATE OF APPLICATION	June 13, 2013
REVIEWED BY	Fletcher Lacock / Nicole Lecy

RECOMMENDATION:

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

1. The on-sale liquor establishment shall operate in conjunction with an art gallery for the property;
2. All provisions of the Central Business Zoning District shall continually be met;
3. All applicable provisions of the adopted International Fire Code shall continually be met;
4. All outdoor lighting shall continually 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;
5. All signage shall continually conform to the Sign Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an on-sale liquor

STAFF REPORT
July 25, 2013

No. 13UR012 - Conditional Use Permit to allow an On-Sale Liquor Establishment **ITEM 9**

establishment in conjunction with an art gallery. Changes to the proposed sign package, which the Community Planning and Development Services Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Conditional Use Permit. All signage not in conformance with the Sign 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; and,

6. The Conditional Use Permit shall allow an on-sale liquor establishment in conjunction with an art gallery for the property. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Any change in use that is a permitted use in the Central Business District shall require a building permit. Any change in use that is a Conditional Use in the Central Business District shall require the review and approval of a Major Amendment to the Conditional Use Permit.

GENERAL COMMENTS:

The applicant has submitted a Conditional Use Permit to allow an on-sale liquor establishment in conjunction with an art gallery. In particular, the applicant is proposing to serve beer and wine to art gallery customers and at gallery functions. The hours of operation are from 9:00 a.m. to 5:00 p.m. with special functions from 6:00 p.m. to 9:00 p.m.

The property is located on the north side of Main Street approximately 150 feet west of the intersection of Main Street and 9th Street. Currently, a two story structure is located on the property. There are three first floor retail suites and three apartments located on the second floor.

STAFF REVIEW:

Staff has reviewed the Major Amendment to a Conditional Use Permit and has noted the following considerations:

1. *The request will not “adversely affect” the use of any place used for religious worship, school, park, playground, or similar use within (500) foot radius.*

There are no schools, playgrounds or places of worship located within a 500 foot radius of the subject property. Properties to the south, east and west are zoned Central Business District. Property to the north is zoned General Commercial District. The property is in the established Central Business District. It does not appear that the Conditional Use Permit to allow an on-sale liquor establishment in conjunction with an art gallery will have an adverse effect on any places of worship, schools, parks, playgrounds or similar uses.

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. The properties to the south, east and west are zoned Central Business District. Property to the north is zoned General Commercial District. There are some existing apartment units above businesses along Saint Joseph Street. The property is in the established Central Business District.

STAFF REPORT
July 25, 2013

No. 13UR012 - Conditional Use Permit to allow an On-Sale Liquor Establishment **ITEM 9**

Staff does not anticipate that the proposed expansion to the on-sale liquor use will result in any significant adverse effects on any residences since it is being operated in conjunction with an art gallery.

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."*

Currently, seven on-sale liquor establishments exist within a five hundred foot radius of the property. "Bully Blends Coffee and Tea" is located on the adjacent property to the east. "Thirsty's" and "Murphy's Bar and Grill" are located approximately 220 feet to the southeast on the south side of Main Street. "Teddy's Sports Grill" and "Beau Jo's" are located approximately 190 feet to the east. In addition, the "Adoba Eco Hotel" is located approximately 400 feet to the east. Located within the "Adoba Eco Hotel" are "445 Martini Lounge" and the "Enigma Restaurant". This is the established Central Business District which supports the proposed on-sale liquor use. It does not appear that the proposed expansion of the on-sale liquor use will create an undue concentration causing blight or deterioration or diminish the land values in the surrounding area if operated in conjunction with an art gallery.

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 on the north side of Main Street approximately 150 feet west of the intersection of Main Street and 9th Street. Currently, a two story structure is located on the property. There are three first floor retail suites and three apartments located on the second floor.

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

The properties located to the east and west are one and two story commercial structures. Located on the property to the north is a one story commercial warehouse. The property located to the south is the Andrew W. Bogue Federal Building and United States Courthouse.

3. *Proposed fencing, screening and landscaping:*

The applicant is not proposing any fencing, screening or landscaping.

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

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

5. *Proposed pedestrian and vehicular access, circulation and parking, including that related*

STAFF REPORT
July 25, 2013

No. 13UR012 - Conditional Use Permit to allow an On-Sale Liquor Establishment **ITEM 9**

to bicycles and other unpowered vehicles and provisions for handicapped persons:

The property is zoned Central Business District which does not require any parking. There is curbside sidewalks located on Main Street providing pedestrian access to the property.

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

The proposed on-sale liquor use in conjunction with an art gallery should have a minimal impact on traffic.

7. *Proposed signs and lighting:*

The applicant has submitted a sign package identifying the existing and proposed wall signage located on the property. All signage must continually conform to the Sign Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an on-sale liquor establishment. Changes to the proposed sign package, which the Community Planning and Development Services Director determines to be consistent with the original approved sign package, will be allowed as a Minimal Amendment to the Conditional Use Permit. All signage not in conformance with the Sign Code or any electronic reader board signs will 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 applicant is not proposing any new outdoor lighting. All existing outdoor lighting must continue to 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.

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 Zoning Ordinance is the tool that implements the Comprehensive Plan. An on-sale liquor establishment is a conditional use in the Central Business District. The applicant should be aware that any expansion to the on-sale liquor use will require a Major Amendment to the Conditional Use Permit. Any change in use that is a permitted use in the Central Business District will require a building permit. Any change in use that is a Conditional Use in the Central Business District will require the review and approval of a Major Amendment to the Conditional Use Permit.

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

STAFF REPORT
July 25, 2013

No. 13UR012 - Conditional Use Permit to allow an On-Sale Liquor Establishment **ITEM 9**

The existing development on the property is in compliance with the density, yard and height requirements of the Central Business District. All provisions of the Central Business Zoning District must continually be met.

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:

It does not appear that the proposed on-sale liquor establishment in conjunction with an art gallery will have a significant effect on the surrounding area by causing 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 are included to serve as a tool to mitigate probable adverse impacts of the proposed use on existing adjacent uses. In addition, the stipulations of approval will serve to ensure compliance with the Zoning Ordinance and the International Fire Code.

Notification: The first class mailings and sign have been picked up. However, as of this writing, the letters have not been returned for mailing and 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.