

STAFF REPORT
July 25, 2013

No. 13UR014 - Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a theater **ITEM 16**

GENERAL INFORMATION:

APPLICANT	The Potter Family, Inc
PROPERTY OWNER	632 Main Street Real Estate
REQUEST	No. 13UR014 - Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a theater
EXISTING LEGAL DESCRIPTION	Lots 17 and 18 and the north 55 feet of Lots 19 and 21 of Block 84, located in the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.26 acres
LOCATION	632 1/2 St. Joseph 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	July 2, 2013
REVIEWED BY	Robert Laroco / Nicole Lecy

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a theater be approved with the following stipulations:

1. Prior to issuance of a building permit, all proposed changes to the suite shall require the review and approval of the Historic Preservation Committee;
2. A building permit shall be obtained prior to any construction. A Certificate of Occupancy shall be obtained prior to Occupancy;
3. All outdoor lighting shall be designed to reflect within the property boundaries so as to 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;

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4. All additional signage will require the review and approval of the Historic Sign Board. All signage must comply with Chapter 17.50.080 of the Rapid City Municipal Code. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Planned Development. The addition of electronic signage will require a Major Amendment to the Planned Development. A sign permit is required for each sign;
5. All provisions of the adopted International Fire Code shall be continually maintained;
6. All provisions of the Central Business District shall continually be met, and;
7. This Conditional Use Permit shall allow for an on-sale liquor establishment to be operated in conjunction with a theater by The Potter Family, Incorporated. Any change in ownership of the on-sale liquor establishment shall require a Major Amendment to the Conditional Use Permit. Changes in the operation of the theater which comply with the requirements of the Rapid City Municipal Code shall be permitted. Changes to the on-sale liquor portion of the establishment shall require a Major Amendment to the Conditional Use Permit.

GENERAL COMMENTS: The applicant is requesting a Major Amendment to the Planned Development to allow an on-sale liquor establishment in conjunction with a theater to be located in the basement of the Buell Building in downtown Rapid City. In particular, the applicant is opening a “Branson-Style” theater and production company, to be known as Potter Family Theater, in the basement suite of the historic Buell Building. The business owners would like to serve beer and wine to patrons of the theater and, as such, have submitted this request for a Conditional Use Permit application.

The property is located at 632 Saint Joseph Street, known as the Buell Building, located in downtown Rapid City and is currently developed with a variety of commercial uses.

STAFF REVIEW: Staff has reviewed the application according to the requirements of Rapid City Municipal Code Chapter 17.50.185 regarding on-sale liquor establishments. The requirements are as follows:

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 the Central Business District. Property in the area is fully developed with a variety of commercial, retail and residential uses. The First Presbyterian Church is located at 710 7th Street, approximately 300 feet to the south. The Central Business District is seen as the appropriate district for an on-sale liquor establishment. In addition, the proposed on-sale liquor use is for beer and wine only and the use is accessory to the proposed theater. Based on these reasons, it does not appear that the proposed on-sale use for beer and wine will have an adverse affect on the church. There are no other schools, parks, playgrounds, or other similar uses within a 500 foot radius of the property.

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 Central Business District. There are no residentially zoned districts in the vicinity of the proposed use. Residential uses are

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permitted above the ground floor in the Central Business District.

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:*

The Central Business District is viewed as the appropriate district for an on-sale liquor use. A number of properties in proximity to the proposed theater have an on-sale liquor use approved for the property. Vino 100, The Tinderbox and Canvas 2 Paint are located within the same structure as the proposed theater but in separate suites. Additional on-sale liquor establishments in proximity to the proposed use include Independent Ale House, The Brass Rail, the Alex Johnson Hotel, Paddy O'Neil's, Tally's Silver Spoon, the Firehouse, Del Monico's, The Oasis, Dublin Square, Mystique Edge Salon and Spa, and Kathmandu. The proposed on-sale alcohol use is proposed as an accessory to the primary theater use proposed for the property. In addition, the applicant is proposing to serve beer and wine 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.

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 located northeast of the intersection of Saint Joseph Street and 7th Street in downtown Rapid City. The proposed Potter Family Theater will be located in the basement suite of the Buell Building. The Buell Building is a contributing historic structure in the Historic District. As such, an 11.1 Historic Review is required prior to issuance of a building permit. The applicant's proposal was heard by the Historic Preservation Committee and approved on June 10, 2013. Future expansions or alterations of the structure which require a building permit will also require review and approval of the Historic Preservation Committee.

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

Downtown Rapid City is densely developed with a variety of commercial retail, service, and residential uses. In addition, large portions of the downtown area are located within the Historic District.

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

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Landscaping is not required within the boundaries of the Central Business District. No landscaping is being provided on-site.

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

All grading and drainage improvements in downtown Rapid City 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:*

Off-street parking is not required within the boundaries of the Central Business District. No off-street parking is being provided on-site.

Sidewalks are installed along Saint Joseph Street and along 7th Street and pedestrian crosswalks are being provided at the intersection of Saint Joseph Street and 7th Street.

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

Saint Joseph Street is classified as an arterial street on the City's Major Street Plan, suitable for accommodating the higher traffic volumes associated with commercial development in the downtown corridor.

7. *Proposed signs and lighting:*

Submitted plans show one wall sign proposed for the theater, measuring 8 feet 8 inches long by 3 feet tall, for a total of 26.01 square feet. Additional signage is proposed for the below-grade windows located on the south side of the building, but the signage is limited to the top 25 percent of each window. One 12 square foot sign is being removed as a part of the proposed development. A total of 130 square feet of signage for all existing and proposed uses is proposed for the property. All new signage requires the review and approval of the Historic Sign Board. It should be noted that the proposed signage was considered by the Historic Sign Board on June 7, 2013 and was approved.

All additional signage will require the review and approval of the Historic Sign Board. All signage must comply with Chapter 17.50.080 of the Rapid City Municipal Code. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Planned Development. The addition of electronic signage will require a Major Amendment to the 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 existing utilities appear sufficient to accommodate the proposed on-sale liquor establishment.

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

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 Central Business District. The proposed use on the property complies with the City's Comprehensive Plan and the Zoning Ordinance.

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

Submitted plans show that the property meets all the setback requirements of the Central Business District. The proposed structure is two stories tall and the applicant has indicated that the theater will seat a maximum of 112 people. The property meets all the 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 orientations:*

The proposed on-sale liquor use for beer and wine is located entirely on the inside of the suite and is accessory to the primary use. The Conditional Use Permit will allow for development of the property as a theater with the sale and service of beer and wine as an accessory use to the primary use. No outdoor seating is being proposed. 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 Conditional Use Permit will serve as the tool to ensure that the proposed on-sale liquor use in conjunction with a theater does not have an adverse impact on adjacent uses. The proposed on-sale alcohol use is an accessory to the primary theater use. The Central Business District is viewed as the appropriate zoning classification for on-sale alcohol uses, especially as an accessory to other primary uses. In addition, the applicant is proposing the sale and service of beer and wine only, and is not proposing the sale of liquor. The theater is located in one suite of a historic building in downtown Rapid City. Parking and landscaping are not required. For these reasons, staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a theater be approved with the stipulations outlined above.

Notification Requirements: The first class mailings have 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

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meeting if this requirement has not been met. There have been no inquiries into the requested Conditional Use Permit.