

STAFF REPORT
April 10, 2014

No. 14UR007 - Conditional Use Permit to allow an existing on-sale liquor establishment with an outdoor seating area **ITEM 8**

GENERAL INFORMATION:

APPLICANT	Richard and Karen Schumacher
PROPERTY OWNER	Richard L and Karen Schumacher
REQUEST	No. 14UR007 - Conditional Use Permit to allow an existing on-sale liquor establishment with an outdoor seating area
EXISTING LEGAL DESCRIPTION	The S85 feet of Lot 20-21 of Block 84 of 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	624 Saint Joseph Street
EXISTING ZONING	Central Business District
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	Central Business District
South:	Central Business District
East:	Central Business District
West:	Central Business District
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	March 14, 2014
REVIEWED BY	Robert Laroco / Bob Reiss

RECOMMENDATION:

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

1. A building permit shall be obtained prior to any construction. Final approval shall be obtained prior to occupancy or use of the outdoor seating area;
2. All plans shall be prepared and stamped by a registered professional per SDCL 36-18A;
3. Any alterations to the existing structures, including the proposed outdoor seating area, shall be made handicap accessible;
4. 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;

STAFF REPORT

April 10, 2014

No. 14UR007 - Conditional Use Permit to allow an existing on-sale liquor establishment with an outdoor seating area ITEM 8

5. 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;
6. All provisions of the adopted International Fire Code shall be continually maintained;
7. All provisions of the Central Business District shall be continually maintained, and;
8. This Conditional Use Permit shall allow for an on-sale liquor establishment with an outdoor seating area. Changes to the property 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 has submitted a request for a Conditional Use Permit to allow an on-sale liquor establishment within a 4,250 square foot suite with an outdoor seating area on property located in the Central Business District. The owner of the Brass Rail, an existing on-sale liquor establishment located in downtown Rapid City, is proposing to create an outdoor seating area located in the alley north of the existing bar. However, the Brass Rail has been an established on-sale liquor establishment prior to 1992, when the requirement for on-sale liquor establishments to obtain a Conditional Use Permit became effective. As such, the Brass Rail has not obtained a Conditional Use Permit. The applicant is now proposing to use some of the existing space adjacent to the suite on the north side of the structure as an outdoor seating area, accessible only from the interior of the establishment. As such, the applicant has submitted this Conditional Use Permit to allow an on-sale liquor establishment with an outdoor seating area.

The property is located at 624 Saint Joseph Street. Currently, the Brass Rail is located on the property.

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 350 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 an established, existing business in the downtown corridor. Based on these reasons, it does not appear that the addition of an outdoor seating area with 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:*

STAFF REPORT
April 10, 2014

No. 14UR007 - Conditional Use Permit to allow an existing on-sale liquor establishment with an outdoor seating area **ITEM 8**

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 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 existing bar have an on-sale liquor use approved for the property. Additional on-sale liquor establishments in proximity to the proposed use include Vino 100, the Tinderbox, Canvas 2 Paint, the Potter Family Theater, Independent Ale House, the Alex Johnson Hotel, Paddy O'Neil's, Tally's Silver Spoon, the Firehouse, Del Monico's, the Oasis, Dublin Square, and Kathmandu. The proposed on-sale alcohol use is proposed for an existing business. 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 building is a non-contributing structure in the Historic District which does not require any review by the Historic Preservation Committee. The area is fully developed with a variety of commercial retail, service, and residential uses.

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:*

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

Submitted plans show that the applicant is proposing to create a 43 foot long by 15 foot

STAFF REPORT
April 10, 2014

No. 14UR007 - Conditional Use Permit to allow an existing on-sale liquor establishment with an outdoor seating area **ITEM 8**

wide fenced area adjacent to the north of the suite for purposed of outdoor seating for the Brass Rail. The area will be accessible only through the Brass Rail interior except for deliveries, which will have access through two separate gates. Plans show that the proposed fencing will be comprised of black steel and will be removable in the event of an emergency. The Brass Rail will be the only establishment with direct access to the seating area. The Rapid City Police Department and Fire Department has reviewed and approved the proposed patio design.

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. Public Works staff has noted that a water hose bib may be beneficial for purposes of cleaning the patio area. However, the water hose bib is not required as a part of this Conditional Use Permit.

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 provided at the intersection of Saint Joseph Street and 7th Street. The existing alley north of the property, known as Art Alley, is currently separated from the location of the outdoor seating area by a gate. No customers or patrons of The Brass Rail or other businesses on the property will have access to the property through the existing gate.

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 existing sign located on the property. The sign is considered legally non-complying due to the size of the sign and the materials being utilized. The applicant should be aware that if the sign is damaged or removed it may not be replaced. However, the sign may remain on the property as legally non-complying at this time. Future signage on the property must comply with the requirements of the Rapid City Sign Code. In particular, 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 Conditional Use Permit. The addition of electronic signage will require a Major Amendment to the Planned Development. A sign permit is required for each sign.

STAFF REPORT
April 10, 2014

No. 14UR007 - Conditional Use Permit to allow an existing on-sale liquor establishment with an outdoor seating area **ITEM 8**

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.

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, building height, and lot coverage 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 is for an existing bar and the expansion of an outdoor seating area. The proposed outdoor seating area is for customers of The Brass Rail only and will not be accessible by any neighboring businesses. No outdoor music or entertainment is being proposed as a part of this outdoor seating. The outdoor seating area is not visible from either Saint Joseph Street or Art Alley. 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 does not have an adverse impact on adjacent uses. The proposed on-sale alcohol use is for an existing bar which has continued as a legally non-conforming establishment for a number of years. The Central Business District is viewed as the appropriate zoning classification for on-sale alcohol uses. Parking and landscaping are not required. For these reasons, staff recommends that the Conditional Use Permit to allow an on-sale liquor establishment with an outdoor seating area be approved with the stipulations outlined above.

Notification Requirements: The mailings have been returned to Community Planning and Development Services. 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

STAFF REPORT
April 10, 2014

No. 14UR007 - Conditional Use Permit to allow an existing on-sale liquor establishment with an outdoor seating area **ITEM 8**

Planning Commission at the April 10, 2014 Planning Commission meeting if this requirement has not been met. There have been no inquiries into the requested Conditional Use Permit.