

STAFF REPORT  
July 10, 2014

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**No. 14PD013 - Major Amendment to a Planned Development to expand on-sale liquor establishment with an outdoor seating area**      **ITEM 7**

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GENERAL INFORMATION:

APPLICANT	Sam Papendick - Hay Camp Brewing Company (K&P, LLC)
PROPERTY OWNER	Tensleep, LLC
REQUEST	<b>No. 14PD013 - Major Amendment to a Planned Development to expand on-sale liquor establishment with an outdoor seating area</b>
EXISTING LEGAL DESCRIPTION	Lots 1 thru 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 0.4 acres
LOCATION	201 Main Street, Suite 109
EXISTING ZONING	General Commercial District (Planned Development)
FUTURE LAND USE DESIGNATION	Commercial
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	June 6, 2014
REVIEWED BY	Robert Laroco / Ted Johnson

RECOMMENDATION:

Staff recommends that the Major Amendment to a Planned Development to expand an on-sale liquor establishment with an outdoor seating area be approved with the following stipulations:

1. An Exception shall hereby be approved to reduce the required amount of parking on the property from 146 spaces to 0 spaces;
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. All outdoor lighting shall be designed to reflect within the property boundaries so as to not shine on adjacent 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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5. 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;
6. Prior to use of the outdoor seating area, all required licensing shall be obtained maintained as required;
7. Prior to use of the outdoor seating area, the applicant shall coordinate with the Rapid City Fire Department to ensure that the placement and/or method of securing the proposed screening and fencing do not create an unforeseen issue with emergency access. All applicable provisions of the International Fire Code shall be maintained;
8. The proposed on-sale liquor establishment with an outdoor seating area shall operate in compliance with the submitted operations plan and the requirements of Chapter 17.18.030.31 of the Rapid City Municipal Code. The patio shall be fenced as proposed prior to initiation of the on-sale liquor use in this area. 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, and;
9. This Major Amendment to the Planned Development shall allow for expansion of the existing on-sale liquor establishment currently operated by Hay Camp Brewing Company and located within Suite 109 to include an outdoor seating area. 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 submitted a request to allow expansion of an existing on-sale liquor establishment with an outdoor seating area. On July 25, 2013, the Planning Commission approved a request to allow an on-sale liquor establishment and microbrewery to be located within one suite of the existing Creamery building (File #13PD023). The approved Planned Development included an Exception to reduce the required amount of off-street parking spaces on the property from 128 spaces to 0 parking spaces. A number of legally non-conforming parking spaces currently exist on the property. The applicant is proposing to create an approximately 1,518 square foot outdoor seating area as a part of the previously approved Hay Camp Brewing Company. The 1,518 square feet of seating area will eliminate four of the existing non-conforming parking spaces.

A Major Amendment to the Planned Development was approved by the Planning Commission on March 3, 2014 to allow a caretaker's unit on the property (File #14PD003). The approved Major Amendment included an Exception to reduce the required amount of parking from 130 to 0. A Minimal Amendment to the Planned Development was approved by staff on June 19, 2014 to allow a wholesale business to be located on the property (File #14PD003A). The approved Minimal Amendment to the Planned Development decreased

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the required amount of parking on the property from 130 to 129 spaces.

The proposed outdoor seating area will require an additional 17 parking spaces be provided on the property. As such, the applicant has requested a reduction in parking from 146 parking spaces to 0 parking spaces.

The property is located at 201 Main Street near downtown Rapid City. The Creamery is an individually listed structure on the National Register of Historic Places. Currently the Creamery is developed with a number of different residential and commercial uses.

STAFF REVIEW: Staff has reviewed the requested 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. During review of the originally approved on-sale liquor establishment, the applicant submitted a letter in support of the proposed on-sale liquor use. It is not anticipated that the hours of operation for the on-sale liquor establishment will conflict with the hours of operation for the church.

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 on-sale liquor establishments. The nearest residentially zoned property is located approximately 850 feet to the south. However, after the original approval of the Final Planned Development to allow an on-sale liquor establishment was approved, a Major Amendment to the Planned Development (File # 14PD003) was approved to allow a caretaker's unit to be located on the property. The caretaker's unit is for the use of the property owner only and the property owner is aware of the proposed expansion of the on-sale liquor establishment. Based on the property owner's support of the requested expansion, it does not appear that the requested Major Amendment to the Planned Development to expand the on-sale liquor establishment 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

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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.

*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. 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 church, a caretaker's unit, a wholesale business and a variety of office and retail uses.

*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. The applicant is proposing to construct a 6 foot tall by 80 foot long wooden screening fence to be located on the western property line. In addition, the applicant is proposing a 30 foot long open rail fence to be located on the south portions of the proposed service area. Gates will be located on the north and south ends of the proposed service area to allow customers access to the business. The applicant's submitted letter of intent states that security will be

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provided at all times within the service area to ensure that controlled access to the on-sale liquor establishment is being provided. Prior to use of the outdoor seating area, the applicant must coordinate with the Rapid City Fire Department to ensure that the placement and/or method of securing the proposed screening and fencing do not create an unforeseen issue with emergency access.

*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:*

Previously approved Exceptions were to reduce the parking requirements in order to allow a church, an on-sale liquor establishment with a microbrewery, and a caretaker's unit. The proposed expansion of the on-sale liquor establishment will require an additional 17 parking spaces. The applicant has submitted a request to reduce the required amount of on-street parking for the building from 146 spaces to 0 spaces. The existing microbrewery does not include food sales and the originally approved operations plan states that the establishment will only operate Thursdays, Fridays, and Saturdays from 4:00 pm to 10:00 pm. If operated in compliance with the submitted operations plan, these factors will help to mitigate any pressure the proposed expansion will have on area parking. For these reasons, staff recommends that the proposed on-sale liquor establishment with outdoor seating area operate in compliance with the submitted operations plan. In addition, staff recommends that the request to reduce the required off-street parking from 146 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 24 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:*

No additional signage is being proposed as a part of this Major Amendment. 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

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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.

All outdoor lighting must be designed to reflect within the property boundaries so as to not shine on adjacent properties and rights-of-way and 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 served by Rapid City water and sewer services. Public Works staff has not noted any issues with the existing public utilities.

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 Downtown. In addition, Main Street is considered a Revitalization Corridor in the City's adopted Comprehensive Plan. The property is zoned General Commercial District with a Planned Development, however, future development of the property as a part of the Central Business District is expected. As such, the requested reduction in parking from 146 to 0 is appropriate for the expected future development of the area. In addition, the continued addition of businesses along a Revitalization Corridor is in compliance with the Comprehensive Plan. The proposed on-sale liquor establishment with an outdoor seating area complies with the Comprehensive Plan. 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. The proposed 1,518 square foot expansion is a less than 20 percent increase in the amount of retail/service area located on the site. 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 that create a decrease in the required amount of parking 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.

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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 submitted operations plan notes that the outdoor seating area will be used as an extension of the existing seating area and may be occasionally used for festivals. The General Commercial District is seen as the appropriate district to allow an on-sale liquor establishment with an outdoor seating area. The expected development of the area as a part of the Downtown core also makes this area appropriate for an on-sale liquor use. The Rapid City Police Department has not noted any concerns with the proposed operation of the facility. The City Finance office has noted that the applicant is working with the City Finance Department to meet all requirements to secure their liquor license. The proposed screening will act as a buffer to ensure any excess noise from the use will be mitigated to the largest extent possible. The proposed outdoor seating area is not within 500 feet of any residentially zoned property. The business will generally be operating opposite standard business hours and, as such, will have minimal impact on neighboring businesses. Staff recommends that the proposed on-sale liquor establishment with outdoor seating be operating in compliance with the applicant's submitted operations plan. Based on these reasons, it appears that the effects of noise, odor, smoke, dust, air and water pollution are being mitigated to the greatest extent possible.

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 on-sale liquor establishment with an outdoor seating area is located in a central, fully developed area of town. The sole place of religious worship in proximity to the proposed on-sale liquor establishment has indicated their support of the project. It is not anticipated that the hours of operation for the on-sale liquor establishment will conflict with the hours of operation for the church.

It should be noted that the applicant has submitted a review of the available on-street parking in the area and has noted that a total of 63 publicly available parking spaces are located adjacent to the Creamery property. According to the submitted review, from May 5 to May 9, 2014, an average of 41 of the 63 public parking spaces was available for use. Based on the unique operation of this facility and the nature of surrounding uses, it appears that sufficient parking is available for the proposed expansion. For the reasons listed above, staff recommends that the Major Amendment to the Planned Development to allow expansion of an existing 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 and mailed. The sign has been posted on the property. Staff will notify the Planning Commission at the July 10, 2014 Planning Commission meeting if these

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requirements have not been met. As of this writing there have been no inquiries into the proposed expansion of the on-sale liquor establishment.