

STAFF REPORT
July 10, 2014

No. 14UR015 - Conditional Use Permit to allow an on-sale liquor establishment in conjunction with an arts center **ITEM 5**

GENERAL INFORMATION:

APPLICANT	Performing Arts Center of Rapid City
AGENT	Nick Johnson
PROPERTY OWNER	Rapid City Independent School District
REQUEST	No. 14UR015 - Conditional Use Permit to allow an on-sale liquor establishment in conjunction with an arts center
EXISTING LEGAL DESCRIPTION	Lot B of Rapid City High School Subdivision; vacated alley adjacent to that part of Lot B formerly known as Lots 23-26 and the west 10 feet of Lot 27 and Lots 7-10 and the west 10 feet of Lot 6 of Block 125 of Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 5.52 acres
LOCATION	601 Columbus Street
EXISTING ZONING	Public District
FUTURE LAND USE DESIGNATION	Public
SURROUNDING ZONING	
North:	High Residential District - High Residential District (Planned Development)
South:	Medium Density Residential District
East:	High Density Residential District - Office Commercial District (Planned Development)
West:	General Commercial District - Office Commercial District
PUBLIC UTILITIES	Rapid City water and sewer
DATE OF APPLICATION	May 23, 2014
REVIEWED BY	Robert Laroco / Bob Reiss

RECOMMENDATION:

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

1. The on-sale liquor establishment shall operate in compliance with all requirements of the

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- Rapid City Municipal Code and the submitted operations plan. In particular, the sale, service, and storage of alcohol is not permitted on-site except during performances at the Performing Arts Center. Changes to the operational plan of the Performing Arts Center that include the sale of alcohol shall require a Major Amendment to the Conditional Use Permit;
2. If additional signage is proposed in the future, approval through the Historic Sign Board shall be obtained. All future signage shall comply with Chapter 17.50.080 of the Rapid City Municipal Code. Any changes to the original sign package which the Director of Community Planning and Development Services determines is consistent with the original approved sign package may be allowed as a Minimal Amendment to the Conditional Use Permit. A sign permit is required for each sign;
 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;
 4. All parking shall continue to comply with the requirements of the Rapid City Parking Regulations;
 5. All landscaping shall continue to comply with the requirements of the Rapid City Landscaping Ordinance;
 6. All applicable provisions of the currently adopted International Fire Code shall be continually maintained;
 7. All provisions of the Public District shall be continually maintained, and;
 8. This Conditional Use Permit shall allow an on-sale liquor establishment to be operated in conjunction with the Rapid City Performing Arts Center. All permitted uses in the Public District shall be permitted contingent upon an approved building permit and provision of sufficient parking. All conditional uses in the Public District shall require a Major Amendment to the Conditional Use Permit.

GENERAL COMMENTS: (Update, June 26, 2014. All revised and/or added text is shown in bold print.) This item was continued at the June 19, 2014 Planning Commission meeting since the paper failed to post the required publication notice for this item.

The applicant has submitted a request to allow an on-sale liquor establishment as an accessory use in conjunction with a performing arts center for property located within the Public District. The Rapid City Performing Arts Center is located within one portion of the Rapid City High School. Additional uses located within the campus include an alternative high school, administrative offices for the Rapid City Independent School District, and a day care facility.

On October 10, 2013, the Planning Commission approved a Conditional Use Permit to allow a day care facility (File #13PD016) as an accessory to the existing alternative high school. As a part of the renovation of Rapid City High School, a portion of the facilities have been converted into the Rapid City Performing Art Center. In the past, the Performing Arts Center has obtained approval for a special event permit through the Rapid City Council to allow the sale and service of alcohol during specific shows or special events. Each request for a Special Event Permit required that the Performing Art Center obtain approval from the Rapid City Council. The applicant has requested this Conditional Use Permit to allow on on-sale liquor establishment in conjunction with a performing arts center in order to allow for the sale

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and service of alcohol without the need to obtain a Special Event Permit from the Rapid City Council for each event.

The property is located at 601 Columbus Street, south of downtown Rapid City. The property is currently developed with a variety of civic and public uses, including a performing arts center, an alternative high school, and a day care facility.

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 Public District in a fully developed portion of the City. The Rapid City High School has recently undergone redevelopment and is now utilized with a variety of public uses, including an alternative high school. The applicant has submitted a copy of the agreement in place between the Rapid City Independent School District and the Rapid City Performing Arts Center which details the requirements for the sale and service of alcohol on the property. The submitted operations plan and agreement with the Rapid City Independent School District state that performances at which alcohol will be served will not occur during school hours or during time when other school-related activities are taking place. In addition, no alcohol is permitted to be stored on-site except during performances at the Performing Arts Center. The submitted plans also show that portions of the facility utilized by the Performing Arts Center are separated from portions of the facility utilized by the Rapid City Independent School District. Based on the submitted operations plan for the Performing Arts Center, it appears that potential adverse effects of the proximity of the on-sale liquor use to the school use are being mitigated to the greatest extent possible.

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

Property to the north and east is zoned High Density Residential District. Property to the south is zoned Medium Density Residential District. Property to the west is zoned General Commercial District and Office Commercial District. This area of town is comprised of a mix of commercial, residential, and public uses close to the Central Business District. The operations plan submitted as a part of this request states that the sale of alcohol will be in conjunction with the existing performing arts center only and the facility will not operate as a bar. The sale and service of alcohol will be for patrons of the Performing Arts Center only and will not be available for sale to the general public. It should be noted that the sale and service of alcohol has occurred in the past at this location as a part of individually approved special event permits. To date, the sale and service of alcohol as an accessory to the performing arts center use does not appear to have created adverse impacts to the residential neighborhoods in proximity to Rapid City High School. Based on the submitted operations plan for the facility and the mixed-use character of the area, it does not appear that the proposed on-sale liquor establishment will have an adverse impact on neighboring residential areas. Staff recommends that the facility operate in compliance with all

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requirements of the Rapid City Municipal Code and the submitted operations plan. Changes to the operational plan of the Performing Arts Center will require a Major Amendment to the Conditional Use Permit.

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:*

Property in the vicinity of the Rapid City High School is fully developed with a mix of residential, commercial, and public uses. The proposed on-sale liquor use is in conjunction with the Performing Arts Center only. There are no additional on-sale liquor establishments located within 500 feet of the Performing Arts Center. It does not appear that the proposed use will create an undue concentration of similar uses.

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 on Columbus Street near downtown Rapid City. Property in the area is zoned and developed with a mix of residential, commercial, and public uses. The property slopes downhill substantially from south to north. Parking for the facility is located across Columbus Street to the north, with some additional parking located on the south side of the property.

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

The Rapid City High School complex is an alternative high school with a day care facility, and offices. Property in the vicinity is developed with a mix of residential and commercial uses. Development in the area is dense and in proximity to the Central Business District.

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

No additional fencing, screening, or landscaping is being proposed as a part of this request. All landscaping must continue to comply with the requirements of the Rapid City Landscaping Ordinance.

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

No additional vegetation, grading, or drainage facilities are being proposed as a part of

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this request. The Public Works Department has noted no concerns with the existing grading and drainage improvements on the property.

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

A Final Planned Development (File #12PD003) was approved by Planning Commission at the February 23, 2012 Planning Commission meeting for the parking lot locate north of the subject property across Columbus Street. The existing parking lot is intended to accommodate the office/school uses during normal business hours, and the patron of the Performing Arts Center during performances. The proposed on-sale liquor use is for patrons of the Performing Arts Center only and, as such, no additional parking spaces to accommodate the on-sale liquor use are required. All parking must continue to comply with the requirements of the Rapid City Parking Ordinance. Access from the parking lot across Columbus Street to the Performing Arts Center is by cross walks located at the intersection of Columbus Street and Sixth Street. Property line sidewalks are located along Columbus Street in front of Rapid City High School.

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

The proposed on-sale liquor use is an accessory to the existing Performing Arts Center. The sale and service of alcohol is limited to patrons of the Performing Arts Center. As such, it does not appear that the proposed use will have additional impact on the traffic generated by the existing uses. The submitted operations plan for the Performing Arts Center states that the facility will generally operate outside of standard business hours and, as such, should have a minimal impact on area traffic. Fifth Street, located east of the property, is a principal arterial on the City's Major Street Plan, suitable to accommodate high volumes of commercial, residential, and industrial traffic. It is not anticipated that the proposed on-sale alcohol use will create issues with traffic in the vicinity.

7. *Proposed signs and lighting:*

Submitted plans show that one Light Emitting Diode (LED) ground sign which has been previously approved by City Council will be located in front of the north side of the building. No additional signage is being proposed.

If additional signage is proposed in the future, approval through the Historic Sign Board must be obtained. All future signage must comply with Chapter 17.50.080 of the Rapid City Municipal Code. Any changes to the original sign package which the Director of Community Planning and Development Services determines is consistent with the original approved sign package may be allowed as a Minimal Amendment to the Conditional Use Permit. 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

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noted that existing utilities appear sufficient to accommodate the proposed use.

The Rapid City Fire Department has noted no concerns with the proposed on-sale liquor use. 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 public. The property is zoned Public District. The property is developed with a variety of uses in conjunction with the City of Rapid City and the Rapid City Independent School District. The proposed use on the property complies with the 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 Performing Arts Center is comprised of approximately 29,190 square feet of combined space located on four floors. Rapid City High School is an individually listed structure on the National Register of Historic Places. Submitted plans show that the existing structure meets all the land area regulations of the Public 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 stipulations of approval of this Conditional Use Permit will serve as the tool to ensure that the effects of noise, odor, smoke, dust, and air and water pollution are mitigated to the greatest extent possible. The proposed on-sale liquor use for beer and wine will be located entirely within the structure and only when school is not in session. 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 on-sale alcohol use must comply with the hours/days/holiday restrictions that apply for the type of license secured. The stipulations of approval of this Conditional Use Permit will serve as the tool to ensure that the proposed use will maintain parking, sufficient buffering from neighboring business, and not create additional light or noise that may have an adverse impact on adjacent uses. The proposed on-sale alcohol use is an accessory to the Performing Arts Center use. Rapid City High School is comprised of a variety of public uses, including an alternative high school, a day care center, and the Performing Arts Center. The Rapid City Independent School District has indicated their support of the requested use. It should also be noted that the Rapid City Performing Arts Center has previously had an on-sale liquor use approved on a case-by-case basis by the Rapid City Council as a Special Event Permit. Parking and landscaping meet the requirements of the Rapid City Municipal Code. For these reasons, staff recommends

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that the Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a Performing Arts Center 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.~~ **The sign has been posted on the property.** Staff will notify the Planning Commission at the ~~June 19, 2014~~ **July 10, 2014** Planning Commission meeting if these requirements have not been met.