

STAFF REPORT
January 10, 2013

No. 12UR023 - Major Amendment to a Conditional Use Permit to Expand an Existing On-Sale Liquor Establishment **ITEM 7**

GENERAL INFORMATION:

APPLICANT	Jake Boerger
PROPERTY OWNER	Slainte, LLC
REQUEST	No. 12UR023 - Major Amendment to a Conditional Use Permit to Expand an Existing On-Sale Liquor Establishment
EXISTING LEGAL DESCRIPTION	Lots 13 through 16 of Block 82 of the Original Town of Rapid City, located in Section 2, T1N, R7E BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.32 acres
LOCATION	510 Ninth 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
DATE OF APPLICATION	December 5, 2012
REVIEWED BY	Fletcher Lacock / Brandon Quiett

RECOMMENDATION:

Staff recommends that the Major Amendment to a Conditional Use Permit to expand the existing on-sale liquor establishment be approved with the following stipulations:

1. The on-sale liquor establishment shall operate in conjunction with a full-service restaurant;
2. The hours of operation for the outdoor patio shall be limited to 11:00 a.m. to 12:00 a.m. on weekdays and 11:00 a.m. to 1:00 a.m. on Friday and Saturday. In addition, live entertainment on the outdoor patio shall not be allowed beyond 11:30 p.m.;
3. A building permit shall be obtained prior to any construction;
4. Upon submittal of a building permit, plans shall be prepared and stamped by a licensed Architect or Professional Engineer as per SDCL 36-18A;

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5. All provisions of the Central Business Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment;
6. All applicable provisions of the adopted International Fire Code shall continually be met;
7. All outdoor lighting shall 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. All signage shall continually conform to the Sign Code. No electronic signs are being approved as a part of this Major Amendment to a Conditional Use Permit to expand an existing 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, 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. The approval of the Historic Sign Review Committee shall be obtained prior to obtaining the Sign Permit; and,
9. The Major Amendment to a Conditional Use Permit shall allow the expansion of the on-sale liquor use to include 2,304 square feet of the basement. 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 the review and approval of a Minimal Amendment. 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 Major Amendment to a Conditional Use Permit to expand an existing on-sale liquor establishment. A Conditional Use Permit to allow an on-sale liquor establishment was previously approved for the property. The applicant is requesting to renovate the basement of the existing structure to allow for more storage and restaurant seating for "Murphy's Pub and Grill". The proposed expansion of the on-sale use will include approximately 2,304 square feet of the basement. The hours of operation are Sunday through Thursday 11:00 a.m. to 12:00 a.m. and Friday through Saturday 11:00 a.m. to 2:00 a.m.

On March 24, 2011, the Planning Commission approved a Conditional Use Permit to allow an on-sale liquor establishment (File #11UR005) for the above legally described property.

The property is located in the southeast corner of the intersection of Main Street and Ninth Street. Currently, "Murphy's Pub and Grill" is located in a two story commercial building on the property.

STAFF REVIEW:

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

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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. All abutting properties are zoned Central Business District. A Conditional Use Permit was previously approved to allow an on-sale liquor establishment in conjunction with a full service restaurant. The property is in the established Central Business District. It does not appear that the Major Amendment to a Conditional Use Permit to expand an existing on-sale liquor establishment 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 north, south, east and west are zoned Central Business District. There are some existing apartment units above businesses along Saint Joseph Street. The property is in the established Central Business District. Staff does not anticipate that the proposed expansion to the on-sale liquor use will result in any significant adverse effects on any residences.

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, five on-sale liquor establishments exist within a five hundred foot radius of the property. “Thirsty’s” is located immediately east of the property. “Teddy’s Sports Grill” is located opposite the property on the north side of Main Street. “Bully Blends Coffee and Tea” is located approximately 180 feet to the northwest. “Dublin Square” is located approximately 400 feet to the east. In addition, the Adoba Eco Hotel is located approximately 140 feet to the northeast. Located within the Adoba Eco Hotel are “445 Martini Lounge” and the “Enigma Restaurant”. This is the established Central Business District. 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 a beauty salon.

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 in the southeast corner of the intersection of Main Street and Ninth Street. A two story commercial building with is located on the property. Currently, “Murphy’s Bar and Grill” is located in building.

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

The properties located to the north, east, northeast and south are one and two story commercial structures. The property located to the west 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 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 are curbside sidewalks located on Main Street and Ninth Street providing pedestrian access to the property.

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

The proposed expansion to the on-sale liquor use will generate approximately 36 additional trips per peak hour.

7. *Proposed signs and lighting:*

The applicant has submitted a sign package identifying the existing 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 Major Amendment to a Conditional Use Permit to expand an existing 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 approval of the Historic Sign Review Committee must be obtained prior to obtaining the Sign Permit.

The applicant is not proposing any additional outdoor lighting. The 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.

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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. A Conditional Use Permit was approved to allow an on-sale liquor establishment in conjunction with a full-service restaurant on the above legally described property. The applicant is proposing to expand the on-sale liquor use to include an additional 2,304 square feet of renovated restaurant area in the basement. The Major Amendment to a Conditional Use Permit will allow the expansion of the on-sale liquor use to include 2,304 square feet of the basement in conjunction with a full-service restaurant.

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 the review and approval of a Minimal Amendment. 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:*

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 be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment.

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 expansion of the on-sale liquor use into the basement of the existing structure will have a negative effect on the surrounding area by causing noise, odor, smoke, dust, air or water pollution. The applicant should be aware that a stipulation of approval of the original Conditional Use Permit included the hours of operation for the outdoor patio. That stipulation of approval has been included in this Major Amendment. The hours of operation for the outdoor patio will be limited to 11:00 a.m. to 12:00 a.m. on weekdays and 11:00 a.m. to 1:00 a.m. on Friday and Saturday. In addition, live entertainment on the outdoor patio will not be allowed beyond 11:30 p.m.

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

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approval will ensure compliance with the Zoning Ordinance and the International Fire Code.

Notification: As of this writing, the white certified mail receipts and green cards have not been returned. The required sign has not been posted on the property. Staff will notify the Planning Commission at the January 10, 2013 Planning Commission meeting if these requirements have not been met.