



# Rapid City Planning Commission

## Major Amendment to a Planned Development Project Report

### January 26, 2023

Item #8

Applicant Request(s)
Case # 22PD057 – Major Amendment to a Planned Development Overlay to allow expansion of on-sale liquor in conjunction with music venue.
Companion Case(s) N/A

Development Review Team Recommendation(s)
<b>The Development Review Team recommends approval with stipulations as noted at the end of the report.</b>

Project Summary Brief
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The applicant has submitted a Major Amendment to a Planned Development Overlay to allow expansion of on-sale liquor in conjunction with an existing music venue at 412 5<sup>th</sup> Street in downtown Rapid City. On-sale liquor in conjunction with the music venue has been previously approved. This application request the expansion of the on-sale use to the front of the building and to the proposed new deck. The applicant proposes to construct a 500 square-foot deck for food and drink service. The proposed hours of operation will be Wednesday through Saturday 5 pm -12 am with 11 am -4 pm on Sundays. The applicant requests an Exception to increase wall signage to 450 square feet of wall signage in lieu of 137 square feet granted by a Variance. There are currently 215 square feet of on-premises wall signage that is legal non-conforming. In addition to the wall signage, the applicant proposes a pole sign with 10' ground clearance with a 3' by 5' board, resulting in a 13' high pole sign. The Aby's Feed and Seed complex is comprised of contributing structures in the Downtown Commercial Historic District. As such, the Historic Sign Review Board has reviewed and recommended approval of the applicant's proposal. With the construction of the deck, two parking spaces will be eliminated. As such, the applicant also requests an Exception to reduce parking from 30 spaces to 28 spaces.

Applicant Information	Development Review Team Contacts
Applicant: Stephen Jeremy Briggs	Planner: Alex Osborne
Property Owner: The Seed LLC	Engineer: Todd Peckosh
Architect: N/A	Fire District: Chip Premus
Engineer: N/A	School District: N/A
Surveyor: N/A	Water/Sewer: Todd Peckosh
Other: N/A	DOT: Mike Carlson

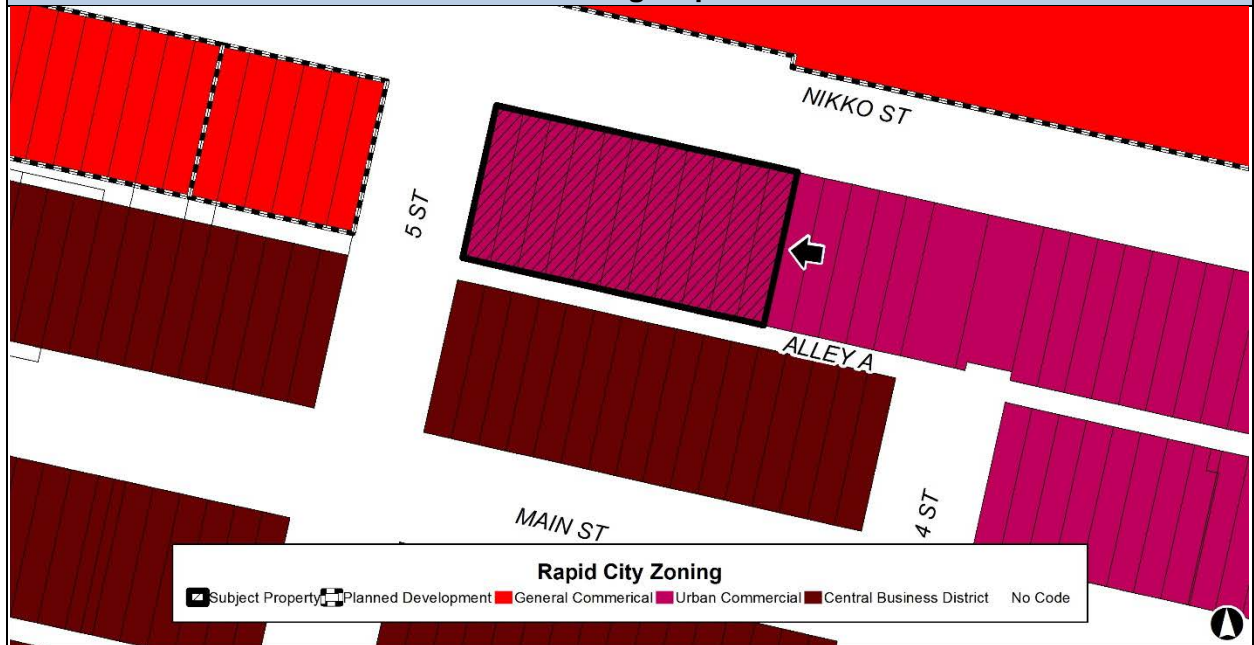
Subject Property Information	
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Address/Location	412 5 <sup>th</sup> Street Rapid City, South Dakota
Neighborhood	Downtown/Skyline Drive
Subdivision	Abys Feed and Seed Condominium
Land Area	0.39 acres
Existing Buildings	13,686 square feet
Topography	Relatively flat
Access	5 <sup>th</sup> Street
Water Provider	West Dakota Water District
Sewer Provider	West Dakota Water District
Electric/Gas Provider	Black Hills Power / MDU
Floodplain	Federally designated 500-year floodplain on the east side of the property

### Subject Property and Adjacent Property Designations

	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	UC - PD	DT	Commercial structures
Adjacent North	GC -PD	DT	Tuscany Square
Adjacent South	CB	DT – Revitalization Corridor	Furniture store
Adjacent East	UC	DT	Commercial structure / tire storage
Adjacent West	GC - PD	P/QP	Public parking structure

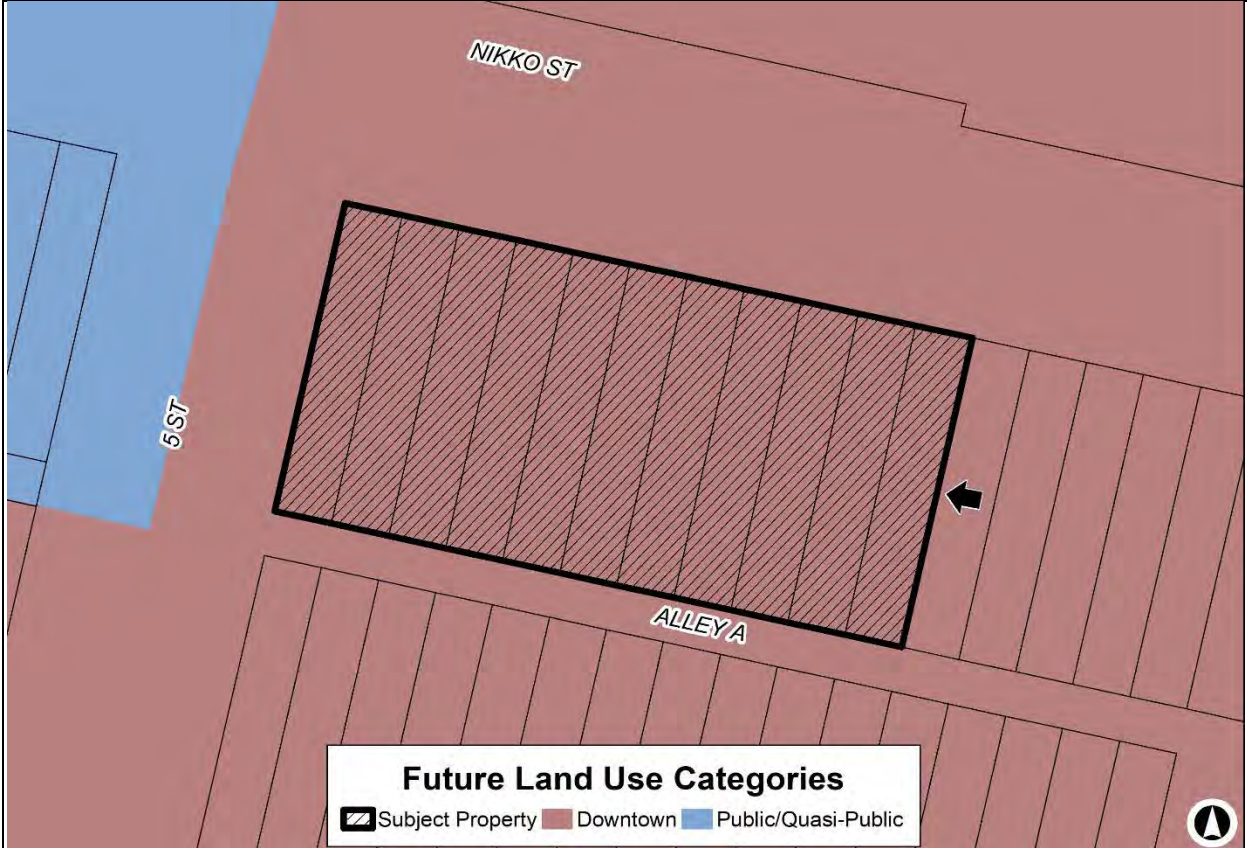
### Zoning Map



### Existing Land Uses



### Comprehensive Plan Future Land Use



### Parks of Transportation Plan



<b>Relevant Case History</b>			
<b>Case/File#</b>	<b>Date</b>	<b>Request</b>	<b>Action</b>
14PD008	40/24/2014	Initial Planned Development Overlay	Approved with stipulations
14PD014	07/10/2014	Final Planned Development Overlay	Approved with stipulations
15PD025	08/27/2015	Major Amendment to a Planned Development to expand the commercial uses	Approved with stipulations
16PD039	09/08/2016	Major Amendment to a Planned Development Overlay to allow an on-sale liquor establishment in conjunction with a theater	Approved with stipulations
20PD026	08/06/2020	Major Amendment to allow a micro-brewery and an on-sale liquor establishment	Approved with stipulations
21PD014	05/06/2021	Major Amendment to a Planned Development Overlay to allow an on-sale liquor establishment in conjunction with a music and art venue	Approved with stipulations

<b>Relevant Zoning District Regulations</b>		
<b>Urban Commercial District</b>	<b>Required</b>	<b>Proposed</b>
Lot Area	N/A	0.39 acres
Lot Frontage	N/A	450
Maximum Building Heights	8 stories or 100 feet	Existing structure
Maximum Density	90%	57%
Minimum Building Setback:		
• Front	0-10 feet	Exception previously granted to allow a 0-foot setback
• Rear	0 feet	0 feet
• Side	0 feet	0 feet
• Street Side	0-10 feet	Exception previously granted to allow a 0 foot setback
Minimum Landscape Requirements:		
• # of landscape points	16,500	Exception previously granted to waive the landscaping requirement
• # of landscape islands	1	Exception previously granted to waive the landscape island requirement
Minimum Parking Requirements:		
• # of parking spaces	30	Exception requested to reduce parking to 28 spaces
• # of ADA spaces	2	2
Signage	137 sq. ft. of wall signage	Exception requested to allow 450 sq. ft. of wall signage and 15 sq. ft. of pole signage
Fencing	No fencing existing	No fencing proposed





**Planning Commission Criteria and Findings for Approval or Denial**




**Pursuant to Section 17.50.185 of the Rapid City Municipal Code the Planning Commission shall consider the following criteria for a request to allow an on-sale liquor establishment:**

Criteria	Findings
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.	Main Street Square is located on the west side of 5 <sup>th</sup> Street approximately 315 feet from the subject property. The property is located in the established downtown corridor. In addition, the applicant is proposing the on-sale liquor use in conjunction with a music and art venue. It does not appear that the proposed on-sale liquor use will have an adverse effect if operated in compliance with the applicant’s operational plan.
2. The requested use is “sufficiently buffered” with respect to residential areas so as not to “adversely affect” such areas.	There are no residential areas located within 500 feet of the subject property. The proposed on-sale liquor use should have a minimal impact on 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.”	The property is located in the established downtown core on the southeast corner of the intersection of 5 <sup>th</sup> Street and Nikko Street. The established downtown core is where these types of uses should be located.
4. The proposed use has been reviewed under Chapter 17.50.050.G Criteria for Review.	See below
<b>Staff has reviewed the proposed use with respect to Chapter 17.50.050.G. and has noted the following issues:</b>	
1. There are conditions pertaining to the particular piece of property in question because of its size, shape, or topography that justify a deviation from the underlying zoning district standards or promote an alternative method of development;	The property is located at 412 5 <sup>th</sup> Street and has an existing Planned Development Overlay. The proposed Exception to increase the allowable signage requires a Major Amendment to the Planned Development Overlay.
2. The application of the underlying zoning district’s requirements or regulations to this particular piece of property would create either a practical difficulty or an undue hardship	The Planned Development serves as a land use tool to review unique or innovative development projects that otherwise with be difficult within the underlying zoning district due to unique attributes of the subject property.
3. Exceptions to the underlying zoning district, if granted, would not cause undue hardship to the public good or impair the purposes and intent of the underlying zoning district’s requirements or regulations;	<p>The Exception to signage to allow 450 sq. ft. of on premises wall signage and a 3’ by 5’ pole sign on site will not cause undue hardship to the public good or impair the purposes and intent of the underlying zoning districts requirements. The Exception is justified by the size of the site, the architecture of the building having multiple faces, and the railroad right-of-way on the north lot line which cannot be counted towards allowable signage on the property.</p> <p>The Exception to reduce parking from 30 spaces to 28 spaces regulations on site will not cause undue hardship to the public good or impair the purposes and intent of the underlying zoning district’s requirements or regulations. This is due to property’s location in the downtown area and the ample availability of public parking in close proximity which include the public parking structure located across the street.</p>

4. A literal interpretation of this title would deprive the applicant of rights that others in the same zoning district are allowed;	Interpretation of this title would not deprive the applicant of rights that others in the same zoning district are allowed.
5. Any potential adverse impacts will be reasonably mitigated; and:	Proposal includes removal of two total parking spaces, one regular parking space and one ADA accessible parking space, both located at the front of the property near 5 <sup>th</sup> Street. Reduction in parking from 30 spaces to 28 spaces will have no adverse impacts on site due to the parking garage located across the street along with Urban Commercial District zoning regulations recommendation of locating parking at the rear of structures. The applicant has provided the required two ADA accessible parking spaces in the rear of the structure. A stipulation of approval for the proposed Exception to signage is that it meet all requirements of the sign code for clearance, setbacks, and lighting.
6. Any requested Exception to the underlying zoning district standards is related to an alternative or innovative practice that reasonably achieves the objective of the standard sought to be modified.	The proposed Exception to reduce parking spaces from 30 to 28 to underlying zoning district standards is related to an alternative or innovative practice that reasonably achieves the objective of the standard sought to be modified. In particular, the construction of the deck and elimination of two parking spaces will enhance the pedestrian oriented features of the development, which is encouraged in the downtown area. The applicant has applied and been approved for a historic review for the proposed deck addition. The proposed deck was determined not to cause an adverse effect to the historic structure.

**Planning Commission Comprehensive Plan Policy Guidance for Approval or Denial**  
**In considering an application for approval or denial the Planning Commission finds that the application either complies or does not comply with the following values, principles, goals, and policies within the Rapid City Comprehensive Plan:**

<b>Comprehensive Plan Conformance – Core Values Chapters</b>	
	<b>A Balanced Pattern of Growth</b>
BPG-1.2B	Priority Activity Centers for Reinvestment: The proposed use promotes reinvestment in the downtown core.
	<b>A Vibrant, Livable Community</b>
LC-5.1A	Varied Activity Centers: The property is located on the eastern edge of the existing central business district and is also identified as Downtown / Mixed-Use in the City's adopted Comprehensive Plan. The downtown is identified as a Regional Activity Center. The proposed use promotes reinvestment in the downtown core.
	<b>A Safe, Healthy, Inclusive, and Skilled Community</b>
	N/A
	<b>Efficient Transportation and Infrastructure Systems</b>

TI-2.1A	Major Street Plan Integration: The property is accessed from 5 <sup>th</sup> Street which is identified as a Principal Arterial Street on the City's Major Street Plan suitable for accommodating the higher traffic volumes associated with commercial development in the downtown corridor.
	<b>Economic Stability and Growth</b>
	N/A
	<b>Outstanding Recreational and Cultural Opportunities</b>
	N/A
	<b>Responsive, Accessible, and Effective Governance</b>
GOV-2.1A	Public Input Opportunities: The proposed Major Amendment to a Planned Development requires that public notice be advertised in the newspaper and that mailings are sent to property owners within 250 feet of the proposed development. The requested Major Amendment to a Planned Development is before the Planning Commission for review and approval. The public has an opportunity to provide input at this meeting.

<b>Comprehensive Plan Conformance – Growth and Reinvestment Chapter</b>	
<b>Future Land Use Plan Designation(s):</b>	<b>Downtown</b>
<b>Design Standards:</b>	
GDP-MU9	Adaptive Reuse: The Comprehensive Plan supports adaptive re-use of buildings. The proposed music and art venue and on-sale liquor establishment is appropriate for the types of pedestrian-oriented, activity generating uses desired for the downtown area and within a Regional Activity Center.

<b>Comprehensive Plan Conformance – Neighborhood Area Policies Chapter</b>	
<b>Neighborhood:</b>	<b>Downtown / Skyline Drive Neighborhood Area</b>
<b>Neighborhood Goal/Policy:</b>	
N/A	Regional Activity Center: The Major Amendment to the Planned Development supports the reinvestment in the Downtown Commercial Historic District adjacent to the Central Business District.

<b>Findings</b>	
<p>Staff has reviewed the Major Amendment to a Planned Development Overlay to allow expansion of on-sale liquor in conjunction with a music venue to ensure compliance with Chapter 17.50.100 and Chapter 17.50.050(F)5 of the Rapid City Municipal Code as well as the goals, policies, and objectives of the adopted Comprehensive Plan. The Rapid City Comprehensive Plan identifies the property as appropriate for Downtown Development, and the property is located within an identified Regional Activity Center. The proposed event venue and on-sale liquor establishment is appropriate for the types of pedestrian-oriented, activity generating uses desired for the downtown area and within a Regional Activity Center. 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. No adverse effects of the parking reduction Exception are anticipated due to the minimal nature of the request and due to ample availability of public parking within the vicinity.</p>	

**Planning Commission Recommendation and Stipulations of Approval**

Staff recommends that the Major Amendment to a Planned Development Overlay to allow expansion of on-sale liquor in conjunction with music venue to be approved with the following stipulations(s):

1.	Acknowledge the previously granted Exception to reduce the minimum required front yard setback from 25 feet to zero feet for the existing structures located on the property. Any future redevelopment of the property shall be constructed in compliance with the Zoning Ordinance;
2.	Acknowledge the previously granted Exception to waive the landscaping requirement;
3.	Acknowledge the previously granted Exception for 0 parking spaces during outdoor events operated in compliance with the submitted operations plan;
4.	An Exception is hereby granted to reduce the minimum required parking spaces from 30 parking spaces to 28 parking spaces and to 0 parking spaces during outdoor events operated in compliance with the submitted operations plan;
5.	Any changes to the approved sign package for the Aby's Feed and Seed, 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 Planned Development contingent on Historic Sign Review approval. A sign permit shall be obtained for any new signage;
6.	An Exception is hereby granted to expand on-premises wall signage to 450 sq. ft. which was approved by Historic Sign Review Committee on January 6, 2023;
7.	Building Permit shall be obtained prior to construction;
8.	Upon submittal of a Sign Permit application, documentation shall be submitted showing there are no conflicts with utility easements in the location of the proposed sign; and,
9.	Upon submittal of a building permit, documentation shall be submitted showing there are no conflicts with utility easements in the location of the proposed deck. Utility easements and other miscellaneous documents can be obtained from the Registers of Deeds Office.





**Rapid City  
Department of Community Development**

**Development Review Advisories**

*Disclosure: The Development Review Team has created this list of Advisories as a courtesy for your specific application. **This is not a complete list.** All City, District, State, and Federal requirements must be continually met.*

<b>Applicant Request(s)</b>	
<b>Case #22PD057</b>	Initial Planned Development Overlay to allow an expansion of on-sale liquor in conjunction with an existing music venue at 412 5 <sup>th</sup> Street in downtown Rapid City
<b>ADVISORIES: Please read carefully!</b>	
1.	A building permit shall be obtained prior to any construction. A Certificate of Occupancy shall be obtained prior to use;
2.	All construction plans shall be signed and sealed by a registered professional pursuant to SDCL 36-18A;
3.	All requirements of the currently adopted Building Code shall be met;
4.	All requirements of the International Fire Code shall be met;
5.	All requirements of the Rapid City Infrastructure Design Criteria Manual and Rapid City Standard Specifications shall be met;
6.	All erosion and sediment control measures shall be installed and continually maintained as necessary;
7.	ADA compliant accessibility shall be maintained as necessary; and,
8.	All lighting shall be designed to preclude shining on adjacent properties and rights-of-ways, so as not to create a nuisance to neighboring properties and traffic.