Administrative Staff Report

The Pulse Conditional Use
817 Clark Street
September 7, 2010

Department of Community Development

Applicant(s):

- Timothy Schertz

Staff:

- Michael Ostrowski, Director Community Development
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  mostrowski@stevenspoint.com

Parcel Number(s):

- 2408-32-2014-12

Zone(s):

- "B-3" Central Business District

Master Plan:

- Downtown District

Council District:

- District 9 - Randal Stroik

Lot Information:

- Actual Frontage: 63 feet
- Effective Frontage: 63 feet
- Effective Depth: 177 feet
- Square Footage: 11,151
- Acreage: 0.256

Current Use:

- Teen Club

Applicable Regulations:

- 12.14, 23.01(16), and 23.02(2)(c)

Attachment(s):

- Application

Request

Conditional Use Permit to operate a tavern that has live music, limited to three days per week or less.

Findings of Fact

- The Pulse is currently operating as a teen club.
- The property is zoned B-3. A tavern type use would require a conditional use permit in this district.
- No exterior changes are planned.

Staff Recommendation

- Approve subject to the following condition(s):
  - The licensee shall maintain order and peace in the licensed premises.
  - Any licensed premise established, operated, or maintained in violation of any of the provisions or requirements of this conditional use permit shall be grounds for suspension or revocation of this conditional use permit and/or declared to be unlawful and a public nuisance, the City may, in addition to or in lieu of, any other remedies set forth in the Stevens Point Municipal Code chapter twelve & 12.14 ordinance or the City's Revised Municipal Code, commence an action to enjoin, remove, or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisances, and restrain and enjoin any person(s) from establishing, operating, or maintaining said conditional use contrary to the provisions of this conditional use permit.
  - The business must be operated in a manner that music heard from outside the building does not unreasonably disturb the peace and enjoyment of the surrounding properties.
  - The licensee shall require that all exterior doors be kept closed so that noise does not unreasonably disturb the peace and enjoyment of the surrounding properties.
  - The licensee shall require that all exterior equipment and containers, including refuse containers, be screened from view with an appropriate enclosure(s).
  - The licensee shall require that the area surrounding the premises be kept clean and orderly. All cups, bottles, cans, garbage, rubbish, cigarettes, etc. shall be properly disposed of

	at the end of each day, and not left on the property or public right-of-way. ○ The licensee shall require that the green area to the west of the building be well maintained and have a professional appearance. The grass shall be mowed and kept at an acceptable height, and all cups, bottles, cans, garbage, rubbish, cigarettes, etc. shall be properly disposed of at the end of each day. ○ The conditional use permit shall expire two years after final approval.

Vicinity Map

Background

A conditional use permit is required in order to operate a tavern in the B-3 district. Currently, The Pulse is a teen club, and Mr. Schertz wishes to change it to a tavern that is open three days per week and has live music.

Standards of Review

1) **The establishment, maintenance, or operation of the use will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare.**

   Analysis: The establishment has operated as a retail store for many years and a teen club for a brief period. Mr. Schertz is now requesting to have a tavern type use that will be open three days a week. The proposed establishment will have live music.

   Findings: The proposed use is not in conflict with the surrounding area. However, with live music, the potential for noise complaints will increase. Staff would recommend that a condition be placed on the conditional use that will ensure that noise levels heard outside the establishment are minimal. If noise levels become a concern,

the Commission shall reserve the right to review and recommend the revocation of the conditional use permit to the Common Council.

Staff would recommend that the area surrounding the premises be kept clean and orderly. All cups, bottles, cans, garbage, rubbish, cigarettes, etc. shall be properly disposed of at the end of each day.

Staff would also recommend that the green area to the west of the building be well maintained and have a professional appearance. The grass shall be mowed and kept at an acceptable height and all cups, bottles, cans, garbage, rubbish, cigarettes, etc. shall be properly disposed of at the end of each day.

Staff would recommend as a safety matter that a clear line of sight into the establishment be maintained at all times.

2) **The use will not be injurious to the use and for the purpose already permitted;**

Analysis: The B-3 district is established to provide a single contiguous district encompassing the central business district or downtown area which will encourage primarily retail uses and a variety of supporting uses. This district is intended to help implement the community's specialized development goals and planning principles, for the CBD, particularly the development and maintenance of the downtown area as a specialized pedestrian-oriented shopping and community center.

Findings: The proposed use compliments permitted uses within the B-3 district.

3) **The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;**

Analysis: The respective area is an established area of the City.

Findings: The proposed use is not in conflict with the surrounding uses or area.

4) **The exterior architectural appeal and functional plan of any proposed structure will not be at variance with either the exterior architectural appeal and functional plan, and scale of the structures already constructed or in the course of construction in the immediate neighborhood or in the character of the applicable district so as to result in a substantial or undue adverse effect on the neighborhood;**

Analysis: The respective area is an established area of the City.

Findings: The current building matches the surrounding area in terms of architectural appeal and general function. No exterior changes are planned.

5) **Adequate utilities, access roads, drainage and/or necessary facilities have been, or are being, provided;**

Analysis: The respective area is an established area of the City.

Findings: Utilities currently exist in this area.

6) **Adequate measures have been, or will be, taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;**

Analysis: The establishment does not have any off street parking, as it is located within the B-3 district, which does not require any.

Findings: Traffic and parking will occur mainly on Clark Street.

7) **The proposed use is not contrary to the objectives of any duly adopted land use plan for the City of Stevens Point, any of its components, and/or its environs.**

   Analysis: The proposed use is within the Central Business District.

   Findings: The proposed use is not in conflict with the objectives or the general intent of the Central Business District, nor the Comprehensive Plan.

8) **The use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of the Plan Commission.**

   Analysis: The lot and building exist within this district, and no amendments or changes are being proposed.

   Findings: The proposed use conforms to the general intent and regulations of the B-3 district.

9) **Access to the site shall be safe.**

   Analysis: The establishment does not have any off street parking, as it is located within the B-3 district, which does not require any.

   Findings: Traffic and parking will occur mainly on Clark Street.

10) **There shall be adequate utilities to serve the site.**

    Analysis: The respective area is an established area of the City.

    Findings: Utilities currently exist in this area.

11) **The privacy of the neighboring development and the proposed development shall be maintained as much as practical. Guidelines:**

    a. **Mechanical equipment including refuse storage shall be screened from neighboring properties.**

       Analysis: No change will occur regarding mechanical equipment.

       Findings: All items shall be screened from view, including refuse containers.

    b. **Lighting shall be located to minimize intrusion onto the neighboring properties.**

       Analysis: No change in lighting is proposed.

       Findings: Lighting is provided by city street lights.

    c. **Sources of noise shall be located in a manner that minimizes impact to neighboring properties.**

       Analysis: The business will be operating within the confines of the building, and will have live music.

       Findings: Staff would recommend that a condition(s) be placed on the conditional use that will ensure that noise levels heard outside the establishment are minimal. If noise levels become a concern, the

Commission shall reserve the right to review and recommend the revocation of the conditional use permit to the Common Council.

R#1-37784
$90
7/27/10

REQUEST TO CITY OF STEVENS POINT PLAN COMMISSION

ADDRESS OF PROPERTY: 817 CLARK STREET

Zoning Ordinance Change ($90.00 fee required)
_X_ Conditional Use Permit ($90.00 fee required)
Variance from Zoning Ordinance -Board of Appeals ($90.00 fee required)
Variance from Sign Ordinance
Appeal from Subdivision Requirements
Other

REQUESTED CHANGE: (State briefly what is being requested, and why).

TAVERN LIVE MUSIC LIMITED TO 3 DAYS A WEEK OR LESS.

OWNER/APPUCANT:

Name: SCHERTZ-FAHRNER LLC
Address: 1265 MAIN ST Suite 100
STEVENS POINT WI 54481
(City, State, Zip Code)

Telephone:
Cell Phone:

Signature

AGENT FOR OWNER/APPLICANT:

Name: TIM SCHERTZ
Address: SAME
(City, State, Zip Code)

Telephone: _
Cell Phone:

Signature

Scheduled Date of Plan Commission Meeting: 8/2/10

Scheduled Date of Conunon Council Meeting: 8/16/10

You, as the applicant, or your agent, shall attend the meeting and present your request.

All requests with supporting documentation are due at
the Community Development Office three weeks prior to the actual meeting.

$90.00 Fee Required for Rezoning Requests, Variances, and Conditional Use Permits

Receipt # 1-37784