



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

Growth Management Department
300 Sixth Street

Marcia Elkins, Director
Growth Management Department
city web: www.rcgov.org

Phone: 605-394-4120
Fax: 605-394-6636
e-mail: marcia.elkins@rcgov.org

MEMORANDUM

TO: Rapid City Planning Commission

FROM: Jim Flaaen, Planner I / **Marcia Elkins, Director**

DATE: February 18, 2011 / **Updated March 3, 2011**

RE: File #10SW001-A Sidewalk Vendor Permit request by John Ashley for property legally described as Saint Joseph Street right-of way located adjacent to Tract A, Block 95, Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota

This report has been updated as of March 3, 2011. All changes have been shown in bold.

This request was considered by the Planning Commission at the February 24, 2011 Planning Commission meeting. At that time the applicant requested that the item be continued to the March 10, 2011 Planning Commission meeting to allow him to complete the South Dakota Department of Health licensing requirements.

On August 3, 2009, the City Council approved Ordinance No. 5521 to create a Sidewalk Vendor Permit by amending Chapter 12.20.020(F) of the Rapid City Municipal Code. In particular, Ordinance No. 5521 states that sidewalk vendors are permitted only in the Central Business District and may only sell food, non-alcoholic beverages and cut flowers. Sidewalk vendors must maintain a clear pedestrian path of at least 5 feet at all times. This pathway must be free of any obstructions such as trees, parking meters, and utility poles to allow pedestrian passage. Sidewalk vendors shall not interfere with any utilities or other facilities such as telephone poles, fire hydrants, fire protection appurtenances, parking meters, mailboxes, or signs located in the public right-of-way. All applicable sight triangle requirements shall be met at all times by sidewalk vendors.

The Sidewalk Vendor Permit Ordinance also sets forth design criteria regulating vending units, canopies/umbrellas, signage, lighting, noise and other miscellaneous criteria to be utilized by the sidewalk vendor. In addition, the Sidewalk Vendor Permit Ordinance requires that every sidewalk vendor permit holder shall furnish a certificate of insurance providing commercial



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insurance coverage of at least \$2,000,000 per occurrence for bodily injury, death, disability, and property damage liability. The City of Rapid City must be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk vendor.

The applicant submitted a Sidewalk Vendor Permit application to allow a sidewalk vendor to be located in the Saint Joseph Street right-of-way as it abuts the above legally described property, also known as location #5 on the list of approved sidewalk vendor locations. The sidewalk vendor area does not exceed 60 square feet. A vending unit, coolers, and a trash can will be located within the vendor area. The Vendor will sell assorted non-alcoholic beverages and cut flowers. The applicant has indicated that upon which time all required State of South Dakota licenses are obtained food sales will be added to the sidewalk vending operation. A detailed list of food items to be offered for sale will be submitted at that time. The applicant should be aware that at which time food sales are proposed, an amendment to the Sidewalk Vendor Permit must be reviewed and approved by the Planning Commission. Should the applicant be able to obtain the required license to handle food prior to Planning Commission approval, staff will support modifying the conditions of approval to allow food sales.

The applicant has indicated that he is in the process of completing the requirements of the State of South Dakota for obtaining the licenses necessary for the sale of food items. To date, staff has not received a copy of the license. Prior to Planning Commission approval, staff would recommend that the applicant provide a copy of the license and a detailed list of food items to be offered for sale.

The applicant has also submitted a Certificate of Insurance in the amount of \$2,000,000 naming the City of Rapid City as an additional insured. However, the legal description for the location of the sidewalk vendor provided on the Certificate of Insurance does not match the legal description provided by the applicant with the Sidewalk Vendor Permit application. As such, prior to the initiation of the sidewalk vending operation, a revised Certificate of Insurance must be submitted for review and approval by the City Attorney's Office identifying the correct legal description of the proposed location. **A revised Certificate of Insurance with the corrected legal description has been submitted.**

The applicant has a valid sidewalk vendor license approved by the Rapid City Council on February 7, 2011.

Staff has reviewed the applicant's Sidewalk Vendor Permit request and determined that it meets all of the design criteria and requirements of Chapter 12.20.020(F).

RECOMMENDATION: Staff recommends that the Planning Commission approve the Sidewalk Vendor Permit request with the following stipulations:

- 1. Prior to Planning Commission approval, a copy of the permit(s) issued by the State Department of Health for food related establishments shall be obtained and copies submitted to the Growth Management office. The permit(s) shall be renewed annually, or as required;**
2. A minimum 5 foot wide clear pedestrian path shall be maintained at all times;
3. A maximum of 60 square feet of space shall be occupied by the vendor and no permanent hardware shall be affixed to the sidewalk or adjacent buildings;
4. The vendor must have an approved 2A10BC minimum rated fire extinguisher maintained in an accessible location at all times;
5. Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall be continually provided. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability

arising directly or indirectly from the operation of the sidewalk vendor. In addition, the insurance shall be renewed yearly and a copy of the insurance document submitted to the City for review and approval. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked;

6. A valid sidewalk vendor license approved by the Rapid City Council per Chapter 5.56 of the Rapid City Municipal Code shall be provided and renewed yearly. The Sidewalk Vendor Permit shall automatically expire if the Sidewalk Vendor License is suspended, revoked or expired;
7. The proposed sidewalk vendor shall conform to the plans and design criteria submitted as part of this Sidewalk Vendor Permit and shall be continuously operated in compliance with Chapter 12.20.020(F) of the Rapid City Municipal Code at all times; and,
8. The Sidewalk Vendor Permit may be revoked for cause, consisting of failure to maintain the standards required for this permit as per Chapter 12.20.020(F).11.