



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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MEMORANDUM

TO: Rapid City Planning Commission

FROM: Vicki L. Fisher, Planning Manager

DATE: June 15, 2009

RE: File #09SC004-A Sidewalk Café Permit request by Vino 100 for property legally described as Seventh Street right-of-way located adjacent to Lot 17, Block 84, Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota

On July 21, 2008, the City Council approved Ordinance No. 5404 to create a Sidewalk Café Permit by amending Chapter 12.20.020(E) of the Rapid City Municipal Code. In particular, Ordinance No. 5404 states that sidewalk cafes are permitted only on sidewalks with a minimum width of 10 feet from the property line to the curb face. The location of the sidewalk café must be directly in front of the business operating the café, and may not extend beyond the side property lines. Sidewalk cafes 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 cafes 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 cafes. No café elements may be located within 2 feet of the curb face.

The Sidewalk Café Permit Ordinance also sets forth design criteria regulating barricades, heaters, awnings, umbrellas, chairs, tables, landscaping, signage, lighting, music and other miscellaneous criteria to be utilized in the sidewalk cafe. In addition, the Sidewalk Café Permit Ordinance requires that every sidewalk café permit holder furnish a certificate of insurance providing commercial insurance coverage of at least \$2,000,000 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 café.



EQUAL OPPORTUNITY EMPLOYER

On May 28, 2009, the applicant submitted a Sidewalk Café Permit application to allow a sidewalk café to be located in the Seventh Street right-of-way as it abuts a portion of the above legally described property. In particular, the sidewalk café is being proposed as a part of the adjacent retail outlet and lounge known as "Vino 100". The sidewalk café will consist of four tables with chairs and umbrellas and possible future lighting.

The applicant has indicated that the umbrellas will include beer manufacturer logos. However, this form of advertisement in public right-of-way is not permitted by the City's Sign Code Regulations or the Sidewalk Café Ordinance. The only advertisement allowed within a sidewalk café is a sign that "shall be of a size, dimension, orientation and placement as to be directed toward the attention of pedestrians within 50 feet thereof and, under no circumstances, directed toward the attention of persons traveling in motor vehicles. The signs shall not exceed 42 inches in height above the sidewalk or more than 24 inches in width on any face or no more than 2 faces total. Any such sign shall contain no off-premise advertising, and shall display no logo or advertising copy other than for the primary business of the occupant of the abutting property. As such, the proposed umbrellas with advertising logos are not permitted in the sidewalk café. The applicant may use umbrellas but they can not include any advertisement(s) such as beer manufacturer logos.

The applicant has submitted a site plan showing that the sidewalk café will be located within an 11 foot wide by 20 foot long area on the existing approximate 16 foot wide sidewalk. The site plan identifies a barricade around the sidewalk café with one entrance point. In addition, the site plan demonstrates that a 5 foot pedestrian clear area is being maintained between the sidewalk café and the street.

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. The City Attorney's Office has reviewed and approved the Certificate of Insurance.

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

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

- 1. A minimum 5 foot wide clear pedestrian path shall be maintained at all times;**
- 2. Physical barricades shall be provided around the sidewalk café since alcoholic beverages will be served. In particular, the barricades shall consist of stanchions and chains in compliance with the submitted design details. The barricades shall not be attached permanently to the sidewalk and shall not exceed four feet in height;**
- 3. No logos or other forms of advertisement shall be allowed on the proposed umbrellas;**
- 4. All lighting within the sidewalk café area shall be designed so as not to cause a glare to passing motorists or pedestrians. Table top lighting may include candles and battery-operated fixtures;**
- 5. Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall continually be 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 a sidewalk café. 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. The proposed sidewalk café shall conform to the plans and design criteria submitted as part of this Sidewalk Café Permit and shall be operated in compliance with Chapter 12.20.020(E) of the Rapid City Municipal Code; and,
7. The Sidewalk Café Permit may be revoked for cause, consisting of failure to maintain the standards required for this permit as per Chapter 12.20.020(E).12.