



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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MEMORANDUM

TO: Rapid City Planning Commission

FROM: Travis Tegethoff, Planner II

DATE: June 16, 2009

RE: File #09SC005-A Sidewalk Café Permit request by Thirsty's for property legally described as Main Street right-of-way adjacent to Lots 10, 11 and 12 of the 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 June 1, 2009, the applicant submitted a Sidewalk Café Permit application to allow a sidewalk café to be located in the Main Street right-of-way as it abuts a portion of the above legally described property. In addition, the applicant has submitted a Major Amendment to a Conditional Use Permit (#09UR016) to allow an outside patio. In particular, the sidewalk café is being proposed as a part of the adjacent Thirsty's Restaurant and Lounge. The sidewalk café will consist of five tables with chairs. The sidewalk café will be located within an 8 foot wide by 50 foot long area on the existing approximate 14 foot 6 inch wide sidewalk. The site plan identifies a barricade around the sidewalk café with three entrance points. In addition, the site plan demonstrates that a minimum 5 foot pedestrian clear area is being maintained between the sidewalk café and the street. The applicant has also indicated that there will be no advertising on the proposed umbrellas for the tables.

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 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 Major Amendment to the Conditional Use Permit allowing an outdoor patio shall be obtained;**
- 2. A minimum 5 foot wide clear pedestrian path shall be maintained at all times;**
- 3. 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;**
- 4. All elements associated with the sidewalk café shall be located within the boundary of the sidewalk café at all times;**
- 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.**