



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 #09SC006-A Sidewalk Café Permit request by Tally's for property legally described as the Sixth Street and Saint Joseph Street rights-of-way adjacent to a parcel of land located in the South 90' of Lots 17, 18 and 19 in Block 85 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota and the adjoining vacated Sixth Street and St. Joseph Street rights-of-way (Misc. Book 28, Page 3576 and Misc. Book 29, Page 8191), said parcel more commonly known as 530 Sixth Street and currently occupied by "Tally's Restaurant" and the exterior perimeter of the ground floor which is shown on the attached exhibit and more fully described as follows: Beginning at the intersection of the vacated portions of Sixth Street and St. Joseph Street rights-of-way as they adjoin Lot 17 in Block 85 of the Original Town of Rapid City, thence, northeasterly along the easterly edge of Sixth Street right-of-way and along the westerly edge of the existing building, a distance of 37.9 feet more or less to the northerly wall of said Tally's Restaurant; thence, southeasterly at a right angle and along said northerly wall, a distance of 75 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 3.9 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's Restaurant, a distance of 5.4 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 6.5 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's Restaurant, a distance of 7 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 23.7 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's



EQUAL OPPORTUNITY EMPLOYER

Restaurant, a distance of 3.8 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 3.8 feet more or less to a point on the northerly line of the vacated portion of St. Joseph Street right-of-way as it adjoins Lot 19 in Block 85 of the Original Townsite of Rapid City; thence, northwesterly and along the northerly line of said vacated portion of St. Joseph Street right-of-way a distance of 58.8 feet more or less to the point of beginning

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.

On June 2, 2009, the applicant submitted a Sidewalk Café Permit application to allow a sidewalk café to be located in the Sixth Street and Saint Joseph Street rights-of-way as it abuts a portion of the above legally described property. In addition, the applicant has submitted a Conditional Use Permit (#09UR015) to allow an on-sale liquor establishment. In particular, the sidewalk café is being proposed as a part of the adjacent Tally's Restaurant. The sidewalk café will consist of five tables with chairs. The sidewalk café will be located within a 6 foot 6 inch wide by 10 foot long area on the existing approximate 15 foot 6 inch wide sidewalk along Sixth Street and a 6 foot wide by 33 foot long area on the existing approximate 12 foot 6 inch wide sidewalk along Saint Joseph Street. 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 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 Conditional Use Permit allowing on-sale liquor establishment 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.**