



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: May 19, 2010

RE: File #10SC002-A Sidewalk Café Permit request by Bully Blends Coffee & Tea for property legally described as Lots 29R and 30R of Block 71 of the Original Town of Rapid City, Section 35, T2N, 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.

On May 5, 2010, 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 the above legally described property. In particular, the sidewalk café is being proposed as a part of the adjacent Bully Blends Coffee & Tea Restaurant. The sidewalk café will consist of four tables, a sandwich

board sign and an awning to be located within an 8 foot wide by 45 foot long area on the existing 16 foot wide sidewalk. The site plan identifies a barricade around the sidewalk café with three entrance points. In addition, the site plan demonstrates that a 5 foot wide pedestrian clear area is being maintained between the sidewalk café and the street.

The applicant has submitted a detail of the proposed barricade to be placed around the sidewalk identifying a 4 foot high black wrought iron rail fence. In addition, the applicant has submitted a sample of the mounting bracket and bolt to be used to secure the fence to the sidewalk demonstrating that it is readily removable. Prior to anchoring the wrought iron rail fence to the sidewalk, a Permit to Work in the Right-of-way must be obtained from the Public Works Department.

The applicant has submitted a detail of the proposed tables and chairs identifying that they will be constructed with wrought iron and be black in color. The applicant has also submitted an elevation of the sandwich board sign identifying a 24 inch by 36 inch sign constructed of wood and blue and white in color. The applicant is also proposing to construct a blue and white striped awning over the sidewalk café. The awning is a minimum of 7 feet above the sidewalk and does not extend more than two-thirds the width of the sidewalk.

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.

On May 12, 2010, the applicant submitted a Conditional Use Permit application (File #10UR012) to allow on-sale liquor within the adjacent "Bully Blends Coffee & Tea" café. The Planning Commission will consider the request at their June 10, 2010 Planning Commission meeting. The sale or consumption of liquor within the sidewalk café may not occur until the associated Conditional Use Permit has been approved to allow on-sale liquor within the adjacent property pursuant to State law.

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). The applicant should be aware that approval of the Sidewalk Café Permit is specific to the location and design submitted as a part of this application. The Sidewalk Café Permit must be operated in compliance with the approved site plan and cannot be transferred to any other location.

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 as per the applicant's site plan;
2. A physical barricade shall be provided around the sidewalk café as proposed. In particular, the barricade shall consist of a 4 foot high black wrought iron rail fence. In addition, a Permit to Work in the Right-of-way shall be obtained prior to anchoring the fence to the sidewalk;
3. The sandwich board sign shall be 24 inches by 36 inches as proposed. In addition, the sign shall be located within the boundary of the barricaded sidewalk café. The 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;
4. The tables and chairs shall be constructed with wrought iron and be black in color as proposed;
5. The awning shall be constructed with canvas and be blue and white in color as proposed. In addition, the awning shall be located a minimum of 7 feet above the sidewalk and shall not extend more than two-thirds the width of the sidewalk;
6. 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 the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked;

7. The sale or consumption of liquor within the sidewalk café shall not occur until the associated Conditional Use Permit has been approved to allow on-sale liquor within the adjacent property pursuant to State law;
8. 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,
9. 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.