



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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MEMORANDUM

TO: Rapid City Planning Commission

FROM: Jim Flaaen, Planner I

DATE: June 30, 2010

RE: File #10SC003-A Sidewalk Café Permit request by Ifrit's Hookah Lounge for property legally described as Lot 11 of Block 93 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.

On June 10, 2010, the applicant submitted a Sidewalk Café Permit application to allow a sidewalk café to be located in the Saint Joseph 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 Ifrit's Hookah Lounge. The proposed sidewalk café will consist of six tables, each with three

chairs and an umbrella, and a sandwich board sign to be located within an 8 foot wide by 10 foot long area on the existing 15 foot wide sidewalk. The site plan identifies a barricade around the sidewalk café with one access point. In addition, the site plan demonstrates that a 7 foot wide pedestrian clear area is being maintained between the sidewalk café and the curb face.

The applicant has submitted a detail of the proposed barricade to be placed around the sidewalk identifying a 3 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 property is located within the environs of the Downtown Historic District. A Historic Preservation 11.1 Review is required when improvements in a historic district require a permit. The applicant has indicated that the proposed wrought iron barricade will be fastened to the sidewalk thereby requiring a Permit to Work in the Right-of-Way be obtained from the Public Works Department. As such, a Historic Preservation 11.1 Review is required. Consequently, prior to Planning Commission approval, the applicant must obtain approval by the Historic Preservation Commission for the proposed sidewalk improvements.

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 22 inch wide by 31 inch tall white dry-erase A-frame sign with a metal frame black in color. In addition, the applicant has proposed to place umbrellas over each table. The umbrellas are proposed to be constructed of beige canvas and the pole and fittings will be brass in color. The umbrella canvas will span 64 inches and be 7 feet above the ground when open. The applicant should be aware that no logos or other forms of advertisement shall be allowed on the proposed umbrellas.

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 June 10, 2010, the applicant submitted a Major Amendment to a Conditional Use Permit application (File #10UR016) in conjunction with this application. In particular, the applicant is proposing to expand the hours of operation of the existing on-sale liquor establishment to allow the business to be open from 11:00 a.m. until 4:00 a.m. Monday through Sunday. Currently the hours of operation for the Hookah Lounge are Monday through Thursday 6:00 p.m. to 12:00 a.m. and Friday and Saturday 6:00 p.m. to 2:00 a.m. The Planning Commission will consider the application at the July 8, 2010 Planning Commission meeting.

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. Prior to Planning Commission approval, the applicant must obtain the approval of the State Office of History in accordance with the provisions of SDCL 1-19A-11.1;
2. A minimum 5 foot wide clear pedestrian path shall be maintained at all times as per the applicant's site plan;
3. A physical barricade shall be provided around the sidewalk café as proposed. In

particular, the barricade shall consist of a 3 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;

4. The dry-erase A-frame sandwich board sign shall be 22 inches wide by 31 inches high 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;
5. The tables and chairs shall be constructed with wrought iron and be black in color as proposed;
6. The umbrellas shall be constructed with canvas and be beige in color with brass poles as proposed. No logos or other forms of advertisement shall be allowed on the proposed umbrellas. In addition, the umbrellas shall be located a minimum of 7 feet above the sidewalk when open;
7. 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;
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;
9. The City reserves the right to require revisions to the approved sidewalk café in the right-of-way as needed to accommodate public infrastructure improvements, including and not limited to sewer, water, storm drainage, private and public utilities, and pedestrian and vehicle access; and,
10. 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.