



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: **November 18, 2010**

RE: File #10SC004-A Sidewalk Café Permit request by Dublin Square, Inc. for property legally described as Main Street right-of-way located adjacent to Lots 15 and 16, Block 83, Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota

(Updated November 9, 2010. All added and/or revised text is shown in bold print.) This item was continued to the November 18, 2010 Planning Commission meeting to allow the applicant to submit a revised site plan for the proposed sidewalk café. On November 9, 2010 the applicant submitted a revised site plan.

(Updated October 25, 2010. All added and/or revised text is shown in bold print.) This item was continued to the November 4, 2010 Planning Commission meeting to allow the applicant to submit a revised site plan for the proposed sidewalk café. The applicant has indicated that he would be unable to submit the revised plan by the November 4, 2010 meeting and has requested that this item be continued to the November 18, 2010 Planning Commission meeting.

(Updated October 12, 2010. All added and/or revised text is shown in bold print.) This item was continued to the October 21, 2010 Planning Commission meeting to allow the applicant to submit a revised site plan for the proposed sidewalk café.

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



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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 15, 2009, the Planning Commission approved a Sidewalk Café Permit for the property to allow a sidewalk café in the Main Street Right-of-Way adjacent to Dublin Square Lounge on the legally described property. The previously approved sidewalk café consisted of seven tables and chairs to be located within a 7 foot wide by 50 foot 4 inch long area with a stanchion and chain barricade with one entrance point.

On August 30, 2010, the applicant submitted a Sidewalk Café Permit application to amend the previously approved sidewalk café. In particular, the proposed sidewalk café will consist of five tables with chairs to be located within a 7 foot wide by a 37 foot long area on the existing 14 foot 2 inch wide sidewalk. The proposed sidewalk café will include a barricade consisting of a black wrought iron fence replacing the stanchion and chain barrier. Staff review has noted that the submitted site plan is missing some required information including the locations of street signs, utility structures and monuments. The Sidewalk Café Permit Ordinance requires that a minimum 5 foot wide clear pedestrian path must be maintained at all times. The locations of street elements such as street sign, utility structures, monuments and the like must be identified to ensure that the required 5 foot clear pedestrian path is being provided and maintained. In addition, a staff inspection of the site on September 8, 2010 revealed that the width of the area of the sidewalk that the café is proposed to be located is only 14 feet 2 inches wide and not the 15 feet 8 inches as identified on the site plan. As such, prior to Planning Commission approval, a revised site plan identifying the location of street signs, utility structures, monuments and the required 2 foot wide barrier to the curb face must be submitted for review and approval.

The applicant has submitted a detail of the proposed barricade to be placed around the sidewalk café. The proposed barricade will consist of a 4 foot high black wrought iron 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 fence to the sidewalk, a Permit to Work in the Right-of-Way must be obtained from the Public Works Department. The applicant is the responsible for keeping the sidewalk abutting the property free of snow and ice in compliance with Section 12.20.070 of the Rapid City Municipal Code. The railing anchored to the sidewalk may make snow removal more difficult on this portion of the sidewalk. As such, staff recommends that the applicant continually provide snow and ice removal maintenance in compliance with Section 12.20.070.

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. As of this writing, the applicant has not submitted the necessary insurance coverage for the proposed sidewalk café. As such, prior to approval by the Planning Commission, the applicant must submit a certificate of insurance providing commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and

property damage liability for review and approval by the City Attorney's Office. (Updated September 27, 2010.) The applicant has submitted the required certificate of insurance for the proposed sidewalk café. The City Attorney's Office and Risk Manager have indicated that the certificate meets all City requirements.

As previously stated, a complete site plan with all street elements has not been provided. As such, staff is unable to determine if the applicant's Sidewalk Café Permit request meets all of the design criteria and requirements of Chapter 12.20.020(E). As such, prior to Planning Commission approval, a revised site plan identifying the location of street signs, utility structures, monuments and the required 2 foot wide barrier to the curb face must be submitted for review and approval. **(Updated November 9, 2010.) The applicant submitted a revised site plan identifying the location of street signs, utility structures, street lights and 2 foot wide barrier to the curb face. Staff review has noted that the minimum 5 foot wide clear pedestrian path will be maintained adjacent to the sidewalk café.** (Updated October 25, 2010.) As of this writing, a revised site plan has not been submitted. (Updated October 12, 2010.) As of this writing, a revised site plan has not been submitted. (Updated September 30, 2010.) As of this writing, a revised site plan has not been submitted. 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, a revised site plan must be submitted identifying the location of street signs, utility structures and monuments, the required 2 foot wide barrier to the curb face, and accurately reflect the width of the sidewalk where the proposed sidewalk café will be located;
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 barricade shall consist of a black wrought iron railing 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. No portion of the sidewalk café shall be located within the Mount Rushmore Road right-of-way;
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;
7. The sidewalk shall continually be kept free of snow and ice in compliance with Section 12.20.070 of the Rapid City Municipal Code;
8. The City reserves the right to require revisions or to revoke 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,
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.