



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

## Growth Management Department

300 Sixth Street

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### MEMORANDUM

TO: Planning Commission

FROM: Karen Bulman, Planner II

DATE: April 11, 2011

RE: File #11SW004: A Sidewalk Vendor Permit request by John Ashley for property legally described as 6<sup>th</sup> Street right-of-way, located adjacent to the Lot 1-3, Block 94, Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City Pennington County, South Dakota

On August 3, 2009, the City Council approved Ordinance No. 5521 to create a Sidewalk Vendor Permit by amending Chapter 12.20.020(F) of the Rapid City Municipal Code. In particular, Ordinance No. 5521 states that sidewalk vendors are permitted only in the Central Business District and may only sell food, non-alcoholic beverages and cut flowers. Sidewalk vendors 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 vendors 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 vendors.

The Sidewalk Vendor Permit Ordinance also sets forth design criteria regulating vending units, canopies/umbrellas, signage, lighting, noise and other miscellaneous criteria to be utilized by the sidewalk vendor. In addition, the Sidewalk Vendor Permit Ordinance requires that every sidewalk vendor permit holder furnish a certificate of insurance providing commercial insurance coverage of at least \$2,000,000 per occurrence 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 vendor.

On March 25, 2011, the applicant submitted a Sidewalk Vendor Permit application to allow a sidewalk vendor to be located in the 6th Street right-of-way as it abuts the above legally described property. The sidewalk vendor area does not exceed 60 square feet. A vending unit,



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coolers, a heater, and a trash can will be located within the vendor area. The vendor will sell hot dogs with condiments, candy, chips, cut flowers, and assorted non-alcoholic beverages (bottled water and soda). The site plan identifies the sidewalk vendor area and all items within the vendor area. In addition, the site plan demonstrates that a minimum of a 5 foot wide pedestrian clear area is being maintained between the sidewalk vendor and the overhang of any car parked on the street adjacent to the sidewalk vendor area.

Chapter 12.20.020 of the Rapid City Municipal Code must be maintained at all times. The area within and surrounding a sidewalk vending unit must be maintained in a clean, neat and sanitary condition. Wastewater must be disposed of into the sanitary sewer system and is not permitted to be dumped into the storm water system or flow onto the sidewalk and into the gutter.

The applicant has indicated that he is in the process of completing the requirements of the State of South Dakota for obtaining the licenses necessary for the sale of food items. To date, staff has not received a copy of the license. Prior to initiation of use, a copy of the license must be provided to the Growth Management Department.

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 City Attorney's Office has reviewed and approved the Certificate of Insurance. This certificate must be continually renewed.

The applicant has a valid sidewalk vendor license approved by the Rapid City Council on February 7, 2011.

As the 6<sup>th</sup> Street Reconstruction project is currently under construction, a 5 foot pedestrian clear area is not possible. As such, the initiation of the use for this Sidewalk Vendor Permit must occur only after the reconstruction of 6<sup>th</sup> Street is completed.

Staff has reviewed the applicant's Sidewalk Vendor Permit request and determined that it meets all of the design criteria and requirements of Chapter 12.20.020(F).

**RECOMMENDATION: Staff recommends that the Planning Commission approve the Sidewalk Vendor Permit request with the following stipulations:**

- 1. A minimum 5 foot wide clear pedestrian path shall be maintained at all times;**
- 2. A maximum of 60 square feet of space can be occupied by vendor and no permanent hardware shall be affixed to the sidewalk or adjacent buildings;**
- 3. The vendor must have an approved 2A10BC minimum rated fire extinguisher maintained in an accessible location at all times;**
- 4. A valid sidewalk vendor license approved by the Rapid City Council per Chapter 5.56 of the Rapid City Municipal Code be provided and renewed yearly. The Sidewalk Vendor Permit shall automatically expire if the Sidewalk Vendor License is suspended, revoked or expired;**
- 5. Prior to the initiation of the use, a copy of the permit(s) issued by the State Department of Health for food related establishments shall be obtained and copies submitted to the Growth Management office. The permit(s) shall be renewed annually, or as required;**
- 6. Prior to initiation of the use, the 6<sup>th</sup> Street reconstruction project shall be completed;**
- 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 vendor. 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;**

- 8. All wastewater shall be disposed of into the sanitary sewer system;**
- 9. The proposed sidewalk vendor shall conform to the plans and design criteria submitted as part of this Sidewalk Vendor Permit and shall be operated in compliance with Chapter 12.20.020(F) of the Rapid City Municipal Code at all times; and,**
- 10. The Sidewalk Vendor Permit may be revoked for cause, consisting of failure to maintain the standards required for this permit as per Chapter 12.20.020(F).11.**