



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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MEMORANDUM

TO: Rapid City Planning Commission

FROM: Karen Bulman, Planner II

DATE: May 12, 2011

RE: File #11SC002: A Sidewalk Cafe Permit request by Pam Lang for Zoom Soda & Candy for property legally described as the west 14.4 feet of Lot 7 and all of Lots 8-10 of Block 85 of the Original Town of Rapid City located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 515 Main Street.

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 6, 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 Zoom

Soda and Candy Store. The proposed sidewalk café will consist of two tables, each with two chairs. The site plan demonstrates that a 5 foot wide pedestrian clear area is being maintained between the sidewalk cafe and the street tree as well as an 11 foot wide pedestrian clear area between the sidewalk café and the curb face.

The applicant has submitted a detail of the proposed bistro tables and chairs identifying that they will be constructed of metal and be red in color. As the awning of the building extends beyond the table and chairs, there will be no umbrellas over the tables.

A Certificate of Insurance in the amount of \$2,000,000 naming the City of Rapid City as an additional insured must be submitted for review and approval by the Attorney's Office prior to initiation of use.

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. The bistro tables and chairs shall be constructed of metal and be red in color as proposed;
3. Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall continually be provided. The coverage shall be in place prior to initiation of use. 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;
4. 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;
5. 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,
6. 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.