



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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MEMORANDUM

TO: Rapid City Planning Commission

FROM: Fletcher Lacock, Planner I

DATE: June 23, 2011

RE: File #11SC003: A Sidewalk Cafe Permit request by Michelle Peregrine for Botticelli Ristorante Italiano for property legally described as the Main Street right-of-way located adjacent to the north 80.5 feet of Lot 12 and the east 15 feet of the north 80.5 feet of Lot 13 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 523 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 June 8, 2011, the applicant submitted a Sidewalk Cafe Permit application to allow a sidewalk cafe 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 Botticelli Ristorante Italiano. The stated purpose of the sidewalk café is to provide a waiting area for customers. Drinks will be served and perhaps appetizers in the future.

The sidewalk café will consist of 4 tables enclosed by a 7 foot by 32 foot wrought iron barricade with a 6 foot 5 inch opening. A 5 foot 7 inch wide pedestrian clear area is being maintained between the sidewalk café and a parking sign.

The applicant has submitted a Certificate of Insurance; however, Risk Management has found that the insurance does not name the City as an additional insured and does not provide the correct coverage. The revised Certificate of Insurance must be submitted prior to initiation of use. This certificate must be continually renewed.

The applicant has submitted photographs of the tables, planters and barricade as installed. Staff has reviewed the applicant's Sidewalk Cafe Permit request and determined that it meets all of the design criteria and requirements of Chapter 12.20.020(E).

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

- 1. Prior to initiation of the use, a revised Certificate of Insurance shall be submitted for review and approval naming the City as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. The coverage shall be for \$2,000,000 per occurrence or \$1,000,000 per occurrence and a \$1,000,000 umbrella. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked.**
- 2. A minimum 5 foot wide clear pedestrian path shall be maintained at all times as per the applicant's site plan.**
- 3. 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,**
- 4. 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.**