



CITY OF RAPID CITY

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MEMORANDUM

TO: Mayor and City Council

FROM: Joel P. Landeen, Assistant City Attorney

DATE: 11/2/11

RE: Request by Rubloff Rapid City LLC to convert on-premises sign to off-premises sign

During the discussion at the Public Works' Committee Meeting there were numerous questions about the proposed exception and the applicant's request. The committee asked that the actual ordinance containing the exception be linked to the agenda. For some background, this exception was created to accommodate the sign for the hotel adjacent to Ruby Tuesday. The hotel and restaurant were developed by the same owner on a single lot. The sign for the restaurant and hotel were both placed on the portion of the lot adjacent to Rushmore Road. The owner later decided to sell one of the businesses. In order to accomplish the sale, they needed to plat the hotel and restaurant into separate parcels. The proposed platting would have resulted in the hotel's sign being on a separate parcel from where the hotel was located. The property owner did not want to tear down the current sign and build a new one farther back from Rushmore Rd. The Council created an exception to accommodate this situation.

The current applicant is in virtually the same situation. It developed a commercial property on one parcel which consists of PetSmart and a currently vacant strip mall. They wish to replat the development into a lot for PetSmart and the strip mall. There is currently a sign located along the south edge of the property facing the interstate. This sign has PetSmart on it and spaces for the businesses located in the strip mall. By platting this property into two lots, the owners could no longer use the spaces for the strip mall businesses on this sign.

Just to be clear, the requested exception does not allow the applicant to convert the current sign to a traditional off-premises billboard. Per the ordinance, the sign structure cannot be structurally altered from what is currently there. Furthermore, the owner must designate

which two parcels the sign serves and can only place businesses, goods or services which are located on those two parcels on the sign. The sign functions as an on-premises sign, but for two parcels instead of just one.

The ordinance which allows the exception is 17.28.050(Q). I have copied it below and have underlined the portion of the ordinance which establishes the findings the Council needs to make in order to approve the exception.

Q. No on-premises signs shall be converted to an off-premises sign, unless all of the requirements of this code are satisfied. Notwithstanding this subsection, on-premises signs may be converted to off-premise signs if all of the following criteria are satisfied:

1. The sign that is being converted must be a legal, pre-existing, on-premises sign.
2. The conversion of the sign from an on-premises sign to an off-premises must be the result of the subdivision of an existing platted parcel of land.
3. The Rapid City Common Council determines, based on the totality of the circumstances taking into consideration the size, location, height and design of the current sign, and the location and topography of the parcel being served by the sign, that allowing the existing sign to remain will not be contrary to the public interest and will be in the best interests of justice.
4. The process for getting approval to convert a legal on-premises sign to an off-premises sign under this exception is as follows:
 - a. Application to convert the sign from an on-premises sign to an off-premises sign must be submitted to the Sign Code Board of Appeals who shall review the application for compliance with the mandatory criteria and after having reviewed the application shall forward a recommendation for approval or denial to the Rapid City Common Council;
 - b. The Rapid City Common Council shall review the application, along with the recommendation of the Sign Code Board of Appeals, and must determine that all the mandatory criteria are met prior to granting its approval for the conversion of the sign from on-premises to off-premises;
 - c. The decision to allow the conversion of an on-premises sign to an off-premises sign is within the sole discretion of the Common Council and its decision on the issue is final.
5. Additional regulations that apply to converted signs:
 - a. At the time the application for conversion of the existing sign is submitted, the applicant must designate up to two specific parcels which the sign will serve. The converted sign will be treated as an on-premises sign for the businesses located on the designated parcels; and
 - b. The converted off-premises sign may not be expanded or structurally altered in any way except that advertising copy may be altered; and
 - c. The converted off-premises sign shall not ever be eligible for off-premises sign credits; and
 - d. At such time as the use of the property being served by the converted off-premises sign changes, the face of the converted off-premises sign may be changed to advertise that new use.

There was also a letter from the SD DOT expressing concerns about the sign. The sign needs to be in compliance with both the City ordinance and state law. Approval of this

exception will give the applicant the ability to proceed under city ordinance. They will still need to comply with state law which is something that they will need to work out with the SD DOT.

Please feel free to contact me should you have any additional questions or concerns prior to the meeting.