



CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-5035

Growth Management Department

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MEMORANDUM

TO: Planning Commission

FROM: Monica Heller, Community Planning Coordinator

DATE: September 28, 2010

RE: Sidewalk Requirements

Four proposed ordinance amendments were developed as a result of the January 19, 2010 Special Planning Commission Meeting. At the March 4, 2010 Planning Commission meeting, staff was directed to hold an open house to give the public the opportunity to review and provide input on the four proposed ordinance amendments.

The proposed ordinance amendments were posted on the City's website and over 300 postcards were sent out to notify developers, consultants and other interested parties of the open house. The open house was held on March 23, 2010 in the Third Floor Conference Room at the City School Administration Center. A total of 6 people attended the meeting. Public feedback was gathered via conversations with attendees and one written comment sheet. In addition to the comment sheet and conversational comments received at the meeting, staff received phone calls from interested parties.

Each proposed amendment is listed below with the comments received and staff recommendation:

Proposed Amendment to Section 12.16.080 to require the installation of a sidewalk when a property is redeveloped or expanded - There is currently no requirement for sidewalk to be constructed as part of a redevelopment or expansion of an existing development. The following ordinance amendment would require a sidewalk to be constructed along all abutting streets, highways and avenues when a building permit is granted to enlarge by 20% or more a structure or parking lot on the property or increase the occupant load by 20% or more. This is consistent with the requirement to bring a property into compliance with the landscaping ordinance.



EQUAL HOUSING
OPPORTUNITY

EQUAL OPPORTUNITY EMPLOYER

12.16.080 New or relocated residential or commercial buildings. New and Existing Developments

- A. *Conformance with sidewalk requirements – exceptions.* The construction of a permanent sidewalk fronting or abutting all streets, highways and avenues shall be accomplished by the builder, owner or developer of all new or **relocated existing** residential or commercial buildings within the city, except in the following circumstances:
1. When the Common Council, pursuant to Chapter 17.50 of this code, approves a planned unit development or planned residential development incorporating a sidewalk plan unique to the development;
 2. When the lot has a frontage in excess of 200 feet per dwelling unit located on the lot and is in the General Agricultural Zoning District; however, if the lot abuts or is adjacent to a lot with existing sidewalk, this exception shall not apply;
 3. When the property has frontage along a federal interstate, a sidewalk will not be required along the federal interstate;
 - 4.** When the Common Council, in its sole discretion, approves a variance from sidewalk requirements.
 - 4.5.** All property with existing development on the effective date of these regulations which is not in compliance with the provisions of these regulations shall be considered nonconforming and allowed to continue until such time as a building permit is granted to enlarge by 20% or more a structure or parking lot on the property or increase the occupant load by 20% or more. A waiver of right to protest shall be required prior to a building permit being granted to enlarge by less than 20% a structure or parking lot on the property or increase the occupant load by less than 20%. Nothing in this section shall limit the City Council's ability to order the installation of sidewalk in accordance with the provision of 12.16.020.
- B. *Inspection prerequisite to certificate of occupancy–bond.* No certificate of occupancy shall be issued nor shall a water meter be released until a final inspection by the Building Official reveals that security in an amount equal to the estimated cost of construction of the sidewalk, whereby the sidewalk will be constructed without cost to the city in the event of default by the builder, owner or developer of the property. All bonds and other methods of guarantee shall be approved by the City Attorney.
- C. *Application for variance.* Any person aggrieved by any decision of the Building Official under this section may apply in writing to the Common Council for an **exception-variance** from the requirements of this section.

(Ord. 5410, 2008: prior code § 26-55)

Public Comment

Staff received some public comment that this would increase the cost of redevelopment and that sidewalk should be ordered in as needed and not automatically required as part of a redevelopment

Staff Recommendation

Staff recommends proceeding with the proposed ordinance amendment. The ordinance allows for the Common Council to grant an exception to the requirement.

Proposed Amendment to Section 12.16.070 to increase the width of sidewalks to 5 feet on certain roadways to meet ADA requirements - The current required width of four feet is not consistent with ADA requirements. The current ADA requirements require sidewalks that are less than 5 feet in width to have a 5 foot by 5 foot landing every 200 feet. In order to address this requirement, most communities have increased the minimum width of sidewalks to 5 feet, with the exception on local residential roads, where there is typically a driveway every 200' that can act as the 5 foot by 5 foot landing.

12.16.070 Width.

- A. The width of all sidewalks, except in the business district described in subsection B. of this section, shall be 4 feet on lane/place and local roads and 5 feet on all other roads. Sidewalks shall be constructed in the right-of-way 1 foot from the property line, unless otherwise directed or approved by the City Engineer. ~~;~~ ~~provided, h~~ However, ~~that,~~ in any block in which the majority of the sidewalks have been constructed at a greater width, all newly constructed sidewalk shall be constructed at the same width as those existing sidewalks. ~~;~~ ~~s~~ Sidewalks to be constructed adjacent to the curb in accordance with subsection C. of this section shall be 5 feet in width for lane/place and local roads and 6 feet for all other roads. Any proposed ~~4-foot wide~~ sidewalk to be constructed which will abut an existing wider sidewalk shall be constructed to provide a transition between the different widths as approved by the City Engineer.
- B. In the business district, Rapid Street to Kansas City Street and East Boulevard to West Boulevard, sidewalks shall be constructed from the curb line to the property line.
- C. In the event the property owner wishes to place a sidewalk contrary to the city ordinances, the property owner must file in the city's Finance Officer's office a petition stating the specific reasons for the request. The Common Council shall act on the petition at its next regular scheduled meeting. The petitioner shall pay any expenses incurred as a result of their application, including any costs of engineering and surveying.

(Prior code § 26-54)

Public Comment

Staff received some questions on the proposed amendment, but no opposition was noted.

Staff Recommendation

Staff recommends proceeding with the proposed ordinance amendment.

Proposed Amendment to Section 16.16.090 to require sidewalks be constructed within a certain time frame - The current requirements do not require sidewalks to be installed within a certain time frame. This can create a non continuous sidewalk for many years.

16.16.090 Sidewalks.

Sidewalks shall be constructed on both sides of all public or private streets in conformity with the design standards set forth in the Street Design Criteria Manual, standard specifications and Title 12 of this code unless an exception or variance has been granted. The responsibility for constructing sidewalks shall be divided as follows:

- A. The subdivider/developer will be responsible for constructing all corner ramps, **and** all sidewalks on lots which no building permit is anticipated (drainage lots, utility lots or other common lots), **and a continuous sidewalk on one side of every street**. The subdivider/developer will be required to have the above sidewalks installed within 2 years from the date the final plat has been approved.
- B. All other sidewalks will be installed at the time a building permit for the lot is obtained. If at the time of final inspection, a sidewalk which conforms to City specifications has not been installed, no certificate of occupancy will be issued. If a person or entity holding a residential contractor license builds a house or other building on a parcel and does not comply with this section more than 1 time in a year the City shall require that they post a bond or other form of surety to guarantee the completion of sidewalks on all other projects on which they are working. If they fail to post a bond or other suitable surety then City Building Official or their designee may order that work be stopped until such time as the sidewalk is installed or the surety has been posted. Any person or entity that is required to post surety pursuant to this paragraph may, after having corrected the problems which resulted in them being required to post surety, request that the City Council consider their subsequent actions and remove the requirement that they post surety on future projects. If a majority of the City Council votes to remove the requirement they post surety then the person/entity will no longer be required to post surety unless there is a subsequent violation.

(Ord. 5157, 2006: Ord. 3112 (part), 1994: prior code Appendix B (Art. V, §10))

Public Comment

The major message received at and following the Open House was that there was not a need to amend the Subdivision Ordinance (Item 3 - 16.16.090 Sidewalks) to require the subdivider/developer to install sidewalks prior to building permits. In 2006, the Council Development Committee recommended and the City Council approved an ordinance amendment to allow sidewalks to be constructed at the time a building permit for each lot was obtained. This ordinance went into effect on August 7, 2006.

Staff Recommendation

The general consensus of those commenting was that the recent revisions are working and that additional time will be necessary to determine the effectiveness of these changes. Based on this information, staff recommends that the requirement to provide a continuous sidewalk on one side of every street not be implemented. However, staff has noted that further clarification should be made to Chapter 16.16.090 to include the construction of a sidewalk between the corner ramps and to require sidewalks that are required as part of the subdivision process within the City's three mile platting jurisdiction, but outside

the City limits, be constructed with the roadway. The County currently does not require sidewalks to be constructed at the time of building permit.

Proposed Amendment to add Section 17.50.305 to require a sidewalk connection from the right-of-way to a building - There is currently no requirement to provide a sidewalk connection from the right-of-way to a building. The proposed amendment would require a sidewalk connection from a sidewalk located along a public roadway to the entrance of the primary structure.

17.50.305 Minimum pedestrian access requirement.

A. Duty to provide and maintain pedestrian access.

- 1. All non-residential buildings will be required to have a minimum of one sidewalk connection from a sidewalk located along a public roadway to the entrance of the primary structure. (A painted crosswalk may only be used for sidewalk crossing within drive aisles.) If no sidewalk exists along the public roadway(s) the development must also construct sidewalk(s) along the full length of the site's property line(s) abutting public roadways within the existing or proposed public right-of-way.**
- 2. Every building, or portion of building hereafter erected, and every initiation or expansion of use involving an existing building, shall be provided with permanently maintained pedestrian access as provided in this chapter.**

B. Initiation and expansion of use. Every building, structure or use which does not conform to the requirements of this title shall conform with the provisions of this section when a use is initiated or expanded

- 1. A use is initiated when:**
 - a. A building or structure is erected;**
- 2. A use is expanded when:**
 - a. An existing building or structure is enlarged by 20% or more with respect to square feet of gross floor area (SFGFA);**
 - b. An existing building or structure is modified internally to accommodate an increased occupant load of 20% or more, as determined by the current building codes adopted by the City of Rapid City;**
 - c. A use is expanded by 20% or more as measured by area, employees, rooms, seats, dwelling units or occupants.**

Public Comment

Staff received some questions on the proposed amendment, but no opposition was noted.

Staff Recommendation

Staff recommends proceeding with the proposed ordinance amendment.

Based on the public comment received and further review by staff, staff recommends proceeding with the proposed ordinance amendments to Sections 12.16.080, 12.16.070 and 17.50.305 listed above and making no change to when the sidewalk is required to be constructed under Chapter 16. However, staff has noted that further clarification should be made to Chapter 16.16.090 to include the construction of a sidewalk between

the corner ramps and to require sidewalks that are required as part of the subdivision process within the City's three mile platting jurisdiction, but outside the City limits to be constructed with the roadway. The County currently has no requirements that sidewalks are constructed with the building permit

Staff Recommendation: Authorize staff to advertise for public hearing to consider an amendment to amend Sections 12.16.080, 12.16.070, 16.16.090 and 17.50.305, consistent with the attached ordinance amendments.

12.16.080 ~~New or relocated residential or commercial buildings.~~New and Existing Developments

- D. *Conformance with sidewalk requirements – exceptions.* The construction of a permanent sidewalk fronting or abutting all streets, highways and avenues shall be accomplished by the builder, owner or developer of all new or ~~relocated-existing~~ residential or commercial buildings within the city, except in the following circumstances:
1. When the Common Council, pursuant to Chapter 17.50 of this code, approves a planned unit development or planned residential development incorporating a sidewalk plan unique to the development;
 2. When the lot has a frontage in excess of 200 feet per dwelling unit located on the lot and is in the General Agricultural Zoning District; however, if the lot abuts or is adjacent to a lot with existing sidewalk, this exception shall not apply;
 3. When the property has frontage along a federal interstate, a sidewalk will not be required along the federal interstate;
 4. When the Common Council, in its sole discretion, approves a variance from sidewalk requirements.
 5. All property with existing development on the effective date of these regulations which is not in compliance with the provisions of these regulations shall be considered nonconforming and allowed to continue until such time as a building permit is granted to enlarge by 20% or more a structure or parking lot on the property or increase the occupant load by 20% or more. A waiver of right to protest shall be required prior to a building permit being granted to enlarge by less than 20% a structure or parking lot on the property or increase the occupant load by less than 20%. Nothing in this section shall limit the City Council's ability to order the installation of sidewalk in accordance with the provision of 12.16.020.
- E. *Inspection prerequisite to certificate of occupancy–bond.* No certificate of occupancy shall be issued nor shall a water meter be released until a final inspection by the Building Official reveals that security in an amount equal to the estimated cost of construction of the sidewalk, whereby the sidewalk will be constructed without cost to the city in the event of default by the builder, owner or developer of the property. All bonds and other methods of guarantee shall be approved by the City Attorney.
- F. *Application for variance.* Any person aggrieved by any decision of the Building Official under this section may apply in writing to the Common Council for an exception ~~variance~~ from the requirements of this section.

(Ord. 5410, 2008: prior code § 26-55)

12.16.070 Width.

- D. The width of all sidewalks, except in the business district described in subsection B. of this section, shall be 4 feet on lane/place and local roads and 5 feet on all other roads. Sidewalks shall be constructed in the right-of-way 1 foot from the property line, unless otherwise directed or approved by the City Engineer. ~~;~~ ~~provided, h~~ However, ~~that,~~ in any block in which the majority of the sidewalks have been constructed at a greater width, all newly constructed sidewalk shall be constructed at the same width as those existing sidewalks. ~~;~~ ~~s~~ Sidewalks to be constructed adjacent to the curb in accordance with subsection C. of this section shall be 5 feet in width for lane/place and local roads and 6 feet for all other roads. Any proposed ~~4-foot wide~~ sidewalk to be constructed which will abut an existing wider sidewalk shall be constructed to provide a transition between the different widths as approved by the City Engineer.
- E. In the business district, Rapid Street to Kansas City Street and East Boulevard to West Boulevard, sidewalks shall be constructed from the curb line to the property line.
- F. In the event the property owner wishes to place a sidewalk contrary to the city ordinances, the property owner must file in the city's Finance Officer's office a petition stating the specific reasons for the request. The Common Council shall act on the petition at its next regular scheduled meeting. The petitioner shall pay any expenses incurred as a result of their application, including any costs of engineering and surveying.

(Prior code § 26-54)

16.16.090 Sidewalks.

Sidewalks shall be constructed on both sides of all public or private streets in conformity with the design standards set forth in the Street Design Criteria Manual, standard specifications and Title 12 of this code unless an exception or variance has been granted. The responsibility for constructing sidewalks shall be divided as follows:

- C. The subdivider/developer will be responsible for constructing all corner ramps, ~~and a sidewalk connecting the corner ramps,~~ all sidewalks on lots which no building permit is anticipated (drainage lots, utility lots or other common lots) and all sidewalks outside the City limits. The subdivider/developer will be required to have the above sidewalks installed within 2 years from the date the final plat has been approved.
- D. All other sidewalks will be installed at the time a building permit for the lot is obtained. If at the time of final inspection, a sidewalk which conforms to City specifications has not been installed, no certificate of occupancy will be issued. If a person or entity holding a residential contractor license builds a house or other building on a parcel and does not comply with this section more than 1 time in a year the City shall require that they post a bond or other form of surety to guarantee the completion of sidewalks on all other projects on which they are working. If they fail to post a bond or other suitable surety then City Building Official or their designee may order that work be stopped until such time as the sidewalk is installed or the surety has been posted. Any person or entity that is required to post surety pursuant to this paragraph may, after having corrected the problems which resulted in them being required to post surety, request that the City Council consider their subsequent actions and remove the requirement that they post surety on future projects. If a majority of the City Council votes to remove the requirement they post surety then the person/entity will no longer be required to post surety unless there is a subsequent violation.

(Ord. 5157, 2006: Ord. 3112 (part), 1994: prior code Appendix B (Art. V, §10))

17.50.305 Minimum pedestrian access requirement.

A.C. Duty to provide and maintain pedestrian access.

1. All non-residential buildings will be required to have a minimum of one sidewalk connection from a sidewalk located along a public roadway to the entrance of the primary structure. (A painted crosswalk may only be used for sidewalk crossing within drive aisles.) If no sidewalk exists along the public roadway(s) the development must also construct sidewalk(s) along the full length of the site's property line(s) abutting public roadways within the existing or proposed public right-of-way.
2. Every building, or portion of building hereafter erected, and every initiation or expansion of use involving an existing building, shall be provided with permanently maintained pedestrian access as provided in this chapter.

B.D. Initiation and expansion of use. Every building, structure or use which does not conform to the requirements of this title shall conform with the provisions of this section when a use is initiated or expanded

1. A use is initiated when:
 - a. A building or structure is erected;
2. A use is expanded when:
 - a. An existing building or structure is enlarged by 20% or more with respect to square feet of gross floor area (SFGFA);
 - b. An existing building or structure is modified internally to accommodate an increased occupant load of 20% or more, as determined by the current building codes adopted by the City of Rapid City;
 - c. A use is expanded by 20% or more as measured by area, employees, rooms, seats, dwelling units or occupants.