



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: May 18, 2017

Staff Contact: Lee Plemel, Community Development Director

Agenda Title: For Possible Action: To consider a request from Doug Cramer to approve a vendor cart to be located on McFadden Plaza at 224 S. Carson Street (Mom & Pop's Diner), pursuant to the provisions of the Carson City Municipal Code, Development Standards Division 1.11 and Downtown Mixed Use Development Standards, Division 6.6.9. (Lee Plemel, lplemel@carson.org)

Staff Summary: Pursuant to the Carson City Downtown Mixed Use (DTMU) zoning district Development Standards, Division 6, Section 6.6.9(3), the Redevelopment Authority Citizens Committee (RACC) shall serve as the "vending review board" to review all applications for street vending. The RACC reviewed the application on May 1, 2017, and referred the application to the Board of Supervisors with the applicant's concurrence. Street vendor carts are permitted in the DTMU district subject to the standards identified in the Development Standards Section 6.6.9(3) and Section 1.11 (Street Vendors).

Agenda Action: Formal Action/Motion

Time Requested: 20 minutes

Proposed Motion

I move to remand the subject application to the RACC for review consistent with the Development Standards, Division 6, section 6.6.9(3).

Board's Strategic Goal

Economic Development

Previous Action

May 1, 2017: The RACC reviewed the application and, at the request of and with the applicant's concurrence, referred the application to the Board of Supervisors for consideration.

Background/Issues & Analysis

The applicant—the owner of Mom & Pop's Diner—is proposing to sell various foods and beverages from a food cart on McFadden Plaza. The proposed sales area would include tables for condiments and other accessory items. Food items would be prepared and packaged in the Mom & Pop's kitchen and kept warm for sale at the vendor cart. See the attached application for more details on the proposed food cart. This is the first application the City has received for a vendor cart under the provisions adopted in the Carson City Municipal Code in 2006.

The RACC is designated as the "vending review board" and has authority to make a final decision on vendor cart applications. Because the proposed vendor cart is not a traditional, self-contained "hot dog cart" style cart and the RACC had some concerns about the aesthetics of the setup and other questions, the RACC has referred this item to the Board of Supervisors for its action on the application. More details on the RACC's concerns are noted below in the staff comments regarding the specific vendor cart code standards.

Decisions of RACC may be appealed to the Board of Supervisors.

Following are the Carson City Municipal Code Development Standards related to downtown vendor carts, with staff analysis for each standard:

1. *Street vendors shall be approved at a specific, permanent location.*

Staff comments: The applicant is requesting the vendor cart for the specific location at 224 S. Carson Street. A person may operate a vendor cart at various locations, but each location would need to be specifically approved. This application is only for the one location.

RACC members expressed some concern regarding vendor carts on McFadden Plaza, particularly outside the permitted outdoor seating space designated by the Encroachment Permit standards. The site plan submitted with the application is not to scale so it was not clear to RACC. Staff confirms that the proposed location is within the permitted Encroachment Permit area per the standards adopted by the Board of Supervisors on May 4, 2017. It is appropriate for vendor carts to be located within the encroachment permit areas in order to maintain public access along the sidewalks.

2. *Carts used for street vending shall be on wheels and the carts shall not be larger than 3 feet by 5 feet.*

Staff comments: The proposed vendor cart is on wheels and not larger than three feet by five feet. Additional tables are proposed to be used to serve customers and for condiments.

RACC members expressed concerns about the "cart" not being a traditional hot dog cart style and concerns with the additional tables taking up more space than the cart alone. The proposed cart meets the size requirement, but the additional tables and wash facilities (a sink) occupy additional space. Staff believes the initial intent of the vending cart code provisions was to have self-contained carts with a limited "footprint" so as not to occupy a too large an area of the right-of-way and to limit the food and beverages sold so as not to significantly compete with other restaurants. Should the Board approve the request, recommended condition of approval #2 would limit the use of the tables to condiments and customer transaction counter space only and limit the display of merchandise to the 3' by 5' cart.

3. *Only consumable products may be sold from a street vendor cart.*

Staff comments: The applicant proposes to only sell consumable products from the cart.

4. *If located within a city or state right-of-way, encroachment permits and liability insurance shall be required.*

Staff comments: The proposed location of the vendor cart is within the City right-of-way, within McFadden Plaza. An Encroachment Permit will be required from the Public Works Department and the applicant must comply with all conditions of the Encroachment Permit. The Board of Supervisors will consider new Encroachment Permit standards on May 18, 2017. The Encroachment Permit regulations require the applicant to obtain certain liability insurance in compliance with this requirement.

RACC members noted concern that they were not clear on whether or not the proposed would meet the pending Encroachment Permit standards, particularly with regard to location as noted above. Recommended condition of approval #4 would require the applicant to obtain and comply with the requirements of an Encroachment Permit. Authorization for the vendor cart does not guarantee that other elements of the proposed operation are permitted in compliance with the Encroachment Permit standards. The Board may limit the use of additional tables and other equipment as part of the review of this application.

5. *If adjacent to or in front of a business not their own, the street vendor cart operator shall be responsible for obtaining permission of the affected business and property owner and shall submit written evidence of such permission.*

Staff comments: The proposed vendor cart is located in front of the applicant's business, and the business owner has permission from the property owner.

6. *If adjacent to or in front of a property listed in the Carson City historic district, review, approval and compliance with conditions of the HRC shall be required.*

Staff comments: Not applicable. The St. Charles Hotel property is in the Historic District and is across the right-of-way to the south of the subject site, but it is technically not the property "adjacent" to the vendor cart location per the definition in the Carson City Municipal Code.

7. *Electrical and gas services require review and approval of the building department and the fire marshall.*

Staff comments: The applicant plans on connecting to an adjacent power source on the plaza. The recommended conditions of approval would require the applicant to get applicable permits and inspections for the power source. Since the power source is a public power source for events, additional requirements may be implemented by the Public Works Department through the Encroachment Permit.

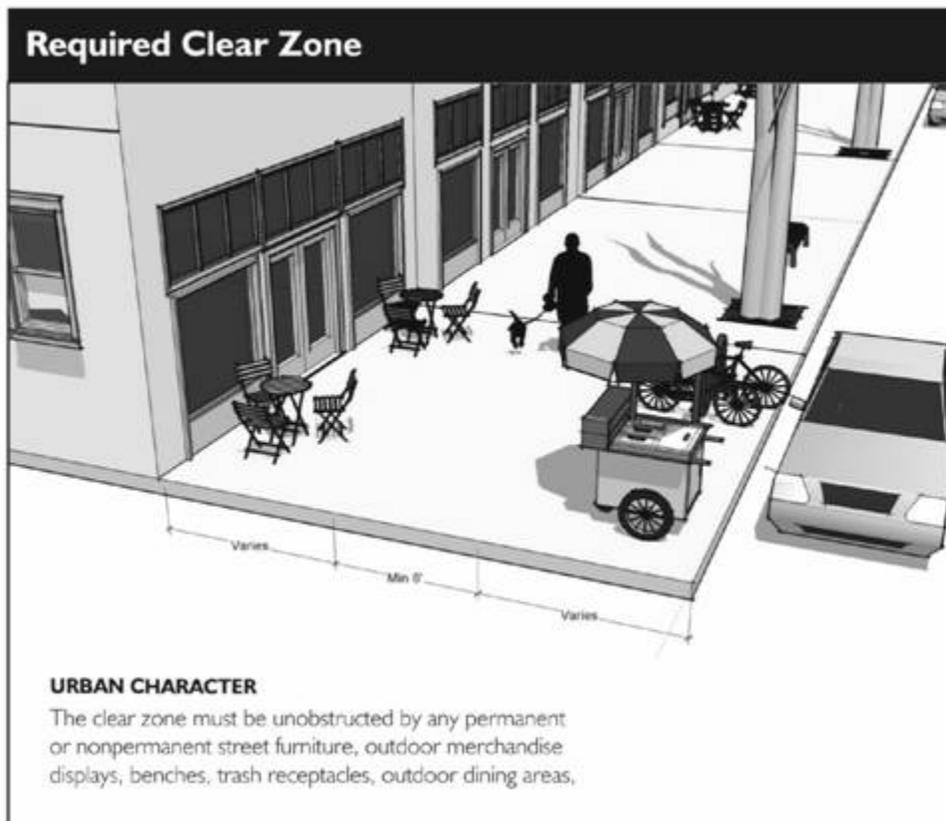
8. *Approval of the health department is required for all food vendors.*

Staff comments: The recommended conditions of approval require health department approval. The Health Department has reviewed the application and will implement their requirements through their permit process.

RACC members questioned how compliance with health regulations would be accomplished. Compliance with health regulations is more of an operational issue with the proposed vendor cart rather than a location issue. The applicant has contacted the Carson City Health Department and is confident that the Health Department's standards can be met. If the standards cannot be met, the vendor cart cannot be operated. The Health Department has noted to staff that vendor carts elsewhere are typically self-contained units to accommodate the specific food items for which they are designed. Without more details to review under a Health permit, the Health Department cannot determine the detailed requirements for the proposed operation.

9. *Other conditions deemed appropriate by the commission or redevelopment advisory citizens committee, as applicable, may be required to mitigate any adverse impacts to adjoining properties and pedestrians.*

Staff comments: No other conditions are identified by staff as necessary to mitigate any adverse impacts to adjoining properties and pedestrians. The Encroachment Permit standards make provisions for these issues, if applicable.



Graphic from Development Standards 6.6, Streetscape

Alternative 1: Deny the request.

If the Board of Supervisors believes the proposed vendor cart does not meet the intent of the vendor cart code provisions, the Board may deny the application. The proposed vendor "cart" meets maximum size criteria, but it is not a traditional mobile vendor cart as is typically seen in downtown areas (e.g. Reno). The Board may find that the proposed vendor cart does not meet the aesthetic quality for a vendor cart that is expected for the downtown area. Typical food carts are self contained units that are designed for specific foods or beverages, depending on what is proposed to be sold, and generally offer a limited menu. The limit of vendor cart size in the code implies that it is intended for a limited menu of items, occupying a small portion of the right-of-way. The proposed operation exceeds the permitted area for operating a vendor cart under the provisions of the Carson City Municipal Code.

Alternative 2: Approve the request but limit the vendor sales area to the 3' x 5' cart area.

This alternative would allow the vendor cart in compliance with the attached conditions but remove the additional tables from the sales area. This alternative may be selected by the Board if they believe the intent of the provisions related to vendor carts was to limit the area for take-away sales of consumable items.

Alternative 3: Approve the request subject to the attached conditions of approval.

This alternative would allow the vendor cart in compliance to the attached conditions, including any conditions required by the Encroachment Permit related to the removal of structures and/or quality of fixtures (e.g. no plastic tables).

Contact Lee Plemel at 283-7075 or lplemel@carson.org for any questions regarding this item.

Attachments:

- 1) Pop's Food Cart application.
- 2) Recommended Conditions of

Applicable Statute, Code, Policy, Rule or Regulation

CCMC 18.15, Development Standards, Section 1.11 and 6.6.9(3).

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number: N/A

Is it currently budgeted? Yes No

Explanation of Fiscal Impact: N/A

Alternatives

- 1) Approve with modified conditions of approval.
- 2) Approve with a time limit on the approval, after which a new approval would be required.

Board Action Taken:

Motion: _____

1) _____

Aye/Nay

2) _____

(Vote Recorded By)