

STAFF REPORT  
April 10, 2008

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**No. 08SR010 - SDCL 11-6-19 Review to allow temporary structures on public property**      **ITEM 18**

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GENERAL INFORMATION:

APPLICANT	Jerry Cole for City of Rapid City
AGENT	Tim Rangitsch for Black Hills Mountain Bike Association
PROPERTY OWNER	City of Rapid City
REQUEST	<b>No. 08SR010 - SDCL 11-6-19 Review to allow temporary structures on public property</b>
EXISTING LEGAL DESCRIPTION	Tract 17 less Lot H1 of Rapid City Greenway Tract, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 75.00 acres
LOCATION	1520 West Omaha Street
EXISTING ZONING	Flood Hazard District
SURROUNDING ZONING	
North:	Park Forest District
South:	General Commercial District
East:	Flood Hazard District
West:	Flood Hazard District
PUBLIC UTILITIES	City Water and Sewer
DATE OF APPLICATION	2/9/2008
REVIEWED BY	Jared Ball / Mary Bosworth

RECOMMENDATION:

Staff recommends that the SDCL 11-6-19 Review to allow temporary structures on public property be **approved**.

GENERAL COMMENTS: **(Updated, March 31, 2008. All revised and/or added text is shown in bold print.) This item was continued to the April 10, 2008 Planning Commission meeting. All of the additional required information has been submitted. Staff recommends that this item be approved.** The property is located at Founders Park at 1520 West Omaha Street. The proposed site is north of Omaha Street on part of a Greenway Tract and is near the location of volleyball courts, a parking lot, and the Farmers Market. The property is currently zoned Flood Hazard District. The property located north of the property is zoned Park Forest District. The property located south of the property is zoned General Commercial District. The property located east of the property is zoned Flood

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Hazard District. The property located west of the property is zoned Flood Hazard District.

The Parks and Recreation Department is proposing to hold the Second Annual Black Hills Fat Tire Festival on the property with tents and trailers for registration and vendors. The Festival will be held May 22, 2008 to May 26, 2008. The vendors will only be present at the festival on Saturday, May 24<sup>th</sup> and Sunday, May 25<sup>th</sup> from 7:00 a.m. until 7:00 p.m. The festival organizers have indicated that they will have between six and ten vendors with tents or trailers setting up 20 foot by 30 foot spots around the perimeter of the Founders Park parking lot. The organizers of the festival have also proposed the location of a beer garden at the main tent of the festival.

The festival will include demonstrations, tours and races. The races will take place on existing trails located at M-Hill, the Chuck Lien Family Park and the Hansen-Larson Foundation property. The applicant has indicated that permission to use the above mentioned private property has been granted by the land owners. The applicant has also indicated that on-site security will be provided throughout the event. The applicant is requesting approval of a SDCL 11-6-19 Review to allow vendor tents and a main event tent on public property.

South Dakota Codified Law 11-6-19 states that "...whenever any such municipal council has adopted a comprehensive plan, then no street, park, or other public way, ground, place, space, no public building or structure, no public utility, whether publicly or privately owned, if covered by the comprehensive plan or any adopted part thereof, shall be constructed or authorized in the municipality or within its subdivision jurisdiction until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". As previously indicated the applicant is requesting that the Black Hills Fat Tire Festival, including vendor tents and a main event tent, be held on public property requiring that the Planning Commission review and approve the proposed event.

**STAFF REVIEW:** Staff has reviewed the proposed SDCL 11-6-19 Review request as it relates to the applicable provisions of the Rapid City Municipal Code and has noted the following considerations:

**Vendors:** The vendors will be located on the site on Saturday, May 24, 2008 and Sunday, May 25, 2008 from 7:00 a.m. until 7:00 p.m. Approximately six to ten vendors are proposed to be located at the site adjacent and north of the parking lot north of the intersection of Omaha Street and Canal Street. The vendors will be located in 20 foot by 30 foot spaces. Prior to initiation of the event a tent permit must be obtained and a tent inspection checklist must be submitted and approved by the Fire Department to meet the 2003 International Fire Code.

**Signs:** The applicant has indicated that some signage will be used during the event to designate the area for the festival. The signs will be located out of the public right-of-way. All signage must comply with the Sign Code and a Sign Permit must be obtained prior to any signs being placed on the property.

**Parking:** The parking lot located on the property at the intersection of Omaha Street and Canal Street will be utilized for parking. Any overflow parking will be located at the Executive Golf

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Course and at the City parking lot west of the site and west of the Abourezk Law Office. The applicant has also indicated that the owners of the newly constructed parking lot on Founders Park Drive north of Rapid Creek are going to allow the applicant to use their parking lot for additional festival parking.

Floodplain: The area is located in the 100 year Federally Designated Floodplain and portions of the property located north of the vendor sites are within the hydraulic floodway. The temporary use will not be located within the hydraulic floodway; however, a Floodplain Development permit must be obtained for any structures located within the 100 year Federally Designated Flood Plain. Alternatively, the structures may be located outside of the floodway and 100 year flood plain. In addition, all requirements of Section 17.28 of the Zoning Ordinance regarding the Flood Hazard Zoning District shall be continually met, including the requirements for temporary structures set forth in Section 17.28.040. A staff error occurred during the initial review of the floodway. It appears that some of the proposed temporary structures are located within the floodway. The applicant shall relocate the proposed structures outside the floodway or receive an exception to the Rapid City Code of Ordinances 15.32.220 which states "Encroachments in the floodway are prohibited including fill, new construction and substantial improvements and other development."

Beer Garden: The applicant is proposing to have a beer tent located on the festival grounds if a non-profit organization decides to become involved with the festival. The Rapid City Code of Ordinances Section 15.12.050 states: "All applications for special malt beverage licenses and special on-sale wine licenses to be issued by the city shall be initially submitted to the City's Finance Officer, who shall submit the application to the Common Council, who shall have the discretion to approve or disapprove the application, depending on whether it deems the applicant a suitable person to hold the license and whether it considers the proposed location suitable." Prior to the initiation of serving of alcoholic beverages, the applicant shall receive a special malt beverage license.

Restroom Facilities: Prior to Planning Commission approval the applicant shall submit a revised site plan showing the location of the restroom facilities.

Temporary Use Permit: Prior to initiation of the event a temporary use permit shall be obtained.

Fire Code: The Fire Department has stated that the petitioner must submit complete plans for all proposed tents at the time a Temporary Use Permit application is submitted. Additionally, a tent checklist form and a tent inspection must be completed prior to initiation of the event and adequate access for Fire Department apparatus must be continually maintained for the duration of the special event.

**Staff recommends that the SDCL 11-6-19 Review to allow a temporary use on public property be approved.**