

STAFF REPORT  
May 21, 2009

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**No. 09SR035 - SDCL 11-6-19 Review to allow temporary structures on public property**      **ITEM 21**

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GENERAL INFORMATION:

APPLICANT	Hills Alive Festival
AGENT	Kathy Cook
PROPERTY OWNER	City of Rapid City
REQUEST	<b>No. 09SR035 - SDCL 11-6-19 Review to allow temporary structures on public property</b>
EXISTING LEGAL DESCRIPTION	Tract 20 less Lot H1 of the Rapid City Greenway Tract, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 39.96 acres
LOCATION	North of Omaha Street between North Mount Rushmore Road and Fifth Street in Memorial Park
EXISTING ZONING	Flood Hazard District
SURROUNDING ZONING	
North:	Public District
South:	General Commercial District
East:	Flood Hazard District
West:	Flood Hazard District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	4/24/2009
REVIEWED BY	Travis Tegethoff / Mary Bosworth

RECOMMENDATION:

Staff will recommend that the SDCL 11-6-19 Review to allow temporary structures in a public park be approved, if the City Council approves the Special Exception to the Flood Area Construction Regulations of the Rapid City Municipal Code.

GENERAL COMMENTS: The property is located at 301 North Fifth Street north of Omaha Street, south of the Civic Center, east of Mount Rushmore Road and east of Fifth Street. The property is commonly known as Memorial Park. The property is currently zoned Flood Hazard District. The adjacent property to the north is currently zoned Civic Center District. The adjacent property to the south is currently zoned General Commercial District. The adjacent properties to the east and west are currently zoned Flood Hazard District.

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The applicant is proposing to use the property for a free Hills Alive music festival on July 17, and 18, 2010. The proposed festival will begin at 12:00 noon and conclude at 10:00 p.m. on both days. In addition to the requested dates for the festival, the applicant is proposing to use July 15 and 16, 2010 to set up and July 19, 2010 to remove the festival.

The applicant has indicated that the festival will include concerts by a number of musical groups as well as a number of food vendors and other entertainment. The submitted site plan shows a fun zone area which will consist of various outdoor activities. The site plan also shows portable restrooms and a first aid station. The applicant has indicated that the expected attendance for the festival over the two day time period is approximately 40,000.

This festival has been held for several years. The most recent SDCL 11-6-19 Review (#08SR084) for the festival was approved on March 5, 2009 and authorized the festival for the 2009 event. The applicant is now asking that the festival be approved for 2010.

South Dakota Codified Law 11-6-19 states that “whenever any such Municipal Council shall have adopted the comprehensive plan of the municipality or any part thereof, then and thenceforth, 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 as defined in § 11- 6-26, until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission”. The proposed location for the festival is located within the area covered by the Rapid City Comprehensive Plan requiring that the improvements be reviewed and approved by the Rapid City Planning Commission.

**STAFF REVIEW:** Staff has reviewed the proposed SDCL 11-6-19 Review and has noted the following issues:

**Flood Plain:** The proposed site for the music festival is located within the 100 Year Federally Designated Flood Plain and will require a Flood Plain Development Permit. Prior to Planning Commission approval, the applicant must obtain a Flood Plain Development Permit.

On May 7, 2009 the Rapid City Planning Commission recommended that the Special Exception to the Flood Area Construction Regulations be approved. The Special Exception will be considered by the City Council on May 18, 2009. Staff will notify the Planning Commission of the City Council’s action at the May 21, 2009 Planning Commission meeting.

**Recreational Vehicles:** the site plan identifies several recreational vehicles parked on the grass in Memorial Park. Staff has serious concerns about allowing the applicant to park vehicles on the grass in the park. The sustainability of the park is a great concern to the City of Rapid City and measures must be taken to ensure that the park will be protected for the enjoyment of all of the citizens of the area. Staff from the Parks and Recreation Department will be monitoring any damage caused by the recreational vehicles.

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Fifth Street Crossing: The applicant submitted a letter of intent with this application identifying a goal of 40,000 visitors to the park for the proposed event. Significant discussion has recently occurred at a Planning Commission meeting regarding pedestrian safety particularly at the 5th Street and New York Street location. The Rapid City Police Department Traffic Division staff has requested that a safety plan be submitted for the event. The applicant submitted the required traffic plan for the Hills Alive event and the Rapid City Police Department has indicated that they will be working with the applicant to implement the safety plan.

One Year Permit: The City has received numerous complaints about noise and the impact of the park caused by this event. Staff recommends that this request be approved for one year only to allow additional monitoring of the noise issues as well as the safety concerns. It should also be noted that the Parks and Recreation Advisory Board is currently developing a Park Use Policy. That policy may affect the location and extent of future uses such as this event.

Building Permits: Staff noted a Temporary Use Permit must be obtained prior to initiation of the event. Staff also noted that all electrical wiring shall comply with all applicable Building and Electrical Codes.

Restroom facilities: The Building Official stated that 55 restrooms (including at least two handicapped accessible restrooms) are required to be provided for this event. The applicant submitted a site plan that identifies the required 55 restrooms.

Signage: Staff noted that signs shall be on-premise signs only as per Section 15.28 of the Rapid City Municipal Code and a sign permit shall be obtained prior to installation of any signage. In addition, the location of any signage must be identified on the site plan. Staff also noted that no banners will be allowed within the public right-of-way or on fences.

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.

Evacuation Plan: The standards for review for a SDCL 11-6-19 Review located within the Flood Hazard Zoning District (Section 17.28.040 (D) of the Rapid City Municipal Code) require that an evacuation plan be developed and posted when structures are proposed within the Flood Hazard Zoning District. Staff is recommending that prior to issuance of a Temporary Use Permit for the festival, a copy of this plan be submitted for review and approval.

Ongoing Security/Maintenance: The safety of the special event participants and the maintenance of the public park are a significant concern. Staff is recommending that the applicant provide security for the duration of the special event and that special event staff be responsible to ensure that the park grounds will be kept free of trash and debris. The applicant has indicated that they will provide Rapid City licensed security personnel on site from 6:00 p.m. on the July 15, 2009 through 8:00 a.m. on July 19, 2010. In addition,

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because of concerns associated with the close proximity of Rapid Creek, staff is recommending that a weather radio be located on-site and monitored continually during the event.

Camping: The proposed event will be located within the 100 Year Federally Designated Flood Plain. The applicant should be aware that no camping is permitted within the 100 Year Federally Designated Flood Plain.

Noise Complaints: The City has received numerous noise complaints about this event in the past. As a result, the City will be closely monitoring this event in 2009 and 2010 to ensure that the noise is kept to a moderate level and that the festival concludes at the proposed times. This will allow the City to determine if this is an appropriate location for an event of this size in the future.

The location and the extent of the proposed temporary structures are consistent with the adopted Comprehensive Plan and the current regulations. As such, staff will recommend that the SDCL 11-6-19 Review to allow temporary structures in a public park be approved, if the City Council approves the Special Exception to the Flood Area Construction Regulations.