

STAFF REPORT  
July 23, 2009

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**No. 09SR052 - SDCL 11-6-19 Review to allow temporary structures in the right-of-way**      **ITEM 21**

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GENERAL INFORMATION:

APPLICANT/AGENT	Gregg Cook
PROPERTY OWNER	Bob Fuchs
REQUEST	<b>No. 09SR052 - SDCL 11-6-19 Review to allow temporary structures in the right-of-way</b>
EXISTING LEGAL DESCRIPTION	Apolda Street right-of-way located adjacent to the south 50 feet of Lots 28 thru 32 of Block 36 of the Original Town of Rapid City, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.14 acres
LOCATION	Apolda Street from 7th Street to the Sports Rock property
EXISTING ZONING	General Commercial District
SURROUNDING ZONING	
North:	General Commercial District
South:	General Commercial District
East:	General Commercial District
West:	General Commercial District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	6/10/2009
REVIEWED BY	Vicki L. Fisher / Ted Johnson

RECOMMENDATION:

Staff recommends that the SDCL 11-6-19 Review to allow temporary structures in the right-of-way be **denied**.

GENERAL COMMENTS:

**(Update, July 9, 2009. All revised and/or added text is shown in bold print.) This item was continued at the July 9, 2009 Planning Commission meeting to allow the City Council to consider Event Permit(s) to allow a street dance to be held in Apolda Street on three separate dates. The City Council denied the requests at their July 6, 2009 City Council meeting. As such, staff is recommending that the SDCL 11-6-19 Review to allow temporary structures in Apolda Street right-of-way be denied.**

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The applicant has submitted a SDCL 11-6-19 Review to hold three public events within the Apolda Street right-of-way on three days, July 25, 2009, August 29, 2009 and September 26, 2009. The applicant is requesting to close the street from 5:00 p.m. to midnight on each of the three proposed dates. In particular, the applicant is proposing to close approximately 120 feet of Apolda Street from 7<sup>th</sup> Street west to the west end of the Sports Rock building in order to host a street dance with a stage, live music, a beer garden and vendor tents and booths. The applicant has also indicated that the beer garden and the perimeter of the street dance area will be fenced with net fencing to restrict access to the event. Barricades will also be placed at each end of Apolda Street to secure the area from vehicular traffic during the event.

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 event 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 SDCL 11-6-19 Review to allow temporary structures in the right-of-way and has noted the following considerations:

Events Permit: On July 1, 2009 the Legal and Finance Committee will consider an associated Special Event Permit to allow the street dance to be held in Apolda Street as proposed on the three dates as identified. The City Council will consider the request at their July 6, 2009 City Council meeting. The applicant has requested that this item be continued to the July 23, 2009 Planning Commission meeting to determine the outcome of the City Council action and to revise this application if needed to comply with the terms of the Event Permit. **As noted above, the City Council denied the Event Permit requests at their July 6, 2009 City Council meeting.**

Staff recommends that the SDCL 11-6-19 Review to allow temporary structures in the Apolda Street right-of-way **denied**.