

STAFF REPORT
August 27, 2009

No. 09SR071 - SDCL 11-6-19 review to allow structures in the public right-of-way **ITEM 17**

GENERAL INFORMATION:

APPLICANT	Jenny Gaaskjden for Rapid City Downtown Association
AGENT	Siaryn Duggan
PROPERTY OWNER	City of Rapid City
REQUEST	No. 09SR071 - SDCL 11-6-19 review to allow structures in the public right-of-way
EXISTING LEGAL DESCRIPTION	The right-of-way adjacent to south 80 feet of Lot 1; all of Lot 2, Lots 3 thru 12, the east and west half of Lot 13, 14 thru 16, 17 thru 18 and the north 55 feet of Lots 19 thru 21, and 22 thru 32, all in Block 84, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.18 Acres
LOCATION	Alley right-of-way between 6th Street and 7th Street and between Main St. and St. Joseph Street
EXISTING ZONING	Right-of-way
SURROUNDING ZONING	
North:	Right-of-way
South:	Right-of-way
East:	Right-of-way
West:	Right-of-way
PUBLIC UTILITIES	City Sewer and Water
DATE OF APPLICATION	7/31/2009
REVIEWED BY	Karen Bulman / Mary Bosworth

RECOMMENDATION: Staff recommends that the SDCL 11-6-19 review to allow structures in the public right-of-way be approved.

GENERAL COMMENTS: The applicant has submitted a SDCL 11-6-19 Review to install structures in the right-of-way. The Rapid City Downtown Association is requesting to hold a fashion festival to benefit the Local Reach to Recovery program through the American Cancer Society. The festival will be held in Art Alley between Main Street and St. Joseph Street from Sixth Street to Seventh Street on Friday, September 18, 2009 from 6 p.m. to 10:30 p.m. The alley is proposed to be barricaded from 4 p.m. to 11:30 p.m. to allow for

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setting up the festival and cleaning after the event. There will be no alcoholic use during this event.

The applicant provided a site plan that indicated a 50 foot long runway, a stage, and 20 vendors located in the alley right-of-way. For public safety reasons, such as restricted emergency response access, overhead utilities, few sprinkler protected buildings, and the restricted space for the event, staff cannot support this site plan. Subsequently, the applicant submitted a revised site plan indicating that the stage for the band, bleachers and 20 vendors will all be located in the parking lots outside of the public right-of-way. This will allow emergency vehicles the ability to use the alley if needed. The fashion runway will take place on the alley paving. Two portable restrooms will be located at the west end of the alley in the right-of-way. As such, the SDCL 11-6-19 Review application only addresses the portable restrooms located in the public right-of-way.

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”. As noted, the proposed restrooms will be located in the right-of-way and within the area covered by the Rapid City Comprehensive Plan requiring that the structures be reviewed and approved by the Rapid City Planning Commission.

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

Fire Department Comments: The Fire Department staff has indicated that the alley does not lend itself to this type of public assembly for emergency response reasons. However, the 11-6-19 Review to locate two portable restroom facilities is acceptable. The Fire Department staff will evaluate this event and its effect on public safety. Any future recommendations on similar requests will be based on the evaluation of this event.

Portable restroom facilities: Two portable restrooms will be located at the west end of the alley along the north edge of the right-of-way. The two temporary structures are to be removed immediately following the event.

Permits: A Temporary Use Permit must be obtained for the placement of the portable restroom facilities prior to initiation of the event. A Special Use Permit must be obtained from the Police Department prior to the event.

The location and extent of the proposed event is consistent with the adopted Comprehensive Plan and the related regulations. As such, staff recommends that the SDCL 11-6-19 Review to allow temporary structures in the public right-of-way be approved.

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