

STAFF REPORT
November 19, 2009

No. 09SR107 - SDCL 11-6-19 Review to allow a temporary structure in the right-of-way ITEM 38

GENERAL INFORMATION:

APPLICANT	Cortez LLC d/b/a Hotel Alex Johnson
AGENT	Robert Melvin
PROPERTY OWNER	Cortez LLC d/b/a Hotel Alex Johnson
REQUEST	No. 09SR107 - SDCL 11-6-19 Review to allow a temporary structure in the right-of-way
EXISTING LEGAL DESCRIPTION	Sixth Street right-of-way located adjacent to Lots 30 thru 32 of Block 84 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.24 acres
LOCATION	523 Sixth Street
EXISTING ZONING	Central Business District
SURROUNDING ZONING	
North:	Central Business District
South:	Central Business District
East:	Central Business District
West:	Central Business District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	10/21/2009
REVIEWED BY	Vicki Fisher / Ted Johnson

RECOMMENDATION:

Staff will recommend that the SDCL 11-6-19 Review to allow a temporary structure in the right-of-way be approved if the following issues are addressed prior to Planning Commission approval:

1. A revised site plan shall be submitted for review and approval identifying barricades at the west end of the alley as it intersects with 7th Street and the east end of the alley as it intersects with 5th Street; and,
2. An Addendum to the Certificate of Liability Insurance shall be submitted for review and approval which includes coverage for this event.

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GENERAL COMMENTS:

The applicant has submitted a SDCL 11-6-19 Review to allow a lighted ball to be lowered in the 6th Street right-of-way from the top floor of the adjacent Hotel Alex Johnson building to within approximately 25 feet of the sidewalk. The applicant has indicated that the event will take place at midnight on December 31, 2009 as a part of the New Year Eve's celebration at the Hotel Alex Johnson.

The applicant has indicated that barricades will be placed at the intersection of 6th Street and Main Street and at the intersection of 6th Street and St. Joseph Street. It is anticipated that this portion of 6th Street will be closed from 10:00 p.m. on December 31, 2009 to 2:00 a.m. on January 1, 2010. The applicant has also indicated that no alcoholic beverages will be allowed in the right-of-way as a part of 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 on public property and has noted the following considerations:

Permits: The applicant has indicated that a Parade Permit has been submitted to the Rapid City Police Department for review and approval. As a part of the Parade Permit, the applicant has addressed trash collection and street cleaning. The applicant should be aware, that prior to the initiation of the event, the Parade Permit must be obtained.

Barricades: As previously indicated, the applicant's site plan identifies that barricades will be placed at the intersection of 6th Street and Main Street and at the intersection of 6th Street and St. Joseph Street. However, traffic along the alley must also be controlled in order to insure that vehicular traffic will not interfere with the event and create safety concerns with pedestrians in the street watching the event. As such, staff recommends that prior to Planning Commission approval, a revised site plan be submitted for review and approval identifying additional barricades at the west end of the alley as it intersects with 7th Street and the east end of the alley as it intersects with 5th Street.

Certificate of Liability Insurance: The applicant has previously submitted a \$2,000,000.00 Certificate of Liability Insurance for bodily injury, death, disability, and property damage liability to allow the operation of a sidewalk café within the 6th Street right-of-way as it abuts the Hotel Alex Johnson. In addition, the City of Rapid City is named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of the sidewalk café. The City Attorney's Office has indicated that the Certificate

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of Liability Insurance must be revised to also include this event. As such, staff recommends that prior to Planning Commission approval, an Addendum to the Certificate of Liability Insurance be submitted for review and approval which includes coverage for this event.

The location and extent of the proposed temporary structures appears to be consistent with the adopted Comprehensive Plan and the related regulations. As such, staff will recommend that the SDCL 11-6-19 Review be approved if the above noted issue is addressed prior to Planning Commission approval of this item.