

STAFF REPORT

April 8, 2010

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**No. 10SR017 - SDCL 11-6-19 Review to allow temporary structures on public property**

**ITEM 44**

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GENERAL INFORMATION:

APPLICANT/AGENT	Hills Alive Festival
PROPERTY OWNER	City of Rapid City
REQUEST	<b>No. 10SR017 - SDCL 11-6-19 Review to allow temporary structures on public property</b>
EXISTING LEGAL DESCRIPTION	Tract 20, less Lot H1 of 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
EXISTING ZONING	Flood Hazard District
SURROUNDING ZONING	
North:	Civic Center District
South:	General Commercial District
East:	Flood Hazard District
West:	Flood Hazard District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	2/17/2010
REVIEWED BY	Ali DeMersseman / Mary Bosworth

RECOMMENDATION:

Staff will recommends that the SDCL 11-6-19 Review to allow temporary structures on public property be approved if the following information is received prior to Planning Commission approval:

1. A Special Exception to the Flood Area Construction Regulations approved by the City Council.

GENERAL COMMENTS: The applicant has submitted a SDCL 11-6-19 request to allow temporary structures on public property. In particular, the applicant is seeking to amend previously approved SDCL 11-6-19 requests (No. 09SR035 and No. 09SR088) for a music festival, Hills Alive, to include overnight prayer within a festival tent on July 16 and July 17, 2010.

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In addition, the applicant is also seeking approval of a request to allow the music festival in 2011. The festival will be held July 16 through 17, 2011, with setup taking place July 14 and 15, 2011 and the structures removed on July 18, 2011. The proposed festival hours will be from noon to 10 pm on both July 16 and 17, 2011. The applicant is also proposing overnight prayer within an existing festival tent on July 16, 2011.

On May 21, 2009, the Planning Commission approved an associated SDCL 11-6-19 Review request (No. 09SR035) to allow temporary structures on public property for a music festival on July 17 and 18, 2010 from 12:00 noon to 10:00pm, with setup taking place on July 15 and 16, 2010 and the structures being removed on July 18, 2010.

On October 8, 2009, the Planning Commission approved a SDCL 11-6-19 Review request (No. 09SR088) to extend the music festival to include an additional evening of performances on July 16, 2010, from 6:00pm to 10:00pm.

The festival has been held for several years and includes concerts, as well as food vendors and other entertainment. The applicant has indicated that the expected attendance for the festival will be approximately 40,000 people.

The property is located at Memorial Park, north of Omaha Street, south of the Civic Center, west of Mt. Rushmore Road and east of Fifth Street. The property is currently zoned Flood Hazard District.

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 Section 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 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 request and has noted the following considerations:

**Floodplain:** The proposed site for the music festival is located within the 100 Year Federally Designated Floodplain requiring that a floodplain development permit be obtained. On May 18, 2009, the City Council approved a Special Exception to the Flood Area Construction Regulations (No.09SE003) to allow the 2010 Hills Alive Festival in Memorial Park with the following stipulations:

1. That the event will be stopped and the structures removed if ordered by the Police Chief, Fire Chief, Mayor, Emergency Management Director or the Public Works Director; and,

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2. That the structures for the event be removed that evening after the event has ceased.

On March 25, 2010, the Planning Commission recommended that a Special Exception to the Flood Area Construction Regulations (No. 10SE003) to allow the 2011 Hills Alive Festival be approved with the following stipulations:

1. That the event will be stopped and the structures removed if ordered by the Police Chief, Fire Chief, Mayor, Emergency Management Director or the Public Works Director; and,
2. That the applicant have someone available on call 24 hours a day to take the tent down should the need arise.

The Special Exception to the Flood Area Construction Regulations (No. 10SE003) will be considered at the April 5, 2010 City Council meeting. As such, staff will notify the Planning Commission of the City Council's action at the April 8, 2010 Planning Commission meeting.

Overnight Prayer Tent: As previously noted, the applicant is requesting that overnight prayer be allowed in an existing festival tent on July 16 and July 17, 2010 and July 16, 2011. The applicant has indicated that no speakers, microphones or amplification will be utilized during the overnight prayer activities. In addition, no camping will be allowed within the festival tent.

Recreational Vehicles: The applicant has indicated that several recreational vehicles will be parked on the grass in Memorial Park, which will be used for a festival office, staff meals, and for artists prior to their performances. 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. Parks and Recreation Department staff will be monitoring any damage caused by the recreational vehicles as noted in the previous review.

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 occurred at a previous Planning Commission meeting regarding pedestrian safety particularly at the 5th Street and New York Street location. 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.

Noise Complaints and Safety Concerns: 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 2010 and 2011 only to allow additional monitoring of the noise issues as well as the safety concerns. This will allow the City to determine if this is an appropriate location for an event of this size in the future. 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.

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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 recommends 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 recommends 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 July 15, 2010 through July 19, 2010 and July 14, 2011 through July 18, 2011. In addition, 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.

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 above noted item is obtained prior to Planning Commission approval.