

STAFF REPORT
May 27, 2010

No. 10SR022 - SDCL 11-6-19 Review to construct structures on public property **ITEM 28**

GENERAL INFORMATION:

APPLICANT	Alliance of Tribal Tourism Advocates (ATTA)
AGENT	Wyss Associates, Inc.
PROPERTY OWNER	City of Rapid City
REQUEST	No. 10SR022 - SDCL 11-6-19 Review to construct structures on public property
EXISTING LEGAL DESCRIPTION	Lots 1 thru 16 and west ½ of the vacated Second Street abutting Lot 1 and the east half of that portion of the vacated Third Street abutting Lot 16 and the north half of the vacated alley, the north half of Lot 17 thru 20 and the half of alley abutting said Lots, the south half of lots 17 thru 20 and the north half of the vacated Denver Street adjacent to said Lots, Lots 21 thru 22, the south half of the vacated alley and the north half of the vacated Denver Street adjacent to said Lots, Lots 23 thru 24, the south half of the vacated alley and the north half of the vacated Denver Street adjacent to said Lots, Lots 25 thru 32, the west half of vacated Second Street adjacent to said Lot 32, the south of vacated Alley and the north vacated Denver Street adjacent to said Lots 25 thru 32 of Block 8 of the Original Town of Rapid City, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 3.73 acres
LOCATION	230 Denver Street
EXISTING ZONING	Civic Center District
SURROUNDING ZONING	
North:	Low Density Residential District
South:	Civic Center District
East:	Low Density Residential District
West:	Low Density Residential District
PUBLIC UTILITIES	City sewer and water
DATE OF APPLICATION	3/12/2010

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REVIEWED BY

Vicki L. Fisher / Karley Halsted

RECOMMENDATION:

Staff recommends that the SDCL 11-6-19 Review to construct structures on public property be approved.

GENERAL COMMENTS:

(Update: May 18, 2010. All revised and/or added text is shown in bold print.) This item was continued at the May 6, 2010 Planning Commission meeting to allow the applicant to submit additional information and to address outstanding issues. On April 19, 2010, the City Council granted an Exception request to waive sidewalk along 3rd Street with the stipulation that a sidewalk be provided along the curb return on the northeast corner of 3rd Street and vacated Denver Street and along the south side of vacated Denver Street between the existing sidewalk and the proposed curb ramp. In addition, a sidewalk must be provided along North Street. The applicant has subsequently submitted revised construction plans identifying the sidewalks as required. In addition, the applicant has submitted revised construction plans demonstrating that adequate design is being provided for the drainage facilities to accommodate vehicle loading at the drainage crossing. In addition, the construction plans show a sustainable surface in the area of the pedestrian access to the vending tents. A revised site plan has also been submitted for review and approval showing the fence to be located along the west lot line connecting with the fence on the adjacent property owned by the Behavioral Management Systems Inc. eliminating the separation between the fence(s).

(Update: April 23, 2010. All revised and/or added text is shown in bold print.) This item was continued at the April 22, 2010 Planning Commission meeting to allow the applicant to submit additional information and to address outstanding issues. On April 19, 2010, the City Council granted an Exception request to waive sidewalk along 3rd Street with the stipulation that a sidewalk be provided along the curb return on the northeast corner of 3rd Street and vacated Denver Street and along the south side of vacated Denver Street between the existing sidewalk and the proposed curb ramp. In addition, a sidewalk must be provided along North Street. To date, revised construction plans showing the sidewalk(s) as identified have not been submitted for review and approval. In addition, the balance of the outstanding issues as noted above has not been addressed. Staff will notify the Planning Commission at their May 6, 2010 Planning Commission meeting if these issues have not been addressed.

(Update: April 14, 2010. All revised and/or added text is shown in bold print.) This item was continued at the April 8, 2010 Planning Commission meeting to allow the applicant to submit additional information and to address outstanding issues. The applicant has subsequently submitted a drainage report, an Exception request to waive the requirement to provide sidewalks along 3rd Street and North Street, an Exception request to reduce the approach separation requirement along 3rd Street, a site plan identifying delivery vehicle movements and circulation through the property, a site plan identifying the staging and stockpile areas and identifying construction delivery routes and a revised operational plan.

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The Alliance of Tribal Tourism Advocates (ATTA) has submitted a SDCL 11-6-19 Review to allow the "Powwow Gardens and Indian Art Market" to be constructed on the property. The project will include an amphitheater with a maximum seating capacity of 625 seats, a living history village with teepees to serve as a learning facility, vendor tents, art tents and restrooms. The project will be known as "He' Sapa Black Hills Center for Northern Plains Tribal Arts and Performance". The Alliance of Tribal Tourism Advocates has indicated that the project will be a central destination in the Northern Plains for native tourism and will provide visitors to the region interested in cultural tourism a centralized resource.

On September 9, 2009, a public meeting was held at the Journey Museum to discuss the proposed project.

On March 1, 2010, the City Council determined that 232 off-street parking spaces were required for the use.

On March 15, 2010, the City Council approved a Fence Height Exception (File #10FV001) to allow a six foot fence in the front yard with the following stipulations:

1. The fence(s) shall be constructed in conformance with the architectural plans and elevations and color palette submitted as part of this Fence Height Exception.
2. Prior to the approval of the SDCL 11-6-19 application and prior to the construction of the fence, a drainage plan shall be submitted for review and approval.

The property is located northeast of the intersection of Denver Street and N. 3rd Street. A parking lot is located on the southern portion of the property. The balance of the property is void of any structural development.

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 request to construct structures on public property as identified is a public improvement. In addition, the property is identified within the area covered by the Rapid City Comprehensive Plan requiring that the improvement be reviewed and approved by the Rapid City Planning Commission.

STAFF REVIEW:

Staff has reviewed the SDCL 11-6-19 Review to allow structures on public property and has noted the following considerations:

Sidewalk: As a part of the structural development of the site, a sidewalk must be provided along N. 3rd Street as it abuts the property or an Exception to waive the requirement must be obtained from the City Council. Staff is also recommending that a sidewalk be provided

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from N. 3rd Street east along the south fence line of the project to the front entrance, providing pedestrian access to the facility. To date, the construction plans do not show either sidewalk. The applicant has indicated that an Exception request will be submitted requesting to waive the requirement. As of this writing, the Exception request has not been submitted. As such, staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to either obtain an Exception waiving the requirement or to revise the construction plans to provide the sidewalk.

(Update: April 14, 2010) As previously indicated, the applicant has submitted an Exception request to waive the requirement to provide a sidewalk along 3rd Street and North Street. The Public Works Committee considered the request at their April 13, 2010 meeting and recommended that the request to waive the requirement to install sidewalk along North Street be denied and that the request to waive the requirement to install sidewalk along 3rd Street be approved with the stipulations that a curb return be provided at the northeast corner of 3rd Street and vacated Denver Street and that a sidewalk be provided along the south side of the vacated Denver Street. City Council will consider the request at their April 19, 2010 City Council meeting.

Staff recommends that prior to Planning Commission approval, an Exception be obtained to waive the requirement to provide a sidewalk along 3rd Street and North Street or the construction plans must be revised to show the sidewalk(s) as required.

(Update: May 18, 2010.) On April 19, 2010, the City Council granted an Exception request to waive sidewalk along 3rd Street with the stipulation that a sidewalk be provided along the curb return on the northeast corner of 3rd Street and vacated Denver Street and along the south side of vacated Denver Street between the existing sidewalk and the proposed curb ramp. In addition, a sidewalk must be provided along North Street. The applicant has subsequently submitted revised construction plans identifying the sidewalks as required.

Driveway: The applicant's site plan identifies an approach to be located along N. 3rd Street to serve as an access point to the site. To date, the applicant has not demonstrated that the proposed approach meets separation requirements between the existing approaches located along the west side of N. 3rd Street. In particular, the applicant must identify that a minimum 75 foot separation is being provided or an Exception to Section 8.2.4 of the Street Design Criteria Manual must be obtained.

Staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to submit a site plan identifying compliance with the Street Design Criteria Manual or an Exception must be obtained.

(Update: April 14, 2010) As previously indicated, the applicant has submitted an Exception request to reduce the separation between approach locations along 3rd Street. Staff has subsequently reviewed and approved the Exception request.

Vehicle Access: The applicant has indicated that three points of vehicular access will be

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provided to the site. The three points of access include the main gate located along the south lot line, the west gate located along N. 3rd Street and the east gate located along the southwest corner of the property. In addition, the site plan shows an on-site paved turnaround at the east gate location. To date, the applicant has not identified the size of the delivery vehicles. In addition, circulation and traffic movements through the property have not been identified.

Staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to submit a site plan demonstrating that the proposed turnaround can accommodate the delivery vehicle movements and to identify circulation and traffic movements through the property. In addition, the applicant must identify the size of the proposed delivery vehicles.

(Update: April 14, 2010) As previously indicated, the applicant has submitted a site plan demonstrating that the proposed turnaround can accommodate the delivery vehicle movements and identifying circulation and traffic movements through the property. In particular, the site plan identifies vehicle traffic over a proposed drainage pipe. As such, staff recommends that prior to Planning Commission approval, revised construction plans be submitted for review and approval demonstrating that adequate design is being provided to accommodate vehicle loading at the drainage crossing.

The site plan identifies the pedestrian access in front of the vending tents with a grass surface. The City has experienced significant damage to grass from pedestrian traffic for special events, especially during times of rain. In this case, the area will be used on an on-going basis throughout the summer season. As such, staff recommends that prior to Planning Commission, the construction plans be revised to show a sustainable surface in the area of the pedestrian access to the vending tents.

(Update: May 18, 2010.) The applicant has submitted revised construction plans demonstrating that adequate design for the drainage facilities is being provided to accommodate vehicle loading at the drainage crossing. In addition, the construction plans show a sustainable surface in the area of the pedestrian access to the vending tents.

Drainage Plan: On March 26, 2010, the applicant submitted a drainage report prepared by a Landscape Architect. However, the report has not been stamped and sealed by a Professional Engineer as required. As such, staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to submit a drainage report, stamped and sealed by a Professional Engineer as per South Dakota Codified Law 36-18A-45.

(Update: April 14, 2010) On April 14, 2010, the applicant submitted a drainage report. Staff is currently in the process of reviewing the report. Prior to Planning Commission approval, the drainage plan must be revised to address all red lined comments.

(Update: May 18, 2010.) The drainage plan has been revised to address the red lined comments.

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Operational Plan: The applicant has submitted an operational plan for the Powwow Gardens and Indian Art Market. The operational plan identifies the Powwow Gardens and Art Museum operating from May through September. The hours of operation will be from 10:00 a.m. to 6:00 p.m. weekdays with extended hours of operation Friday and Saturday evenings. The operational plan also identifies that an average daily attendance of 270 visitors is projected with a maximum of 56 visitors and 29 staff members on the site at any one time. An amphitheater with a maximum of 625 seats will be located within the Powwow Gardens for special events with 12 additional staff members. The applicant has also indicated that a minimum of 25% of the visitors attending events at the amphitheater will be bused into the site.

The operational plan does not identify the extended hours of operation for Friday and Saturday evenings. In order to insure that the proposed use does not negatively impact the adjacent residential developments, the hours of operation for Friday and Saturday evenings must be submitted for review and approval.

Staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to submit a revised operational plan identifying the extended hours of operation for Friday and Saturday evenings.

(Update: April 14, 2010) As previously indicated, the applicant has submitted a revised operational plan identifying that the hours of operation on weekends and special events will be from 10:00 a.m. to 10:00 p.m.

Staff recommends that the Powwow Gardens and Indian Art Market be operated in compliance with the proposed operational plan as submitted.

Staging Area: To date, the applicant has not identified staging and stockpile areas to be used during the construction phase of the project. The applicant must also identify construction delivery routes and potential street closings during the construction phase.

Staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to identify the staging and stockpile areas and to identify construction delivery routes and potential street closings to insure that they do not negatively impact the adjacent properties, including the adjacent City parking lot.

(Update: April 14, 2010) As previously indicated, the applicant has submitted a site plan identifying the staging and stockpile areas and identifying construction delivery routes. In particular, the site plan notes that all staging and stockpile areas will be located within the boundaries of the project and not within the adjacent streets and/or parking lots. In addition, the site plan identifies that the delivery routes will include 3rd Street to Denver Street and 1st Street to Denver Street.

Design: The applicant has submitted structural elevations identifying a concrete amphitheater and control booth with log bench seating. The applicant has also submitted structural elevations for the restroom(s) identifying a brick building with a pitched roof. In addition, the

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applicant has indicated that approximately 24 vendor and art canopies, measuring 10 foot by 10 foot each, will be utilized. The canopies will be in a variety of styles with zip sidewalls to provide security at night. In addition, the canopies will be in a variety of colors with the standard colors being white, black, yellow and red. The applicant has indicated that the teepees within the living history village will be moved and/or changed on a regular basis and will be constructed with animal hide and/or canvas materials.

The applicant has been coordinating the design and location of the canopies and teepees with the City's Fire Department staff. The applicant must continue to coordinate with the Fire Department as they change and/or relocate structures to insure that they meet Fire Code requirements.

Staff recommends that the proposed structure(s) continue to conform architecturally to the approved plans, color palette and elevations submitted with this application.

Parking: As previously indicated, on March 1, 2010, the City Council determined that 232 off-street parking spaces were required for the use. In addition, the City Council had previously determined that 3,632 parking spaces were required for the existing uses within the Civic Center District. With the addition of the Powwow Gardens and Indian Art Museum, a total of 3,864 parking spaces are required within the Civic Center District.

Currently, 4,077 parking spaces exist within the Civic Center District. The proposed area for the Powwow Gardens and Indian Art Market will eliminate 183 of the existing parking spaces located north of the Journey Museum resulting in 3,894 existing parking spaces within the Civic Center District.

Since 3,864 parking spaces are required for the Civic Center District, which includes the Powwow Gardens and Indian Art Museum and since 3,894 parking spaces will exist after this project is constructed, sufficient parking is being provided.

Landscaping: A total of 135,522 landscape points are required for the site. The applicant has submitted a landscape plan identifying 319,860 landscape points. In particular, the landscape plan identifies a mix of deciduous and evergreen trees and shrubs along the perimeter and at the entrance sites to the property. The balance of the property is grassed, with the exception of structural development and pedestrian and vehicle access routes.

Staff recommends that the landscaping be provided in compliance with the approved landscape plan. In addition, all landscaping must be continually maintained in a live vegetative state and replaced as necessary.

Fencing: As previously indicated, on March 15, 2010, the City Council approved a Fence Height Exception (File #10FV001) to allow a six foot fence in the front yard. In particular, a six foot high decorative steel fence is being proposed along the south lot line as it abuts Denver Street. The decorative fence is designed to resemble wild turkey grass with silhouetted bear(s). A six foot high galvanized mesh fence is proposed around the balance of the property, including within the front yard setback along North Street, North 3rd Street

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and North 2nd Street. The applicant also has submitted sight triangle information demonstrating that the proposed fence is located outside of sight triangles.

The property located east of this site currently has a fence located along its west lot line. The applicant is proposing to locate this fence five feet back from the east lot line, leaving a five foot space between the fences. The adjacent property owner has indicated that pedestrians currently walk within this area. However, the construction of a sidewalk within this area would not meet accessible standards due to the grades along this common lot line.

Staff will be coordinating discussions with the applicant and the adjacent property owner to see if a connection should be made between the two fences. As such, staff recommends that the SDCL 11-6-19 Review be continued to allow this issue to be resolved.

(Update: April 14, 2010) On April 14, 2010, staff met with the applicant's consultant, a representative from the Police Department and a property owner of Behavior Management Systems located directly east of the site to discuss the location of the proposed fence along the east lot line of the property. In particular, it was noted that the proposed fence should be connected with the existing fence along the west lot line of the Behavior Management Systems property in order to preclude pedestrian access through this area and avoid creating a 10 foot wide tunnel between fences due to safety concerns. The applicant is also currently working with staff to determine if the existing pad mounted electric enclosure will impact the location of the fence within this area. The applicant has indicated that they will continue to work with the adjacent property owner and the electric company to determine the final location of the fence.

Staff recommends that prior to Planning Commission approval, a revised site plan be submitted for review and approval showing the fence to be located along the west lot line connecting with the fence on the adjacent property owned by the Behavioral Management Systems Inc. eliminating the separation between the fence(s).

(Update: May 18, 2010.) A revised site plan has also been submitted for review and approval showing the fence to be located along the west lot line connecting with the fence on the adjacent property owned by the Behavioral Management Systems Inc. eliminating the separation between the fence(s).

Journey Museum: The Journey Museum Board of Directors has noted concern that the parking area north of the Journey Museum will be used as a staging area for the Powwow Gardens and Indian Art Museum resulting in construction equipment and construction material within the parking lot. As previously indicated, staff is requesting that the applicant submit information identifying staging and stockpile areas to be used during the construction phase of the project.

The Journey Museum Board of Directors has also noted that an underground sprinkler system currently extends to a landscape island located within that portion of the parking lot to be removed. As such, the applicant must submit plans identifying that the irrigation line will be capped to isolate it from the rest of the system.

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(Update: April 14, 2010) The applicant has submitted a revised site plan identifying that the irrigation line located within the parking lot will be capped to isolate it from the rest of the system.

The applicant should be aware that all proposed lighting for the Powwow Gardens and Indian Art Museum must be designed to be reflected within the property boundaries so as not to shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind.

Civic Center Board of Directors: The Civic Center Board of Directors has indicated that the Rushmore Plaza Civic Center currently utilizes all parking lots within the Civic Center District from September to May, including the parking lot north of the Journey Museum. In addition, the Civic Center Board of Directors has noted that the Black Hills Powwow is held at the Civic Center the second week-end in October. The Board of Directors noted that they would not want this activity to compete with the Black Hills Powwow. The applicant's operational plan identifies that the Powwow Gardens and Indian Art Museum will be open from May to September of each year. As such, their activities should not interfere with the parking demand as per the statement from the Civic Center Board of Directors or the Black Hills Powwow.

Summer Uses within the Civic Center District: The applicant has indicated that they anticipate coordinating events within their facility with existing summer events held annually within the park, particularly the Heritage Festival and the Hills Alive Concert, to insure that their event does not create a conflict and will instead be an additional activity for the event goers to enjoy.

Signage: The applicant has submitted information identifying regulatory signs within the parking lot and within the facility. However, a sign package identifying the location and design of proposed signage for the Powwow Gardens and Indian Art Museum has not been submitted for review and approval. If the applicant is proposing signage, then a complete sign package must be submitted for review and approval. The sign package must include dimensions, building material, color palette and illumination information proposed for each sign.

(Update: April 14, 2010) The applicant has submitted a light pole detail which identifies a banner sign to be located on the pole. Prior to Planning Commission approval, additional information for the banner signs must be submitted for review and approval identifying the location, the dimensions and the construction material for the signs. In addition, detailed drawings of the support poles must be submitted for review and approval demonstrating that the pole is designed to accommodate the banner signs. The applicant should be aware that locating a banner sign on a light pole within the right-of-way requires the review and approval of the City Council.

(Update: May 18, 2010.) The applicant has submitted additional information identifying that the proposed banner signs are in compliance with the City's Sign

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Code.

Permits: Prior to the start of construction, a Building Permit, an Air Quality Permit, a Permit to Work in the Right-of-way and an Erosion and Sediment Control Permit must be obtained.

The location and extent of the proposed construction of the Powwow Gardens and Indian Art Market on public property is consistent with the adopted Comprehensive Plan and the related regulations. As such, staff recommends that the SDCL 11-6-19 Review be approved.