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### MEMORANDUM

TO: Rapid City Legal and Finance Committee

FROM: Marcia Elkins, Planning Director

DATE: March 11, 2002

RE: Options for Appeal Process for Conditional Use Permits

The Rapid City Council has requested that staff develop two options for an appeal process for Conditional Use Permit applications that are continued by the Planning Commission. Concerns have been expressed that applications would be continued repeatedly and since the Planning Commission has not acted on the request, the applicant would not be allowed to appeal to the City Council.

The options previously discussed are outlined below:

**1. Require the Planning Commission to act on all Conditional Use Permits within sixty days of submission of the application.**

By adding a requirement for the Planning Commission to act within a certain time frame insures that an applicant will have a reasonable opportunity to appeal the Planning Commission's decision to the City Council. Staff identified a sixty day time frame for action, as this is similar to the requirement provided in the subdivision plat process. Please note that the Committee should be aware that applicants have the opportunity to waive in writing the time limit to allow a project review to continue.

The following language could be added to the existing ordinance to provide a time frame for action by the Planning Commission:

Section 17.54.030 C. Public Hearing. The City Planning Commission at a public hearing shall review and act upon all Conditional Use Permit applications. The action of the Planning Commission shall occur only after having given a seven-day prior notification in a daily newspaper of general circulation. **The City Planning Commission shall act on all applications within sixty days of submission of the application, or**

**the application shall automatically be approved.** The action of the City Planning Commission shall be final except in the event of an appeal being filed in which case the procedures outline in Section 17.54.030(F) shall be followed.

**2. Provide for an appeal procedure for continuation motions made by the City Planning Commission.**

This option would specify that a continuation motion could be appealed to the City Council. The following language could be added to the existing ordinance to specify that the continuation motion can be appealed to the City Council.

Section 17.54.030 F Appeal Procedures. Any person or party has the right to appeal the decision of the Planning Commission regarding any Conditional Use Permit application. **Additionally, any person or party has the right to appeal the action of the Planning Commission to continue a request. If such an appeal is made, no further action of the Planning Commission shall be required.** Appeals must be made in writing and submitted to the Planning Department by close of business on the seventh full calendar day following action by the Planning Commission.

**Recommendation:** The Planning Commission previously recommended that no action be taken for six months during which time the process will be monitored to determine if revisions to the ordinance are necessary.