

STAFF REPORT
August 25, 2011

No. 110A002 – Ordinance Amendment - An Ordinance modifying the procedure for certain amendments to the City’s Comprehensive Plan by amending Section 2.60.160 of the Rapid City Municipal Code

ITEM 14

GENERAL INFORMATION:

APPLICANT	City of Rapid City
REQUEST	No. 110A002 – Ordinance Amendment - An Ordinance modifying the procedure for certain amendments to the City’s Comprehensive Plan by amending Section 2.60.160 of the Rapid City Municipal Code
DATE OF APPLICATION	5/2/2011
REVIEWED BY	Patsy Horton / Karley Halsted

RECOMMENDATION: The Second Floor Review Committee recommends that the Ordinance Amendment to consider amendments to Section 2.60.160 of the Rapid City Municipal Code pertaining to the Comprehensive Plan be approved by adding the following language to Section 2.60.160 and Section 2.60.160(G) as follows:

1. Requests for amendments to the comprehensive plan shall follow the procedure set forth below or, in the instance of rezoning, such request(s) shall comply with the procedures set forth in Chapter 17.54.040. Requests for rezoning that comply with Chapter 17.54.040 shall be deemed to have met the requirements for amendment to the Comprehensive Plan. The Major Street Plan shall take into consideration the practicality and feasibility of the proposed street extensions. The Major Street Plan shall permit modifications, without amendments to the Comprehensive Plan, of proposed street extensions and alignments in instances where the general intent of the Plan is still fulfilled and where such modifications do not create a discontinuous street alignment with existing development. Proposed street extension(s) or alignment modifications that do not meet the general extensions identified in the Major Street Plan shall comply with the procedures set forth below.
2. If the legal description of a rezoning application is coterminous with a legal description for a concurrent comprehensive plan amendment application, there shall be only one \$250 application fee.

GENERAL COMMENTS: The City has adopted a comprehensive plan pursuant to the authority granted in SDCL 11-4-3 in order to develop policies that will help guide future ordinances, budgets and master plans as well as future land development.

The Second Floor Review Committee has been reviewing existing ordinances and processes in order to provide recommendations to the Planning Commission and the City Council regarding potential increase in efficiencies in development review actions and has made recommendations to modify the current process for changes in the zoning of property and modifications to the major street plan component of the City’s comprehensive plan.

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The Second Floor Review Committee's proposed changes are identified in underlined bold/red:

Section 2.60.160 Comprehensive plan.

The city's Planning Commission may recommend changes to the comprehensive plan from time to time as set forth below. Requests for amendments to the comprehensive plan shall follow the procedure set out in this section. Requests for amendments to the comprehensive plan shall follow the procedure set forth below or, in the instance of rezoning, such request(s) shall comply with the procedures set forth in Chapter 17.54.040. Requests for rezoning that comply with Chapter 17.54.040 shall be deemed to have met the requirements for amendment to the Comprehensive Plan. The Major Street Plan shall take into consideration the practicality and feasibility of the proposed street extensions. The Major Street Plan shall permit modifications, without amendments to the Comprehensive Plan, of proposed street extensions and alignments in instances where the general intent of the Plan is still fulfilled and where such modifications do not create a discontinuous street alignment with existing development. Proposed street extension(s) or alignment modifications that do not meet the general extensions identified in the Major Street Plan shall comply with the procedures set forth below.

A. *Application.* An application for a proposed amendment shall be filed with the Planning Department. Amendments may be initiated by the property owner or his or her designated representative or by an appropriate governmental agency. For amendments initiated by the city's Planning Commission, the applicant shall be the city.

B. *Public hearings.* Upon application, the city's Planning Commission shall hold a public hearing thereon. Notice of the public hearing shall be published at least 10 days in advance of the hearing in a legal newspaper of the community. After conducting the public hearing, the city's Planning Commission shall submit its recommendation to the Common Council.

C. *Time limit and notification.* The city's Planning Commission shall act on all proposed amendments within 60 days of the public hearing at the city's Planning Commission. If the city's Planning Commission fails to act within 60 days, the application shall be forwarded to the Common Council as a recommendation for approval, provided however, that the applicant for approval may waive this requirement in writing and consent to the extension of the period.

D. *Standards for plan amendments.* A proposed comprehensive plan amendment shall be considered on its own merits using the following criteria as a guide:

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1. Whether the proposed change is consistent with the policies and overall intent of the comprehensive plan;
2. Whether the proposed change is warranted by changed conditions within the neighborhood surrounding and including the subject property;
3. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land;
4. Whether and the extent to which the proposed amendment would adversely affect the environment, services, facilities and transportation;
5. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern; and
6. Whether and the extent to which the proposed amendment adversely affects any other part of the city, or creates any direct or indirect adverse effects.

E. Comprehensive plan amendment—posting and maintenance of signs. In addition to the preceding requirements, the petitioner for the comprehensive plan amendment, or his or her agent or agents, shall be required to post and maintain an approved sign or signs on the property included in the comprehensive plan amendment request. The sign or signs shall be posted at least 7 calendar days prior to the city's Planning Commission at which the hearing shall be held and shall be maintained continuously until the comprehensive plan amendment request has been finally approved or rejected by the Common Council or withdrawn by petition. Approved signs shall be secured from the Planning Department. The Planning Department shall require a reasonable deposit sufficient to cover the cost of replacement of the sign or signs and shall determine the number and location of the sign or signs to be posted on the property included in the comprehensive plan amendment. This section shall not apply to comprehensive plan amendments instituted by the city's Planning Commission.

F. Comprehensive plan amendments—notification requirements. In addition to the preceding requirements, the petitioner for the comprehensive plan amendment, or his or her designated agent shall include postal registration data that substantiates petitioner's good faith attempt to mail certified letters with return receipts to all property owners within 250 feet inclusive of dedicated rights of ways of the area described. The certified mailings shall include the date set for the hearing before the city's Planning Commission and contemplated uses, and shall be on a form provided by the Planning Department. This section shall not apply to comprehensive plan amendments instituted by the city's Planning Commission. In addition, the Planning

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Director may convene a neighborhood meeting to present and discuss a proposed amendment.

G. Fees. A fee of \$250 shall be paid at the time of filing any application for a comprehensive plan amendment. If the legal description of a rezoning application is coterminous with a legal description for a concurrent comprehensive plan amendment application, there shall be only one \$250 application fee.

STAFF REVIEW: Staff has reviewed the proposed Ordinance Amendment and notes the following considerations:

The development community has expressed concern regarding concurrent comprehensive plan amendments and rezoning amendments for properties with the same legal description wherein it appears that the property owner is paying a double application fee. After reviewing other communities throughout the State and region, additional adjustments in the comprehensive planning process may also be warranted.

The procedural requirements for amending the comprehensive plan and rezoning a piece of property are generally very similar. Both procedures require a ten day public notice in the paper and to property owners before both Planning Commission and City Council. The criteria utilized to determine whether or not the changes are appropriate vary however.

The six criteria for comprehensive plan amendments stated above in Section 2.60.160(D) requires that the Planning Commission and City Council consider the community as a whole when reviewing the proposed amendment. The four rezoning criteria, identified in Section 17.54.040(D) below, generally requires that the Planning Commission and City Council consider the surrounding area when reviewing the proposed amendment.

D. *Standards for amendments.* A proposed amendment shall be considered on its own merits using the following criteria as a guide:

1. *Text or map amendments.* The following conditions shall be met for all amendments:

a. The proposed amendments shall be necessary because of substantially changed or changing conditions of the area and districts affected, or in the city generally.

b. The proposed amendments shall be consistent with the intent and purposes of this title.

c. The proposed amendment shall not adversely affect any other part of the city, nor shall any direct or indirect adverse effects result from the amendment.

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d. The proposed amendments shall be consistent with and not in conflict with the development plan of Rapid City including any of its elements, major road plan, land use plan, community facilities plan and others.

South Dakota Codified Law allows municipalities the opportunity to promote the health, safety and general welfare of each municipality by adopting a comprehensive plan in order to interrelate all functional and natural systems and activities relating to the development of the territory under its jurisdiction. Once the comprehensive plan is adopted, municipalities can then adopt subdivision ordinances in order to provide coordination of streets with other subdivisions and the major street plan. When developing the major street plan, we identify arterial roads every mile and collector roads every half-mile. In our area, though, topography may dictate how we can apply these general guidelines. The Street Design Criteria Manual identifies arterial roads with a minimum of 100 feet for right-of-way and collectors with a minimum of 76 feet for right-of-way. When unplatted property is developed adjacent to an arterial road or collector road, and right-of-way for that road is below the minimum standards, the additional right-of-way is then platted as a requirement of the platting procedure.

The proposed language regarding the major street plan will ensure that the plan is used as a general planning tool versus an exact requirement. The subdivision ordinance provides the tool to ensure that roadway connectivity occurs based on the future road locations identified on the major street plan.

The Second Floor Review Committee recommends that the Ordinance Amendment to consider amendments to Section 2.60.160 of the Rapid City Municipal Code pertaining to Comprehensive Plan be approved as noted above.