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MINUTES OF THE
RAPID CITY PLANNING COMMISSION
March 7, 2002

MEMBERS PRESENT: Jeff Hoffmann, Sam Kooiker, Pam Mashek, Mel Prairie Chicken, Robert Scull, Jeff Stone, Paul Swedlund, and Stuart Wevik.

STAFF PRESENT: Marcia Elkins, Vicki Fisher, Lisa Seaman, Karen Bulman, Dan Ladenburger, Dan Bjerke, Dave Johnson, Dave LaFrance, Randy Nelson, Jason Green and Nadine Bauer

Chairperson Wevik called the meeting to order at 7:00 a.m.

Wevik reviewed the Non-Hearing Consent Agenda and asked if any member of the Planning Commission, staff or audience would like any item removed from the Non-Hearing Consent Agenda for individual consideration.

Staff requested that Item 6 be removed from the Non-Hearing Consent Agenda for separate consideration. Kooiker requested that Item #1 be removed from the Non-Hearing Consent Agenda for separate consideration. A member of the audience requested that Item #5 be removed from the Non-Hearing Consent Agenda for separate consideration.

Hoffman moved, Stone seconded and carried unanimously to recommend approval of the Non-Hearing Consent Agenda Items 1 through 9 in accordance with the staff recommendations with the exception of Items 1, 5, and 6. (8 to 0)

---NON HEARING ITEMS CONSENT CALENDAR---

2. No. 02AN002 - Schlottman Addition

A request by Pennington County Commission to consider an application for a **Petition for Annexation** on the 50 foot E. St. Charles Street right-of-way lying north of Lots A,C, D, E, F, G, & H in Schlottman Addition and the 66 foot E. St. Andrew Street right-of-way lying north of Lots O, P, Q, R, S, & T in Schlottman Addition, and the east half of Sedivy Lane lying south of SD Highway 44 and north of the railroad tracks, all located in Section 5, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located north of E. St. Patrick Street and south of SD Highway 44.

Planning Commission recommended that the Petition for Annexation be approved.

3. No. 02AN003 - Deblen Subdivision and Kormylo Subdivision

A request by City of Rapid City to consider an application for **Petition for Annexation** on the 80 foot wide vacated Brave Heart Street right-of-way on the southern boundary of Lot 1 and Lot 2 of Deblen Subdivision and the northern boundary of Block 1 and 4 as shown on the plat of Block 1 and 4 of Lot 2 of NW1/4 NW1/4 and of Lot 3 of SW1/4 NW1/4 and Blocks 2 and 3 of Lot 3 of SW1/4 NW1/4, Section 17, T1N, R8E, and the 80 foot wide vacated Red Cloud

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street right-of-way lying within Lot A and B of Tract 2 of Kormylo Subdivision and Block 1 and 2 as shown on the plat of Blocks 1 and 4 of Lot 2 of NW1/4 NW1/4 and Lot 3 of SW1/4 NW1/4 and Blocks 2 and 3 of Lot 3 of SW1/4 NW1/4 Section 17, T1N, R8E, all located in Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of SD Highway 79, south of Fairmont Boulevard and north of Minnesota Street.

Planning Commission recommended that the Petition for Annexation be approved.

4. No. 01PL096 - Robbinsdale Addition No. 8

A request by Gary Rasmusson to consider an application for a **Final Plat** on Lots 31R through 35R, and Lots 40 through 42, of Block 11, and Lots 1R through 4R, and Lot 26 of Block 13, Robbinsdale Addition No. 8 (formerly Lots 31 through 35, and Lot 36 Rev. of Block 11, and Lots 1 through 4 of Block 13, of Robbinsdale Addition No. 8) Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the intersection of Sitka Street and Hemlock Street.

Planning Commission recommended that the Final Plat be continued to the March 21, 2002 Planning Commission meeting.

7. No. 02PL009 - Chapel Lane Village Subdivision

A request by Polenz Land Surveying for Chuck Farrar to consider an application for a **Preliminary and Final Plat** on Lots 16P Revised and Lot 17P revised in Block 2 of Chapel Lane Village Subdivision, Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota legally described as Lot 16P and Lot 17P of Block 2 of Chapel Lane Village located in the NE/14 of NE/14 of Section 17 and the SE1/4 of SE1/4 of Section 8 and the vacated portion of Lakeview Subdivision No. 2 of the SE1/4 of SE1/4 of Section 8, all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3210 Kirkwood Drive.

Planning Commission recommended that the Preliminary and Final Plat be continued to the March 21, 2002 Planning Commission meeting.

8. No. 02PL011 - Minnesota Ridge Subdivision

A request by Centerline, Inc. for 3 T's Land Development LLC to consider an application for a **Preliminary Plat** on Lots 23 thru 30 and Lots 41 thru 48, Minnesota Ridge Subdivision, located in the SW1/4 of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota legally described as a portion of Tract C of Robbinsdale Addition No. 10 located in the SW1/4 of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of the intersection of Minnesota Street and 5th Street.

Planning Commission recommended that the Preliminary Plat be continued to the April 4, 2002 Planning Commission meeting to allow the applicant to submit additional information.

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9. No. 02PL013 - Fountain Springs

A request by Fisk Land Surveying & Consulting Engineers for Franklin Simpson to consider an application for a **Preliminary and Final Plat** on Tract B Revised - Fountain Springs - Golf Course and Gardens and Tract 13R2 of the S.G. Interstate Plaza located in the W1/2 NE1/4, E1/2 NW1/4 of Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota legally described as Tract B - Fountain Springs - Golf Course and Gardens and Tract 13 of the S.G. Interstate Plaza located in the W1/2 NE1/4, E1/2 NW1/4 of Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of North Plaza Drive and west of Fountain Plaza Drive.

Planning Commission that the Preliminary and Final Plat be approved with the following stipulations:

Fire Department Recommendations:

1. **All Uniform Fire Codes shall be continually met;**
2. **Prior to the start of any building construction, fire hydrants shall be installed and operational;**
3. **Prior to the start of any building construction, all-weather access roads shall be constructed to the building site;**
4. **All streets, turnarounds and access shall comply with all the requirements of the Rapid City Street Design Criteria Manual;**

Air Quality Division Recommendations:

5. **An Air Quality Construction Permit shall be obtained if more than one acre of surface area is disturbed prior to the issuance of any building permits or grading permits;**

---END OF NON HEARING ITEMS CONSENT CALENDAR---

1. Approval of the February 21, 2002 Planning Commission Meeting Minutes

Kooiker expressed concerns with the February 21, 2002 Planning Commission minutes not reflecting the questions asked by the Planning Commissioners. Kooiker expressed his opinion that all questions need to be noted in their entirety in the minutes.

Kooiker moved, Swedlund seconded to recommend that the minutes of the February 21, 2002 Planning Commission meeting be continued to the March 21, 2002 Planning Commission meeting and to direct staff to amend the minutes to reflect the exact questions presented by Planning Commissioners rather than as a statement.

Elkins noted that the minutes are a record of what occurs not what was said. Elkins stated that there has been discussion concerning consolidating the minutes even more than what is presently being done and just report the motions that are made. She advised that it would be appropriate for the Planning

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Commission to make a specific motion to amend the minutes. Elkins suggested that the Planning Commission discuss this item in more detail at a later time with the full Planning Commission.

Wevik asked Kooiker if his motion was to have the minutes amended to include the actual question. Kooiker advised that is the intent of his motion.

Swedlund stated that he supported the motion and added that he felt that the last two meetings had interesting discussion and that it would be a good idea to have the minutes for these two particular meetings state the nature of the question.

In response to a question by Hoffman, Elkins advised that the tape recordings of the Planning Commission meetings are kept until the minutes are adopted.

Hoffman stated that he did not feel that the minutes needed to reflect who said what during a meeting. He suggested that this item should be discussed under the Planning Commission items at the end of the meeting.

Prairie Chicken stated that he is opposed to the motion to direct staff to amend the minutes of February 21, 2002. He further added that the minutes are a matter of public record but did not believe that it is necessary to have verbatim minutes. Prairie Chicken suggested putting this discussion on a Planning Commission training session to cover minutes and parliamentary procedure.

Hoffman made a substitute motion, seconded by Prairie Chicken and carried unanimously to move Item #1 to the end of the agenda. (8 to 0)

5. No. 02PL003 - Henderson Ranch Subdivision

A request by Dream Design International, Inc. to consider an application for a **Layout Plat** on the SE1/4NE1/4 & W1/2SE1/4 of Section 14, T2N, R7E BHM, Pennington County, South Dakota; and NE1/4 NE1/4 of Section 23, T2N, R7E, BHM Pennington County, South Dakota; and SW1/4 NW1/4, less Haines Avenue Right of Way and NW1/4 SW1/4 Section 13, T2N, R7E, BHM, Pennington County, South Dakota; and Lots 5 and 6 of Madison's Subdivision, in the City of Rapid City, as shown on the final plat recorded in Book 12 of Plats on Page 106, Pennington County Register of Deeds, more generally described as being located west of Haines Avenue.

Hani Shafi, Dream Design International Inc., expressed concerns with Engineering Division recommendations #3 and #4. Shafi presented a brief history of the lift station and upgrades and the lift station's capacity.

Nelson expressed concerns regarding timing issues and station upgrades. He added that he is not opposed to revising stipulation #3 and #4 to include a Phasing Plan and a schedule of station upgrades.

Shafi requested that the Planning Commission approve the Layout Plat as recommended by Staff with stipulations #3 and #4 being revised to include that prior to Final Plat approval the applicant will submit a Phasing Plan and a

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schedule of upgrades for the lift station.

Wevik clarified Shafi's request to revise stipulation #3 and omit stipulation #4.

Hoffman moved, Kooiker seconded and carried unanimously to recommend that the Layout Plat be approved with the following stipulations:

Engineering Division Recommendations:

1. Upon Preliminary Plat submittal, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review and approval. In addition, a master water plan shall be submitted for review and approval and the plat shall be revised to show utility easement(s) as necessary,
2. Upon Preliminary Plat submittal, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines shall be submitted for review and approval. In addition, a master wastewater plan shall be submitted for review and approval and the plat shall be revised to show utility easement(s) as necessary.
3. Prior to City Council approval of the Final Plat, a Phasing Plan and a schedule of lift station upgrades shall be submitted for review and approval.
4. Upon Preliminary Plat submittal, a drainage plan shall be submitted for review and approval. In addition, drainage easements shall be provided as required;
5. Upon Preliminary Plat submittal, geotechnical information shall be submitted for review and approval;
6. Upon Preliminary Plat submittal, grading plans and an erosion control plan shall be submitted for review and approval;
7. Upon Preliminary Plat submittal, the plat shall be revised to show a north/south collector road along the section line located in the middle of the proposed development and an east/west collector road existing in alignment with Country Road as shown on the Major Street Plan; or the Major Street Plan shall be amended;
8. Upon Preliminary Plat submittal, the section line highway shall be constructed to City standards or the section line highway shall be vacated;

Emergency Services Communication Center Recommendation:

9. Upon Preliminary Plat submittal, street names shall be submitted for review and approval;

Fire Department Recommendations:

10. Upon Preliminary Plat submittal, a fire hydrant design plan showing the location of fire hydrants and water lines, including the size of the proposed water lines, shall be submitted for review and approval;

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11. All Uniform Fire Codes shall be continually met;

Urban Planning Division Recommendations:

12. Prior to Preliminary Plat approval by the City Council, a Variance to the Subdivision Regulations shall be obtained to allow a lot length greater than twice the lot width or the plat shall be revised to comply with the length to width requirement;
13. Prior to Final Plat approval by the City Council, the property shall be rezoned to allow the proposed residential development and the Rapid City Comprehensive Plan shall be amended accordingly;
14. Upon Preliminary Plat submittal, a phasing plan shall be submitted for review and approval;
15. Prior to Final Plat approval by the City Council, a subdivision estimate form shall be submitted for review and approval; and,
16. Prior to Final Plat approval by the City Council, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid. (8 to 0)

6. **No. 02PL006 - Springbrook Acres Addition**

A request by Fisk Land Surveying & Consulting Engineers for Larry Lewis and Kenneth Kirkeby to consider an application for a **Preliminary and Final Plat** on Parcel A of Tract SB of Springbrook Acres Addition and Lot 19R3 of Fairway Hills PRD located in the SW1/4 NE1/4, NW1/4 SE1/4, and SE1/4 NW1/4 of Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota legally described as Lot 19R2 of Fairway Hills PRD and a portion of Tract SB of Springbrook Acres located in the SW1/4 NE1/4, NW1/4 SE1/4, and SE1/4 NW1/4 of Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Fairway Hills and Sandstone Ridge Subdivision.

Elkins advised that the applicant has requested that the Preliminary and Final Plat be continued to the March 21, 2002 Planning Commission meeting.

Stone moved, Scull seconded and carried unanimously to recommend that the Preliminary and Final Plat be continued to the March 21, 2002 Planning Commission meeting. (8 to 0)

Wevik reviewed the Hearing Consent Agenda and asked if any member of the Planning Commission, staff or audience would like any item removed from the Hearing Consent Agenda for individual consideration.

Staff requested that Items 26, 27, and 28 be removed from the Hearing Consent Agenda for separate consideration. Kooiker requested that Items 30 thru 32 be removed from the Hearing Consent Agenda for separate consideration.

Hoffman moved, Stone seconded and carried unanimously to recommend approval of the Hearing Consent Agenda Items 10 through 32 in accordance with

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the staff recommendations with the exception of Items 26 thru 28 and 30 thru 32. (8 to 0)

---HEARING ITEMS CONSENT CALENDAR---

10. No. 02OA004 - Ordinance Amendment

A request by City of Rapid City to consider an application for an **Ordinance Amendment** adding "Pet Stores" as a permitted use in certain zoning districts by amending Section 17.04 of the Rapid City Municipal Code by adding a new section 17.04.546 and amending Sections 17.18.020(30), 17.30.020(B)(1), and 17.32.020(B)(1).

Planning Commission recommended that the Ordinance Amendment be approved.

11. No. 01PD064 - South Boulevard Addition

A request by Bryan K. Gonzales for Pride Neon, Inc. to consider an application for a **Major Amendment to a Planned Commercial Development to revise the sign package** on Lot 2 Revised of Blocks 14-15, South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 640 Flormann Street.

Planning Commission recommended that the Major Amendment to a Planned Commercial Development to revise the sign package be continued to the April 4, 2002 Planning Commission meeting to allow the applicant time to submit an additional required Major Amendment to the Planned Commercial Development.

12. No. 02PD002 - Northern Heights

A request by Dean Kelly Construction for Atonement Lutheran Church to consider an application for a **Planned Residential Development - Initial and Final Development Plan** on Lot 1 of Lot A, Block 6, Northern Heights Subdivision, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 522 Anamosa Street.

Planning Commission recommended that the Planned Residential Development - Initial and Final Development Plan be denied without prejudice at the applicant's request.

13. No. 02PL005 - Wise's Addition

A request by Thurston Design Group, LLC for Youth & Family Services, Inc. to consider an application for a **Preliminary and Final Plat** on Lot 2R and Lot 3 of Block 21, Wise's Addition, located in the W1/4 of the NW1/4, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota legally described as Lots 3 Rev. and 4 Rev. of Block 6 and Lot 2 of Block 21, Wise's Addition located in the SW1/4 of the NW1/4 Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 120 East Adams Street and 202 East Adams Street.

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Planning Commission recommended that the Preliminary and Final Plat be continued to the April 4, 2002 Planning Commission meeting to allow staff time to review the revised design plans.

14. No. 02PD003 - Wise's Addition

A request by Thurston Design Group, LLC for Youth and Family Services to consider an application for a **Planned Commercial Development - Final Development Plan** on the east 26' of Lot 2 of Block 21, Lot 3 Revised and Lot 4 Revised of Block 6, Wise's Addition, located in the SW1/4 of the NW1/4, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 120 East Adams Street and 202 East Adams Street.

Planning Commission recommended that the Planned Commercial Development - Final Development Plan be continued to the April 4, 2002 Planning Commission meeting to allow the applicant time to provide additional required information.

****15.** No. 02PD004 - Hamilton Subdivision

A request by Harold Bies for Bies Highway 79 LLP to consider an application for a **Planned Development Designation** on the east 350' of Lot 2 of Hamilton Subdivision, and the 50' wide 278.52' of SD Highway 79 ROW adjacent to Lot 2 of Hamilton Subdivision, approximately 2.234 acres; and, the west 382.46' of Lot 2 of Hamilton Subdivision, approximately 2.44 acres, all located in Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Highway 79 and north of Minnesota Street.

Planning Commission approved that the Planned Development Designation contingent upon the approval of the associated rezoning from Medium Density Residential and Light Industrial to General Commercial Zoning District.

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Planning Department by close of business on the seventh full calendar day following action by the Planning Commission.

16. No. 02RZ008 - Hamilton Subdivision

A request by Harold Bies for Bies Highway 79 LLP to consider an application for a **Rezoning from Light Industrial District and Medium Density Residential to General Commercial District** on the east 350' of Lot 2 of Hamilton Subdivision, and the 50' wide 278.52' of SD Highway 79 ROW adjacent to Lot 2 of Hamilton Subdivision, approximately 2.234 acres; and, the west 382.46' of Lot 2 of Hamilton Subdivision, approximately 2.44 acres, all located in Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Highway 79 and north of Minnesota Street.

Planning Commission recommended that the Rezoning from Light

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Industrial District and Medium Density Residential to General Commercial District be approved in conjunction with the Planned Development Designation.

****17. No. 02PD006 - Hamilton Subdivision**

A request by Harold Bies for Bies Highway 79 LLP to consider an application for a **Planned Development Designation** on Lot 1, Hamilton Subdivision, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Highway 79 and north of Minnesota Street.

Planning Commission approved the Planned Development Designation contingent upon the approval of the associated rezoning from Medium Density Residential to Office Commercial Zoning District.

The Rapid City Planning Commission's action on this item is final unless any party appeals that decision to the Rapid City Council. All appeals must be submitted in writing to the Planning Department by close of business on the seventh full calendar day following action by the Planning Commission.

18. No. 02RZ012 - Hamilton Subdivision

A request by Harold Bies for Bies Highway 79 LLP to consider an application for a **Rezoning from Medium Density Residential District to Office Commercial District** on Lot 1, Hamilton Subdivision, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Highway 79 and north of Minnesota Street.

Planning Commission recommended that the Rezoning from Medium Density Residential District to Office Commercial District be approved in conjunction with a Planned Development Designation.

19. No. 02RZ005 - Feigel Subdivision

A request by FMG, Inc. for N.W. Engineering to consider an application for a **Rezoning from Light Industrial District to Medium Density Residential District** on Lot 1 and 2 of Block 3 of Feigel Subdivision; and the remaining balance of Block 3 of Feigel Subdivision; and the south 40' of previously vacated Madison Street right of way between Riley Avenue and Cambell Street; and the previously vacated 16' east-west right of way through Lots 1 and 2 of Block 3 of Feigel Subdivision and remaining balance of Block 3 of Feigel Subdivision; and the north 40' of previously vacated Watertown Street right of way located between Riley Avenue and the west lot line of Lot 3 of Block 2 of Feigel Subdivision; all located in the SE1/4 of Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of East North Street and East of Riley Avenue.

Planning Commission recommends that the Rezoning from Light Industrial District to Medium Density Residential District be continued to the April 4, 2002 Planning Commission meeting so that the rezoning request can be

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considered in conjunction with the applicant's request for a Comprehensive Plan Amendment to the North Rapid Neighborhood Future Land Use Plan.

****20. No. 02UR003 - Feigel Subdivision**

A request by FMG, Inc. for N.W. Engineering to consider an application for a **Major Amendment to a Conditional Use Permit to allow the expansion of a mobile home park** on Lot 1 and 2 of Block 3 of Feigel Subdivision; and the remaining balance of Block 3 of Feigel Subdivision; and the south 40' of previously vacated Madison Street right of way between Riley Avenue and Cambell Street; and the previously vacated 16' east-west right of way through Lots 1 and 2 of Block 3 of Feigel Subdivision and remaining balance of Block 3 of Feigel Subdivision; and the north 40' of previously vacated Watertown Street right of way located between Riley Avenue and the west lot line of Lot 3 of Block 2 of Feigel Subdivision; all located in the SE1/4 of Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of East North Street and east of Riley Avenue.

Planning Commission recommended that the Major Amendment to a Conditional Use Permit to allow the expansion of a mobile home park be continued to the March 21, 2002 Planning Commission meeting to allow the applicant time to submit additional required information.

21. No. 02RZ009 - Section 21, 22 & 27, T2N, R7E

A request by City of Rapid City to consider an application for a **Rezoning from No Use District to General Agriculture District** on U.S. Interstate 90 and right-of-way from Deadwood Avenue eastward, all located within Section 21, 22, and 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, including Lot H1 NE1/4 SE1/4, Lot H1 SE1/4 SE1/4, all located in Section 21, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, and Lot H1, Lot H1 of Lot Y of Lot H2, Lot H1 of Lot X of Lot H2, all located in SW1/4 of Section 22, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, and Lot H W1/2 NW1/4 and NE1/4 NW1/4, and Lot H1 NE1/4, all located in Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on U.S. Interstate 90 from Deadwood Avenue eastward through Sections 21, 22 and 27.

Planning Commission recommended that the Rezoning from No Use District to General Agriculture District be approved.

22. No. 02RZ010 - Johnson School Subdivision

A request by City of Rapid City to consider an application for a **Rezoning from No Use District Light Industrial District** on that portion of Shadow Drive lying between Lots H1 in Lots 4, 5, and 6 of Block 1 and Lot H1 in Lots 3, 4, 5, 6, and 7 of Block 2 of the Johnson School Subdivision located in the NW1/4 NE1/4, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; that portion of School Drive lying south of Lot H1 in the east 88 feet of Lot D located in the NE1/4 NW1/4, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lot H1 in Lot 8 of Block 2 of the Johnson School Subdivision

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located in the NW1/4 NE1/4, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of SD Highway 44 and west of Twilight Drive.

Planning Commission recommended that the Rezoning from No Use District Light Industrial District be continued to the March 21, 2002 Planning Commission to allow the related Planned Development Designation to be properly advertised.

23. No. 02RZ011 - Johnson School Subdivision

A request by City of Rapid City to consider an application for a **Rezoning from No Use District to Light Industrial District** on that portion of SD Highway 44 right-of-way lying south of Lot H1 in Lots A and B of the Johnson School Subdivision located in the NE1/4 NW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located a portion of SD Highway 44 right-of-way between School Drive and Twilight Drive.

Planning Commission recommended that the Rezoning from No Use District Light Industrial District be continued to the March 21, 2002 Planning Commission to allow the related Planned Development Designation to be properly advertised.

24. No. 02RZ013 - Stoney Creek Subdivision Phase II

A request by Dream Design International, Inc. for Stoney Creek Inc. to consider an application for a **Rezoning from General Agriculture District and Neighborhood Commercial District to Low Density Residential District** on a parcel of land located in the NE1/4 SW1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, described by metes and bounds: Beginning at the southeast corner of Lot 3, Block 4 of Stoney Creek Subdivision Phase 1, as recorded in Pennington County Register of Deeds Office in Book 30, Page 4; thence N00°06'46"W, 344.73 feet; thence N89°50'04"E, 1319.78 feet; thence S00°10'01"E, 1164.55 feet to a point lying on a curve concave to the south and whose chord bears N62°17'18"W, 115.64 feet; said point is also lying on the northerly right-of-way line of Catron Boulevard; thence continuing along said northerly right-of-way line the following six (6) courses: Thence northwesterly along the arc of said curve to the left whose radius is 2513.09 feet and whose central angle is 02°38'12", an arc length of 115.65 feet to a point of tangency; thence N63°36'24"W, 52.54 feet; thence N32°27'56"W, 107.85 feet; thence N63°36'24"W, 23.24 feet; thence S80°51'12"W, 112.88 feet; thence N63°36'24"W, 459.58 feet; thence departing said northerly right-of-way line N26°23'36"E, 400.00 feet; thence N63°36'24"W, 400.00 feet; thence S26°23'36"W, 400.00 feet to a point on said northerly right-of-way line; thence continuing along said northerly right-of-way line the following two (2) courses; N27°46'08"W, 72.85 feet; thence N63°36'24"W, 85.30 feet; thence departing said northerly right-of-way line N25°26'46"W, 189.65 feet; thence S89°20'46"W, 21.08 feet, to the point of beginning; containing 21.246 acres more or less; and, a parcel of land located in the NE1/4 SW1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, being more particularly described

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as follows: Beginning at the southeast corner of Lot 3, Block 4 of Stoney Creek Subdivision Phase I, as recorded in Pennington County Register of Deeds Office in Book 30, Page 4; thence S73°54'41"E, 346.52 feet to the true point of beginning; thence N26°23'36"E, 400.00 feet; thence S63°36'24"E, 400.00 feet; thence S26°23'36"W, 400.00 feet to a point lying on the northerly right-of-way line of Catron Boulevard; thence N63°36'24"W, along said northerly right-of-way line, 400.00 feet to the true point of beginning; containing 3.673 acres more or less., more generally described as being located north of the intersection of Catron Boulevard and Sheridan Lake Road.

Planning Commission recommended that the Rezoning from General Agriculture District and Neighborhood Commercial District to Low Density Residential District be continued to the March 21, 2002 Planning Commission meeting at the applicant's request.

25. No. 02SV008 - Stoney Creek Subdivision Phase II

A request by Dream Design International, Inc. for Stoney Creek Inc. to consider an application for a **Variance to the Subdivision Regulations to allow lots twice as long as they are wide** on the E1/2 SW1/4 less Stoney Creek Subdivision Phase 1 and Less Lot H2, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of the intersection of Catron Boulevard and Sheridan Lake Road.

Planning Commission recommended that the Variance to the Subdivision Regulations to allow lots twice as long as they are wide be continued to the March 21, 2002 Planning Commission meeting to be heard in conjunction with the associated plat.

29. No. 02SV007 - Chapel Lane Village Subdivision

A request by Polenz Land Surveying for Chuck Farrar to consider an application for a **Variance to the Subdivision Regulations to waive the requirement for curb, gutter, sidewalk and street light conduit** on Lot 16P and Lot 17P of Block 2 of Chapel Lane Village located in the NE1/4 of NE1/4 of Section 17 and the SE1/4 of SE1/4 of Section 8 and the vacated portion of Lakeview Subdivision No. 2 of the SE1/4 of SE1/4 of Section 8, all in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3210 Kirkwood Drive.

Planning Commission recommended that the Variance to the Subdivision Regulations to waive the requirement for curb, gutter, sidewalk and street light conduit be approved with the stipulation that the applicant sign a waiver of right to protest an assessment district for Lot 16P Revised and 17P Revised.

---END OF HEARING CONSENT CALENDAR---

Fisher requested that Items 26 and 27 be considered concurrently.

26. No. 01SV031 - Sections 22 and 27, T1N, R8E

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A request by Alliance of Architects for American West Communities to consider an application for a **Variance to the Subdivision Regulations to waive the requirement for curb and gutter, dry sewer, street conduit and to allow sidewalk on one side of the street** on the S1/2 of the NE1/4 and the SE1/4 except Bradeen Subdivision of Section 22 and NE1/4 Section 27, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at the intersection of Reservoir Road and South Side Drive.

27. No. 01PL102 - Sections 22 and 27, T1N, R8E

A request by Alliance of Architects for American West Communities to consider an application for a **Layout Plat** on the S1/2 of the NE1/4 and the SE1/4 except Bradeen Subdivision of Section 22 and NE1/4 Section 27, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at the intersection of Reservoir Road and South Side Drive.

Fisher advised that the applicant has submitted a letter requesting withdrawal of the applications for a Variance to the Subdivision Regulations and a Layout Plat.

Scull moved, Stone seconded and carried unanimously to recommend acknowledgement of the applicant's request to withdraw the applications for a Variance to the Subdivision Regulations and a Layout Plat. (8 to 0)

28. No. 02SV006 - Springbrook Acres Addition and Fairway Hills Planned Residential Development

A request by Fisk Land Surveying & Consulting Engineers for Larry Lewis and Kenneth Kirkeby to consider an application for a **Variance to the Subdivision Regulations to allow sidewalks on one side of the street** Lot 19R2 of Fairway Hills PRD and a portion of Tract SB of Springbrook Acres located in the SW1/4 NE1/4, NW1/4 SE1/4, and SE1/4 NW1/4 of Section 15, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Fairway Hills and Sandstone Ridge Subdivision.

Fisher advised that the applicant is requesting that the Variance to the Subdivision regulations be continued to the March 21, 2002 Planning Commission meeting.

Stone moved, Hoffman seconded and carried unanimously to recommend that the Variance to the Subdivision regulations be continued to the March 21, 2002 Planning Commission meeting. (8 to 0)

30. No. 01TI001 - Dissolution of Tax Increment District #31

A request by the City of Rapid City to consider an application for **Dissolution of Tax Increment District #31** on the NE1/4 of Section 33, T2N, R8E; Balance of the NW1/4 NW1/4 and S1/2 NW1/4 of Section 33, T2N, R8E; SE1/4 of Section 33, T2N, R8E, all located in BHM, Rapid City, Pennington County, South Dakota; Government Lots 1 and 2, Section 4, T1N, R8E; S1/2 NE1/4 less Rushmore Regional Industrial Park, Section 4, T1N, R8E; and Lots 2 and 3 of Block 4, Lots A and B of Lot 1R, Block 4 and Lots 1 and 2, Block 3, Rushmore Regional Industrial Park, Section 4, T1N, R8E; Elk Vale Road right-of-way (including all H

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Lots) located in Section 4, T1N, R8E; and that portion of the SE1/4 of Section 4, T1N, R8E lying south of Elk Vale Road, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Elk Vale Road south of Interstate 90.

Elkins presented the request, reviewed the slides and discussed the reasons for dissolution of Tax Increment District #31 and the creation of Tax Increment District #35.

Kooiker asked if the Tax Increment District #35 includes new property and if the new tax increment district includes more or less acreage than the district to be dissolved. Elkins reviewed the slides of the area and added that the new district contains new property and is smaller than the district to be dissolved.

A brief discussion followed concerning improvements, funding, the Rushmore Business Park, the improvements at West River Electric, and the detention cell.

Kooiker moved, Mashek seconded and carried unanimously to recommend approval of the Dissolution of Tax Increment District #31. (8 to 0)

Elkins requested that Items 31 and 32 be considered concurrently.

31. No. 02TI001 - Section 3, 4, and 9, T1N, R8E

A request by the City of Rapid City to consider an application for a **Resolution creating Tax Increment District #35** on the west 340 feet of the unplatted portion of the S1/2 NW1/4 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lot A of NE1/4 NW1/4 & NW1/4 NE1/4, Lots A and B of Lot 1 of Lot D of NW1/4 NE1/4, Lot B of NW1/4 NE1/4, Lot 2 of Lot D of NW1/4 NE1/4, Lot C of NW1/4 NE1/4, Lot 1 less Lot H1 in Block 1, Lots 2-4 less Lot H1 in Lot 4 in Block 1, Lot 9 less Lot H1 in Block 1, Lots 6-8 less Lot H1 of Lot 6 in Block 1, Lot 1 less Lot H1 in Block 2, Lot 2 in Block 2, Lot 3 less Lot H1 in Block 2, all located in Johnson School Subdivision, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; School Lot & Lot "RS" in NW1/4 NE1/4, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; the balance of SE1/4 less Lot H1, less Lot H3 of W1/2 SE1/4 & less Lots H3 & H4 of E1/2 SE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lot H6 in the Hawthorne Ditch located in the NE1/4 NW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lot H1 in the east 88 feet of Lot D of the NE1/4 NW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lots H1 in Lots 6, 7, & 8 in Block 2, Lot H1 in Lot 6 in Block 1, Lots H1 in Lots 4 & 5 in Block 1, and Lots H1 in Lots 3, 4, & 5 in Block 2, all located in the Johnson School Subdivision of the NW1/4 NE1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lots H1 in Lots A & B of the Johnson School Subdivision in the NE1/4 NW1/4 and Lot A of the Johnson School Subdivision in the NW1/4 NE1/4, all in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; School Drive right-of-way south of Lot H1 in the east 88 feet of Lot D of the NE1/4 NW1/4 and south of Lot H1 in Lot 8 in Block 2 of the Johnson School Subdivision of the NW1/4 NE1/4 and south of Inca Drive right-

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of-way, and the vacated School Drive right-of-way south of Lot C of NW1/4 NE1/4 and south of School Lot & Lot "RS" in NW1/4 NE1/4, all located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Shadow Drive and Inca Drive rights-of-way in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, and Jolly Lane Road right-of-way in Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Elk Vale Road and north of SD Highway 44 East.

32. No. 02TI002 - Section 3, 4, and 9, T1N, R8E

A request by the City of Rapid City to consider an application for a **Tax Increment District #35 Project Plan** on the west 340 feet of the unplatted portion of the S1/2 NW1/4 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lot A of NE1/4 NW1/4 & NW1/4 NE1/4, Lots A and B of Lot 1 of Lot D of NW1/4 NE1/4, Lot B of NW1/4 NE1/4, Lot 2 of Lot D of NW1/4 NE1/4, Lot C of NW1/4 NE1/4, Lot 1 less Lot H1 in Block 1, Lots 2-4 less Lot H1 in Lot 4 in Block 1, Lot 9 less Lot H1 in Block 1, Lots 6-8 less Lot H1 of Lot 6 in Block 1, Lot 1 less Lot H1 in Block 2, Lot 2 in Block 2, Lot 3 less Lot H1 in Block 2, all located in Johnson School Subdivision, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; School Lot & Lot "RS" in NW1/4 NE1/4, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; the balance of SE1/4 less Lot H1, less Lot H3 of W1/2 SE1/4 & less Lots H3 & H4 of E1/2 SE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lot H6 in the Hawthorne Ditch located in the NE1/4 NW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lot H1 in the east 88 feet of Lot D of the NE1/4 NW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lots H1 in Lots 6, 7, & 8 in Block 2, Lot H1 in Lot 6 in Block 1, Lots H1 in Lots 4 & 5 in Block 1, and Lots H1 in Lots 3, 4, & 5 in Block 2, all located in the Johnson School Subdivision of the NW1/4 NE1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Lots H1 in Lots A & B of the Johnson School Subdivision in the NE1/4 NW1/4 and Lot A of the Johnson School Subdivision in the NW1/4 NE1/4, all in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; School Drive right-of-way south of Lot H1 in the east 88 feet of Lot D of the NE1/4 NW1/4 and south of Lot H1 in Lot 8 in Block 2 of the Johnson School Subdivision of the NW1/4 NE1/4 and south of Inca Drive right-of-way, and the vacated School Drive right-of-way south of Lot C of NW1/4 NE1/4 and south of School Lot & Lot "RS" in NW1/4 NE1/4, all located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; Shadow Drive and Inca Drive rights-of-way in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, and Jolly Lane Road right-of-way in Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Elk Vale Road and north of SD Highway 44 East.

Scull moved, Stone seconded and carried unanimously to recommend approval of the Resolution Creating Tax Increment District #35 and the Resolution approving the Project Plan for Tax Increment District #35. (8 to 0)

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---END OF HEARING ITEMS CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

33. No. 02VR002 - Original Town of Rapid City

A request by Thurston Design Group, LLC for Rapid City Arts Council to consider an application for a **Vacation of Right of Way** on the alley adjacent to Lots 1-5 and Lots 28-32 of Block 103 of the Original Town of Rapid City located in the NW1/4 of the NW1/4 of Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 713 Seventh Street.

Fisher presented the request, reviewed the slides and reviewed the revised site plan. Fisher commented that staff received the revised site plan yesterday and that staff is recommending that the Vacation of Right of Way be continued to the March 21, 2002 Planning Commission meeting to allow staff time to review the revised site plan.

Swedlund asked if staff had recommended approval at the last Planning Commission meeting. Fisher advised that staff recommended approval with stipulations at the February 21, 2002 Planning Commission meeting. Fisher explained that due to the concerns presented by the Church, Planning Commission continued the hearing on the Vacation of Right of Way to this meeting to allow the applicant time to review other options and to work with the adjacent property owner to address alley location issues. Fisher added that staff would like additional time to review the new plan submitted on March 6, 2002.

Swedlund asked if the applicant has had an opportunity to work with the adjacent property owner regarding the relocation issues. Fred Thurston, architect for the Dahl Fine Arts Center, stated that he met with Bishop Kelly yesterday and reviewed several options. Thurston added that one option is to obtain access to the south along the west side of Radiology Associates and exit onto Quincy Street. Thurston advised that he also has spoken with the Fire Department staff and they feel that dead ending the alley is a reasonable option with a gate placed so that through traffic is not available. Thurston added that the revised route would reduce traffic through the parking lot between the Church and the MDU building. Thurston added that he also met with the Pastor of First Christian Church located at the end of the block and discussed the option. Thurston stated that the Pastor indicated that he did not see any initial problem.

Swedlund commented that the applicant has a major public project that they are trying to undertake and he does not feel that it is fair to keep continuing this item. Swedlund stated that there has been a lot of effort on the part of the applicant to resolve issues with the adjacent property owner. Swedlund expressed his opinion that the adjacent property owner is intransigent on the issue.

Swedlund moved to recommend that the Vacation of Right of Way be approved per the applicant's request. The motion died for lack of a

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second.

Hoffman briefly discussed the notification of utility companies and neighbors. Hoffman added that he supports continuing this matter to the March 21, 2002 Planning Commission meeting to allow staff adequate time to review the revised site plan.

Hoffman moved, and Stone seconded to recommend that the Vacation of Right of Way be continued to the March 21, 2002 Planning Commission meeting.

Stone concurred with Hoffman and asked Fisher to clarify which neighbors would be affected by the revised site plan and the reason for requesting the continuance. Fisher explained that staff was requesting a continuance to allow staff time to review the revised site plan. Fisher added that routing the alley to the south as shown on the revised site plan may have some impact on the Radiology Associates site and other properties within the area.

Evelyn Kelly, Business Administrator for Faith Temple Church, stated that the Church staff met with Mr. Thurston and reviewed two new options. Kelly expressed her opinion that the Church has not been provided with any viable options. She added that she believes that there are other options that still have not been examined and expressed her opposition to having an alley running through the parking lot between the Church and the MDU building. She also expressed concerns about the use of the Church's 12.5 feet in the parking lot and the proposed vertical parking stalls offered to the Church as an alternative.

Wayne Zacko, member of Faith Temple Church, submitted a list of questions and concerns to the Planning Commission to review. He expressed his concerns with setting a precedent for vacating alleys, constructing a building over the alley, increased traffic flow, Fire Department apparatus and their ability to access the alley, turning radii, and closing the alley. Zacko suggested that the architect revise the design plans to include an arched walkway over the top of the alley.

Mike Collins, prospective member of Faith Temple Church, concurred with Zacko's concerns and thanked the Planning Commission for considering his comments. Collins stated that he supports the arts but added that it is not too late to consider other options. He added that he felt a walkway over the alley would be a better option than vacating the right of way.

Tom Graslie, attorney for the Rapid City Arts Council, reviewed the Dahl Fine Arts Center's expansion plans, options that were considered, fund raising, acquisition of the MDU building, 2012 projects, expansion of the theatre, the costs associated with relocating the Dahl Fine Arts Center, vacating the alley, and the public notification process. Graslie advised that the walkway over the alley was reviewed as an option but it was determined to be cost prohibitive.

Thurston stated that the walkway was reviewed and due to the slope from the

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existing building the theatre floor would have to be raised approximately 20 feet. Thurston stated that this would cost up to a half million dollars.

Bishop Lorenzo Kelly, Faith Temple Church, thanked the Planning Commission for listening to the Church's concerns. Kelly stated that Thurston did present some alternatives to church staff yesterday but added that he is still concerned that his objections are not being addressed. He asked that the Planning Commission not rush to approve the vacation of right of way before looking at other options.

Wevik commented that the Planning Commission did wish to give this application proper consideration and restated that the motion is to continue the vacation of right of way to allow staff to review the revised site plan and other options.

Swedlund stated that he concurred with Wevik and added that the applicant has worked very hard on this project and the idea of continuing this item over and over prejudices the project in the eyes of the public. Swedlund reviewed the options and costs involved with the Dahl Fine Arts' expansion plans, location of the arts center, creating a cultural campus. He also expressed his concerns that the Planning Commission had not been presented with objections of substance from the public and issues regarding motive.

Erik Heikus, property owner, discussed the project, Fire Department recommendations, and made comparisons to other cities, and the scale of their art centers. Heikus advised that he is a member of the Arts Council and supports the vacation of right of way and the Dahl's expansion plans.

Wevik stated that if there are any Planning Commissioners that are opposed to the vacation of right of way then they should not vote to continue this item.

Swedlund briefly discussed depreciation of property and what constitutes a taking of property.

Bishop Kelly addressed Swedlund's concerns and advised that he has not threatened to file a lawsuit.

Stone stated that he supports a continuance until staff has had adequate time to review the alternative option.

The vote on the motion carried to recommend that the Vacation of Right of Way be continued to the March 21, 2002 Planning Commission meeting. (7 to 1 with Swedlund voting no)

Elkins requested that Items 34 thru 36 be considered concurrently.

34. No. 01CA032 - Skyline Pines East

A request by Wyss Associates for W.E.B. Partners to consider an application for a **Amendment to the Comprehensive Plan to change the future land use designation on a 3.202 acre parcel from Office Commercial to General**

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Commercial on legally described as property described by metes and bounds beginning from a point 1795.13 feet at a bearing S89°39'0"E from the SW corner of the NW1/4 of the SE1/4 of Section 11, T1N, R7E, BHM, travel 431.35 feet at a bearing N22°2'42"W, Then travel 310.56 feet along a 230' LHF curve with a chord bearing N16°38'12" E, Then travel 161.93 feet at a bearing N55°19'17"E, Then travel 227.59 feet at a bearing S34°35'20"E, Then travel 300.07 feet at a bearing S45°W, Then travel 305.00 feet at a bearing S34°36'5"E, Then travel 165.44 feet at a bearing S45°W, Then travel 26.8 feet at a bearing N89°39'0"W, to the point of start, more generally described as being located west of the western terminus of Fairmont Boulevard and north of Tower Road.

35. No. 01PD062 - Skyline Pines East

A request by Wyss Associates for Web Real Estate Holdings Company LLC to consider an application for a **Planned Development Designation** on property described by metes and bounds beginning from a point 1795.13 feet at a bearing S89°39'0"E from the SW corner of the NW1/4 of the SE1/4 of Section 11, T1N, R7E, BHM, travel 431.35 feet at a bearing N22°2'42"W, Then travel 310.56 feet along a 230' LHF curve with a chord bearing N16°38'12" E, Then travel 161.93 feet at a bearing N55°19'17"E, Then travel 227.59 feet at a bearing S34°35'20"E, Then travel 300.07 feet at a bearing S45°W, Then travel 305.00 feet at a bearing S34°36'5"E, Then travel 165.44 feet at a bearing S45°W, Then travel 26.8 feet at a bearing N89°39'0"W, to the point of start, more generally described as being located west of the western terminus of Fairmont Boulevard and north of Tower Road.

36. No. 01RZ054 - Skyline Pines East

A request by Wyss Associates for W.E.B. Partners to consider an application for a **Rezoning from Office Commercial District to General Commercial District** on property described by metes and bounds beginning from a point 1795.13 feet at a bearing S89°39'0"E from the SW corner of the NW1/4 of the SE1/4 of Section 11, T1N, R7E, BHM, travel 431.35 feet at a bearing N22°2'42"W, Then travel 310.56 feet along a 230' LHF curve with a chord bearing N16°38'12" E, Then travel 161.93 feet at a bearing N55°19'17"E, Then travel 227.59 feet at a bearing S34°35'20"E, Then travel 300.07 feet at a bearing S45°W, Then travel 305.00 feet at a bearing S34°36'5"E, Then travel 165.44 feet at a bearing S45°W, Then travel 26.8 feet at a bearing N89°39'0"W, to the point of start, more generally described as being located west of the western terminus of Fairmont Boulevard and north of Tower Road.

Elkins presented the request and reviewed the slides of the site.

Kooiker asked about the grading behind the house. Elkins advised that she believes that the grading changes behind the storage structure are for utility improvements.

Discussion followed concerning the location of Skyline Pines East and the surrounding land uses.

Swedlund expressed his concerns with the request to rezone from Office Commercial District to General Commercial District without knowing the

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applicant's specific plans. Swedlund added that he is reluctant to approve this request because it sets a bad precedent.

Erik Heikes, Wyss Associates for W.E.B. Partners, reviewed the applicant's plans for the development, the gravity sewer that is being developed from Skyline Pines, surrounding densities, the Planned Development Designation, and the amount of control on commercial developments.

Kooiker asked if representatives from R&R Realty were present to discuss their opposition. Elkins advised that R&R Realty was not present.

Kooiker moved, and Scull seconded to recommend that the Amendment to the Comprehensive Plan, the Planned Development Designation and the Rezoning from Office Commercial District to General Commercial District be continued to the March 21, 2002 Planning Commission meeting to allow R&R Realty time to submit their specific concerns.

Swedlund asked who are the for W.E.B. Partners to determine if any of the partners were his clients. Heikus stated that W.E.B. Partners consisted of Wyss Associates, Pev Evans and Joe Butler.

The vote on the motion carried to recommend that the Amendment to the Comprehensive Plan, the Planned Development Designation and the Rezoning from Office Commercial District to General Commercial District be continued to the March 21, 2002 Planning Commission meeting to allow R&R Realty time to submit their specific concerns. (7 to 1 with Wevik voting no)

Fisher requested that items 37-39 be considered concurrently.

37. No. 02CA014 - Stoney Creek Subdivision Phase II
A request by Dream Design International, Inc. for Stoney Creek Inc. to consider an application for a **Comprehensive Plan Amendment by revising the Major Street Plan from a collector road to a local road with a 52 foot right of way on that portion of Nugget Gulch** on the E1/2 SW1/4, less Lot H2, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of the intersection of Catron Boulevard and Sheridan Lake Road.
- **38.** No. 02PD005 - Stoney Creek Subdivision Phase II
A request by Dream Design International, Inc. for Stoney Creek Inc. to consider an application for a **Planned Development Designation** on the E1/2 SW1/4 less Stoney Creek Subdivision Phase 1 and Less Lot H2, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of the intersection of Catron Boulevard and Sheridan Lake Road.
39. No. 02PL012 - Stoney Creek Subdivision Phase II
A request by Dream Design International, Inc. for Stoney Creek Inc. to consider

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an application for a **Preliminary and Final Plat** on Lot 24, Block 3; Lots 4, 5, and Outlot "A", Block 4; Lots 1-22, Block 6 of Stoney Creek Subdivision and dedicated Nugget Gulch Drive, Harvard Avenue, Columbia Court, Cornell Court and major drainage easements located in the NE1/4 of the SW1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota legally described as the E1/2 SW1/4 less Stoney Creek Subdivision Phase 1 and Less Lot H2, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of the intersection of Catron Boulevard and Sheridan Lake Road.

Fisher advised that the applicant has requested that Items 37-39 be continued to the March 21, 2002 Planning Commission meeting to allow the applicant time to contact adjacent property owners to review the alignment of the road.

Hoffman moved, Stone seconded and unanimously carried to recommend that the Comprehensive Plan Amendment to revise the Major Street Plan, the Planned Development Designation and the Preliminary and Final Plat be continued to the March 21, 2002 Planning Commission meeting to allow the applicant to submit additional information. (8 to 0)

40. No. 01PD021 - Section 11, T1N, R7E

A request by Wyss Associates, Inc. for W.E.B. Partners to consider an application for a **Revocation of Initial Development Plan - Planned Commercial Development** on property described by metes and bounds beginning from a point 1795.13 feet at a bearing S89°39'0"E from the SW corner of the NW1/4 of the SE1/4 of Section 11, T1N, R7E, BHM, travel 431.35 feet at a bearing N22°2'42"W, Then travel 310.56 feet along a 230' LHF curve with a chord bearing N16°38'12" E, Then travel 161.93 feet at a bearing N55°19'17"E, Then travel 227.59 feet at a bearing S34°35'20"E, Then travel 300.07 feet at a bearing S45°W, Then travel 305.00 feet at a bearing S34°36'5"E, Then travel 165.44 feet at a bearing S45°W, Then travel 26.8 feet at a bearing N89°39'0"W, to the point of start legally described as property described by metes and bounds beginning from a point 973.88 feet at a bearing S 89° 39' 0" East from the NW corner of SE1/4 of Section 11, Township 1 North, Range 7 East, Black Hills Meridian, travel 1363.79 feet at a bearing S 89° 39' 0" East, then travel 107.83 feet at a bearing S 57° 14' 9" West, then travel 63 feet at a bearing S 38° 41' 0" West, then travel 89 feet at a bearing S 68° 55' 0" West, then travel 47 feet at a bearing S 54° 43' 0" West, then travel 95 feet at a bearing S 47° 3' 0" West, then travel 77 feet at a bearing S 69° 31' 0" West, then travel 254.50 feet at a bearing S 45° 26' 11" West, then travel 363.99 feet at a bearing S 34° 35' 20" East, then travel 300.07 feet at a bearing S 45° West, then travel 305.00 feet at a bearing S 34° 36' 5" East, then travel 165.44 feet at a bearing S 45° W, then travel 26.8 feet at a bearing N 89° 39' 0" West, then travel 431.35 feet at a bearing N 22° 2' 42" West, then travel 178.19 feet along a 230 foot LHF curve with a chord bearing N 0° 8' 58" East, then travel 482.32 feet at a bearing N 45° West, then travel 129.8 feet at a bearing South, then travel 319.54 feet at a bearing S 50° 52' 56" W, then travel 349.50 feet at a bearing North, then travel 65.15 feet at a bearing West, then travel 392.28 feet at a bearing N 0° 21' 0" East, to the point of start, parcel described contains approximately 16.87 acres, more generally

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described as being located west of the western terminus of Fairmont Boulevard and north of Tower Road.

Elkins stated that staff recommends that the Revocation of a portion of the Initial Development Plan - Planned Commercial Development be continued to the March 21, 2002 Planning Commission meeting in conjunction with the related rezoning request and Planned Development Designation request.

Stone moved, Mashek seconded, and unanimously carried to recommend that Revocation of a portion of the Initial Development Plan - Planned Commercial Development be continued to the March 21, 2002 Planning Commission meeting in conjunction with the related rezoning request and Planned Development Designation request. (8 to 0)

41. No. 01PD061 - Chapel Lane Village

A request by Patrick D. Coady to consider an application for a **Major Amendment to a Planned Residential Development to allow a 0 foot front yard setback for the existing deck from the east property line, to allow a 4 foot front yard setback for the existing residence from the east property line, to allow a 1 foot front yard setback for the proposed garage from the east property line, to allow a 6 foot front yard setback for the proposed garage from the north property line, to allow a 16.3 foot front yard setback for the existing residence from the west property line, to allow a 12.4 foot rear yard setback for the existing residence from the south property line and to allow for 32.5% lot coverage** on Lot 2P, Block 2, Chapel Lane Village, Section 8, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3054 Lodgepole Place.

Seaman presented the request, reviewed the slides and identified adjacent land uses.

In response to a question by Wevik, Seaman advised that the setbacks that staff is recommending are consistent with what the applicant is requesting.

Scull moved, Kooiker seconded to recommend that the Major Amendment to a Planned Residential Development to allow a zero foot front yard setback for the existing deck from the east property line, to allow a 4 foot front yard setback for the existing residence from the east property line, to allow a 1 foot front yard setback for the proposed garage from the east property line, to allow a 6 foot front yard setback for the proposed garage from the north property line, to allow a 16.3 foot front yard setback for the existing residence from the west property line, to allow a 12.4 foot rear yard setback for the existing residence from the south property line and to allow for 32.5% lot coverage be approved with the following stipulations:

Engineering Division Recommendations:

1. **That the new driveway shall be constructed to incorporate the existing drain pan profile;**

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2. That the drain pan shall be continually maintained;
3. That any repair of the drain pan shall be the home owner's responsibility;
4. That the drainage channel shall be continually kept clear of any obstructions;

Building Inspection Department Recommendations:

5. A Building Permit shall be obtained prior to any construction;

Urban Planning Division Recommendations:

6. Prior to Final Inspection of the garage, the deck attached to the east side of the residence shall be reconstructed to remove that portion of the deck that encroaches into the adjacent common area; and,
7. That any further expansion of any structure on the property will require a Major Amendment to the Planned Residential Development.

Nina McBride, 3110 Morningside Drive, stated that she supports the applicant's request. McBride expressed concerns with previous drainage problems.

In response to a question by Elkins, McBride advised that the only severe drainage problem she has experienced occurred in June of 1996 or 1997.

Nelson advised that Rich Wells is aware of the drainage issues and prepared the Engineering Division's recommendations. Nelson advised that the main concern is not to worsen the situation and in the Engineering Division Staff's judgment, it has not been made worse.

Elkins stated that Rich Wells, Drainage Engineer, did conduct a site visit and addressed those concerns and drafted the stipulations for the Planning Commission recommendation.

The vote on the motion unanimously carried to recommend **that the Major Amendment to a Planned Residential Development to allow a zero foot front yard setback for the existing deck from the east property line, to allow a 4 foot front yard setback for the existing residence from the east property line, to allow a 1 foot front yard setback for the proposed garage from the east property line, to allow a 6 foot front yard setback for the proposed garage from the north property line, to allow a 16.3 foot front yard setback for the existing residence from the west property line, to allow a 12.4 foot rear yard setback for the existing residence from the south property line and to allow for 32.5% lot coverage be approved with the following stipulations:**

Engineering Division Recommendations:

1. That the new driveway shall be constructed to incorporate the existing drain pan profile;
2. That the drain pan shall be continually maintained;

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3. That any repair of the drain pan shall be the home owner's responsibility;
4. That the drainage channel shall be continually kept clear of any obstructions;

Building Inspection Department Recommendations:

5. A Building Permit shall be obtained prior to any construction;

Urban Planning Division Recommendations:

6. Prior to Final Inspection of the garage, the deck attached to the east side of the residence shall be reconstructed to remove that portion of the deck that encroaches into the adjacent common area; and,
7. That any further expansion of any structure on the property will require a Major Amendment to the Planned Residential Development. (8 to 0)

42. **No. 01PL127 - Sunset Heights Subdivision**

A request by Doug Sperlich for Jeff Stone to consider an application for a **Preliminary Plat** on Lots 1, 2 and 3 of Block 1 of Sunset Heights Subdivision, Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota legally described as SW1/4 SE1/4, less Broadmoor Subdivision, less Block 1 of Broadmoor Southwest & less Mountain Shadows Subdivision, Section 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the current terminus of Broadmoor Drive.

Elkins stated that staff removed the Preliminary Plat from the Consent Calendar to allow Stone to abstain from voting.

Scull moved, Swedlund seconded and carried unanimously to recommend that the Preliminary Plat be continued to the April 4, 2002 Planning Commission meeting to allow the applicant time to submit additional required information. (7 to 0 with Stone abstaining)

Elkins requested that items 43-54 be considered concurrently.

43. **No. 02CA001 – Section 19, T1N, R8E**

A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change the future land use designation on a 20 acre parcel from Low Density Residential to Low Density Residential II** on the N1/2 of Government Lot 1 of the NW1/4 NW1/4 Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of Catron Boulevard and east of the proposed 5th Street extension.

44. **No. 02CA002 – Section 19, T1N, R8E**

A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change**

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- the future land use designation on a 20 acre parcel from Medium Density Residential with a Planned Residential Development to Medium Density Residential** on the S1/2 of Government Lot of the NW1/4 NW1/4, Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located North of Catron Boulevard and east of the proposed 5th Street extension.
45. No. 02CA003 – Section 19, T1N, R8E
A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change the future land use designation on a 20 acre parcel from Office Commercial with a Planned Commercial Development to Office Commercial** on the N1/2 of Government Lot 2 of the SW1/4 NW1/4 of Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of Catron Boulevard and east of the proposed 5th Street extension.
46. No. 02CA004 – Section 19, T1N, R8E
A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change the future land use designation on an approximately 15 acre parcel from General Commercial with a Planned Commercial Development to General Commercial** on the S1/2 of Government Lot 2 of the SW1/4 NW1/4 less Highway 16 B Right of Way of Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of Catron Boulevard and east of the proposed 5th Street extension.
47. No. 02CA005 – Section 19, T1N, R8E
A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change the future land use designation on a 25 acre parcel from Public Drainage and General Commercial with a Planned Commercial Development to General Commercial** on the north 900 feet of Government Lot 3 of the NW1/4 SW1/4 less Highway 16 B Right of Way, Section 19, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located south of Catron Boulevard and east of the proposed 5th Street extension.
48. No. 02CA006 – Section 19, T1N, R8E
A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change the future land use designation on a 52 acre parcel from Light Industrial with a Planned Commercial Development to Light Industrial** on the south 420 feet of Government Lot 3 of the NW1/4 SW1/4 and Government Lot 4 of the SW1/4 SW1/4 all in Section 19, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located south of Catron Boulevard and east of the proposed 5th Street extension.

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49. No. 02CA007 – Section 24, T1N, R7E
A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change the future land use designation on a 53 acre parcel from Public Drainage, General Commercial with a Planned Commercial Development and Office Commercial with a Planned Commercial Development to General Commercial** on the east 900 feet of the NE1/4 SE1/4 less Highway 16B Right of Way and the east 900 feet of SE1/4 SE1/4 all in Section 24, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located south of Catron Boulevard and west of the proposed 5th Street extension.
50. No. 02CA008 – Section 24, T1N, R7E
A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change the future land use designation on a 25 acre parcel from General Commercial with a Planned Commercial Development and Low Density Residential with a Planned Residential Development to Office Commercial** on the west 420 feet of the NE1/4 SE1/4 less Highway 16B Right of Way and the west 420 feet of SE1/4 SE1/4 all in Section 24, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located south of Catron Boulevard and west of the proposed 5th Street extension.
51. No. 02CA009 – Section 24, T1N, R7E
A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change the future land use designation on a 39 acre parcel from Low Density Residential with a Planned Residential Development and Medium Density Residential with a Planned Commercial Development to Office Commercial** on the NW1/4 SE1/4 less Highway 16B Right of Way of Section 24, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located south of Catron Boulevard and west of the proposed 5th Street extension.
52. No. 02CA010 – Section 24, T1N, R7E
A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change the future land use designation on a 40 acre parcel from Low Density Residential District with a Planned Residential District to Medium Density Residential** on the SW1/4 SE1/4 Section 24, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located south of Catron Boulevard and west of the proposed 5th Street extension.
53. No. 02CA011 – Section 24, T1N, R7E
A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an

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application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change the future land use designation on a 25 acre parcel from Medium Density Residential with a Planned Residential Development to Neighborhood Commercial** on the north 900 feet of the NE1/4 SW1/4 less Highway 16B Right of Way, Section 24, T1N, R7E, Pennington County, South Dakota, more generally described as being located south of Catron Boulevard and west of the proposed 5th Street extension.

54. No. 02CA012 – Section 24, T1N, R7E

A request by Centerline, Inc. for Lazy P-6 Properties, LLC to consider an application for an **Amendment to the Comprehensive Plan by revising the South Robbinsdale Neighborhood Area Future Land Use Plan to change the future land use designation on a 53 acre parcel from Medium Density Residential with a Planned Residential Development to Mobile Home Park** on the south 420 feet of the NE1/4 SW1/4 and SE1/4 SW1/4 all in Section 24, T1N, R7E, Pennington County, South Dakota, more generally described as being located south of Catron Boulevard and west of the proposed 5th Street extension.

Elkins stated that staff is recommending that items 43-54 be continued to the March 21, 2002 Planning Commission meeting to allow the applicant time to meet with the Future Land Use Committee.

Swedlund moved, and Stone seconded to recommend that Items 43-54 be continued to the March 21, 2002 Planning Commission meeting.

Swedlund stated that he believes Items 43-54 should be continued until a study on sprawl has been conducted. Swedlund expressed his concerns with the sprawl impact of this development, his desire to see a specific development proposal for the property, the level of rezoning, and the impact this request will have on the City, Mt. Rushmore Road and Downtown commercial development.

In response to a question from Stone, Elkins stated that the applicant has expressed his concerns with continuing these items. She added that staff would be working with the applicant within the next two weeks to accomplish resolving these issues.

Hoffman expressed his concerns with eliminating Planned Development Designations and the protections that they provide the City.

Elkins advised that the applicant's original request was to eliminate all of the Planned Development Designations but discussions have been occurring on placing a Planned Development Designation on the entryway corridors, terrain issues and buffering between land uses. Elkins stated that the owner has indicated that he is willing to look at some Planned Development Designations on portions of the property where topography, entryways, and buffering are appropriate. Elkins stated that the compromises being discussed does not provide blanket Planned Development Designations across the entire property

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but tries to focus on areas of concern.

Hoffman stated that he would like to see the Planned Development Designations retained.

Discussion followed concerning entryways, corridors, buffering and likelihood of reaching an agreement in two weeks.

Swedlund expressed his concerns with the enormous tracts of commercial land that have no specific construction proposal. He further discussed his concerns about design standards and the impacts that this development would have on the City. Swedlund added that he felt that Planned Development Designations are critical on this land.

In response to a question by Swedlund, Elkins stated that she was not aware of any legal constraints to requiring Planned Development Designations on Items 43-54.

Elkins stated that the applicant and staff have spent considerable time trying to resolve these issues and encouraged the Planning Commission to continue Items 43-54 to the March 21, 2002 Planning Commission meeting.

The vote on the motion unanimously carried to recommend that Items 43-54 be continued to the March 21, 2002 Planning Commission meeting. (8 to 0)

55. No. 02RZ007 – Section 5, T1N, R8E

A request by Laverne Anderson for Leone Anderson to consider an application for a **Rezoning from Flood Hazard District to General Commercial** on Lot 3 less the southern portion being described as starting at the Southwest corner of the above described lot thence 337 feet due North, thence 297 feet bearing South 86 degrees 25 feet East, thence 116.68 feet bearing South 73 degrees 50' 34" East, thence 47.6 feet bearing South 04 degrees 36 feet West, thence 280.8 feet bearing South 31 degrees 51 feet West, thence 256.5 feet bearing due West to the point of origin all located in the NW1/4 SW1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of the intersection of Cambell Street and East St. James Street.

Fisher presented the request, reviewed the slides, identified the hydraulic floodway, the 100 year flood plain and the base flood elevations.

Fisher discussed the fill that had been placed in the hydraulic floodway in 1988. Fisher added that the applicant was notified to remove the fill and to grade this area back to its original contours. In October 1988, the applicant received a grading permit to allow 16,000 cubic yards of fill material to be placed in the 100 year flood fringe. Fisher stated that to date the Engineering Division has indicated that the areas of fill within the hydraulic floodway have not been removed. Fisher stated that the applicant has not demonstrated that there have been any changes or improvements that would lower the base flood elevation

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within the subject property. Fisher also added that the applicant has not provided documentation that identify that the Federal Emergency Management agency has revised the hydraulic boundaries of the subject property. Fisher discussed the restrictions outlined in the Rapid Creek Floodplain Policy for development within the 100 year hydraulic floodway in order to protect lives and property. Fisher reviewed staff's recommendation.

Kooiker asked for clarification of where the hydraulic floodway is located. Fisher explained that the top area of the exhibit is the hydraulic floodway and the bottom area is the 100 year flood fringe. Fisher added that staff is recommending that rezoning request for that portion of property located in the hydraulic floodway be denied and that the rezoning request for that portion of the property located in the floodplain be approved.

Kooiker asked about the fill and settlement. Rich Wells, Engineering Division, advised that the fill was placed there illegally in the 1980's and it has been identified that the fill has created a rise in the floodway elevations by two feet. Wells advised that the illegal fill will not become regular material to build on and should be removed. Wells discussed the increase in the base flood elevation that the fill has created and the potential damage to the neighbors. Wells expressed his concerns with the flood proofing that Mr. Caldwell did to his building will not be sufficient if the fill is to remain.

Kooiker expressed his concerns with adding a stipulation to this request that the fill be removed after such a long period of time and disturbing the floodway.

Wells stated that the removal of the fill is a code enforcement issue and agrees that it should have been addressed years ago. Wells stated that he is here to advise the Planning Commission that the situation is illegal and that by allowing it to remain as it is that the City is not meeting the flood plain management criteria.

Swedlund stated that he is torn on this issue and expressed his concerns with consistency in City policies. Swedlund added that he felt that Mr. Caldwell's land should have been purchased by the City and that he should have been moved from the floodway. Swedlund stated that if the subject property cannot be developed and flood proofed then the City should perhaps purchase this property and add it to the greenway.

In response to a question by Swedlund, Wells advised that there is no dirt work that can make the land useable.

Swedlund moved to recommend that the Rezoning from Flood Hazard District to General Commercial be continued to March 21, 2002.

The motion died for lack of second.

Bill Caldwell, owner of Select Auto Sales, stated that he supports the applicant's request and added that Mr. Anderson has been a great neighbor. Caldwell discussed the fill and the new Federal Emergency Management maps. Caldwell added that in his opinion the whole area will be zoned commercial at some point

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in the future. Caldwell stated that there are other alternatives such as a dig out or cutout rather than having the City purchase the subject property.

Stone asked for clarification of the stipulations and staff's recommendation. Fisher advised that staff is recommending that the application be denied in part and approved in part. She added that staff's recommendation to approve a portion of the rezoning request is contingent upon the stipulations outlined in the Staff Report.

Hoffman stated that he supports the staff's recommendation and believes this matter will be determined by the City Council.

Hoffman moved, Swedlund seconded to recommend that the Rezoning from Flood Hazard District to General Commercial be denied for the portion of the site located in the hydraulic floodway; and, approved for the southern portion of the site with the following stipulations:

Planning Staff Recommendation:

1. **That the applicant provide a metes and bounds survey prepared by a land surveyor for the southern portion of the site located outside the hydraulic floodway; and,**

Engineering Division Recommendation:

2. **That the entire fill that has been placed in the hydraulic floodway be removed.**

Brian Utzman, attorney for the applicant, stated that the applicant received grading permits on October 7, 1988 June 28, 1991, and January 29, 1995. Utzman discussed the grading permits that the applicant has received and added that no reference was made at those times to removal of the fill. Utzman added that in 1988, Mayor Carlyle wrote a letter indicating that he did not wish to have the fill removed from the site. Utzman discussed the zoning and elevations for surrounding properties. He further requested that the Planning Commission be consistent in reviewing zoning ordinances and land use regulations.

Leone Anderson, property owner, advised that Scott Kenner, the engineer in 1988, was not aware that he had moved dirt from all around the back and side of the subject property and placed the dirt on the front. Anderson stated that he met with Engineering staff and Mayor Carlyle in 1988 at the site. Anderson stated that Engineering advised him at that time that he must to remove the fill but Mayor Carlyle advised that he did not want the fill removed.

Kooiker stated that he could not support the motion with the stipulation that the fill be removed.

Swedlund stated that he agreed with Hoffman that the Planning Commission should allow the elected officials to make the decision on this item. Swedlund stated that in his opinion something needed to be done with properties in this area.

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Scull and Prairie Chicken left the meeting at 9:25.

Kooiker stated that he would like to continue this item in order to determine the effect removing the fill would have on other land in the area.

Kooiker made a substitute motion that the Rezoning from Flood Hazard District to General Commercial be continued to the March 21, 2002 Planning Commission meeting and Swedlund seconded.

In response to a request by Stone, Nelson advised that the fill has consolidated somewhat but the same volume will be removed with the same equipment. Nelson added that the boundary has already been identified for the area that the fill needs to be removed from and it is fairly straight forward to remove the fill and get the property back to the original contours.

Wevik briefly discussed the impacts of leaving the fill on the base flood elevations.

Utzman stated that the applicant would prefer that the Planning Commission recommend denial to the City Council rather than continue the matter.

Kooiker withdrew his substitute motion.

The vote on the original motion carried to recommend that the Rezoning from Flood Hazard District to General Commercial be denied for the portion of the site located in the hydraulic floodway; and, approved for the southern portion of the site with the following stipulations:

Planning Staff Recommendation:

1. That the applicant provide a metes and bounds survey prepared by a land surveyor for the southern portion of the site located outside the hydraulic floodway; and,

Engineering Division Recommendation:

3. That the entire fill that has been placed in the hydraulic floodway be removed. (5 to 1 with Kooiker voting no)

Wevik advised that due to the time, he would entertain a motion to continue the balance of the meeting to March 21, 2002.

Discussion followed concerning item 56A being first on the agenda for the March 21, 2002 Planning Commission meeting.

Hoffman moved, Kooiker seconded and unanimously carried to continue the balance of the March 7, 2002 Planning Commission meeting to the March 21, 2002 Planning Commission meeting. (6 to 0)

Hoffman moved, Kooiker seconded and unanimously carried to adjourn the

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meeting at 9:45 a.m.