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MINUTES OF THE
RAPID CITY PLANNING COMMISSION
June 25, 2009

MEMBERS PRESENT: Peter Anderson, John Brewer, Gary Brown, Thomas Hennies, Andrew Scull and Karen Waltman.

STAFF PRESENT: Marcia Elkins, Bob Dominicak, Monica Heller, Vicki Fisher, Karen Bulman, Travis Tegethoff, Mary Bosworth, Ted Johnson, Karley Halsted, Tim Behlings, Mike Schad and Carol Campbell.

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

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

Staff requested that Items 9, 12 and 23 be removed from the Consent Agenda for separate consideration.

Motion by Brown, Seconded by Hennies and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 28 in accordance with the staff recommendations with the exception of Items 9, 12 and 23. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the June 4, 2009 Planning Commission Meeting and the June 11, 2009 Special Planning Commission Minutes.
2. No. 07PL134 - Hyland Crossing Subdivision
A request by Dream Design International, Inc. to consider an application for a **Preliminary Plat** for proposed Lots 1 thru 12 of Block 1, Lots 1 thru 7 of Block 2, Lots 1 thru 4 of Block 3, Lots 1 thru 15 of Block 4, and Lots 1 thru 31 of Block 5 of Hyland Crossing Subdivision, legally described as a portion of the unplatted W1/2 SE1/4; SE1/4 SE1/4, Section 35, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the southern terminus of Dreamscape Drive.

Planning Commission continued the Preliminary Plat to the September 24, 2009 Planning Commission meeting at the applicant's request.

3. No. 07SV057 - Hyland Crossing Subdivision
A request by Dream Design International, Inc. to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lots 1 thru 12 of Block 1, Lots 1 thru 7 of Block 2, Lots 1 thru 4 of Block 3, Lots 1 thru 15

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of Block 4, and Lots 1 thru 31 of Block 5 of Hyland Crossing Subdivision, legally described as the unplatted W1/2 SE1/4; SE1/4 SE1/4, Section 35, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the southern terminus of Dreamscape Drive.

Planning Commission continued the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement as per Chapter 16.16 of the Rapid City Municipal Code to the September 24, 2009 Planning Commission meeting at the applicant's request.

4. No. 08PL099 - Homestead Plaza Subdivision

A request by Dream Design International, Inc. to consider an application for a **Preliminary Plat** for proposed Lots 1 thru 28 of Block 3 and Tracts A, B, C and D of Block 4 of Homestead Plaza Subdivision, legally described as a portion of Tract A of F&N Subdivision, the balance of the E1/2 SW1/4 NW1/4, the balance of the SE1/4 NW1/4, located in the S1/2 NW1/4 and the N1/2 SW1/4, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Timmons Boulevard, south of Neel Street and west of Big Sky Drive.

Planning Commission continued the Preliminary Plat to the July 23, 2009 Planning Commission meeting.

5. No. 08PL131 - Rushmore Business Park

A request by FourFront Design, Inc. for Rapid City Economic Development Foundation to consider an application for a **Preliminary Plat** for proposed Lot 1R and Lot 2 of Block 3 of Rushmore Business Park, legally described as Lot 1 of Block 3 and a portion of Government Lot 2, located in the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more particularly described as follows: Commencing at the N¼ Corner of Section 4, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota; Thence S00°06'56"W along the Center 1/4 line of said Section 4 a distance of 124.10 feet to a point on the South Right-of-Way of East Anamosa Street, Thence N89°56'23"E along said South Right-of-Way of East Anamosa Street a distance of 142.23 feet to a point along said Right-of-Way to the point of beginning: Thence N89°57'20"E along said South Right-of-Way of East Anamosa Street a distance of 285.56 feet to the intersection of the South Right-of-Way of East Anamosa Street and the West Right-of-Way of Concourse Drive; thence S00°11'20"W along the West Right-of-Way of Concourse Drive a distance of 129.00 feet; thence continuing along the West Right-of-Way of Concourse Drive along a curve to the LEFT, having a radius of 562.00 feet, a delta angle of 13°19'37" and whose long chord bears S06°43'28"E a distance of 135.30 feet; thence continuing along the West Right-of-Way of Concourse Drive S13°38'17"E a distance of 668.79 feet; thence S76°22'04"W a distance of 265.23 feet; thence N13°37'01"W a distance of 439.18 feet; thence S76°22'37"W a distance of 60.35 feet; thence N13°37'23"W a distance 302.02 feet; thence N77°53'25"E a distance of 57.99 feet; thence N05°25'18"W a distance of 258.44 feet to the point of beginning, more generally described as being located at 333 Concourse Drive.

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Planning Commission continued the Preliminary Plat to the July 23, 2009 Planning Commission meeting.

6. No. 08SV047 - Rushmore Business Park

A request by FourFront Design, Inc. for Rapid City Economic Development Foundation to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along East Anamosa Street and to waive the requirement to install sidewalk on Concourse Drive as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lot 1R and Lot 2 of Block 3 of Rushmore Business Park, legally described as Lot 1 of Block 3 and a portion of Government Lot 2, located in the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more particularly described as follows: Commencing at the N¼ Corner of Section 4, Township 1 North, Range 8 East of the Black Hills Meridian, Pennington County, South Dakota; Thence S00°06'56"W along the Center 1/4 line of said Section 4 a distance of 124.10 feet to a point on the South Right-of-Way of East Anamosa Street, Thence N89°56'23"E along said South Right-of-Way of East Anamosa Street a distance of 142.23 feet to a point along said Right-of-Way to the point of beginning: Thence N89°57'20"E along said South Right-of-Way of East Anamosa Street a distance of 285.56 feet to the intersection of the South Right-of-Way of East Anamosa Street and the West Right-of-Way of Concourse Drive; thence S00°11'20"W along the West Right-of-Way of Concourse Drive a distance of 129.00 feet; thence continuing along the West Right-of-Way of Concourse Drive along a curve to the LEFT, having a radius of 562.00 feet, a delta angle of 13°19'37" and whose long chord bears S06°43'28"E a distance of 135.30 feet; thence continuing along the West Right-of-Way of Concourse Drive S13°38'17"E a distance of 668.79 feet; thence S76°22'04"W a distance of 265.23 feet; thence N13°37'01"W a distance of 439.18 feet; thence S76°22'37"W a distance of 60.35 feet; thence N13°37'23"W a distance 302.02 feet; thence N77°53'25"E a distance of 57.99 feet; thence N05°25'18"W a distance of 258.44 feet to the point of beginning, more generally described as being located at 333 Concourse Drive.

Planning Commission continued the Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along East Anamosa Street and to waive the requirement to install sidewalk on Concourse Drive as per Chapter 16.16 of the Rapid City Municipal Code to the July 23, 2009 Planning Commission meeting to be heard in conjunction with the associated Preliminary Plat application.

7. No. 08PL143 - Rainbow Ridge Subdivision

A request by Sperlich Consulting, Inc. for Joe Muth at Doeck, LLC to consider an application for a **Preliminary Plat** for proposed Lot 1R-2 of Block 3 of Rainbow Ridge Subdivision, legally described as Lot 1R of Block 3 of Rainbow Ridge Subdivision, located in the SE1/4 NE1/4, and a portion of the NE1/4 NE1/4, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota,

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more generally described as being located at the northwest terminus of Bunker Drive.

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

1. **Prior to City Council approval of the Preliminary Plat application, a drainage and grading plan, must be submitted for review and approval. In addition, the plat document must be revised to provide drainage easements as necessary;**
 2. **Prior to City Council approval of the Preliminary Plat application, a sewer plan prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains, manholes and service lines shall be submitted for review and approval or a Variance to the Subdivision Regulations must be obtained;**
 3. **Prior to City Council approval of the Preliminary Plat application, water system plans prepared by a Registered Professional engineer verifying the source and demonstrating that sufficient quantities for domestic and fire flows shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained;**
 4. **Prior to City Council approval of the Preliminary Plat application, construction plans for the water main along the east lot line shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained;**
 5. **Prior to City Council approval of a Preliminary Plat application, a cost estimate for the subdivision improvements shall be submitted for review and approval;**
 6. **Prior to City Council approval of the Preliminary Plat application, an Erosion and Sediment Control Permit in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval;**
 7. **Prior to submittal of a Final Plat application, the proposed H-Lot shall be accepted by City Council;**
 8. **Upon submittal of the Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and subdivision inspection fees be paid as required;**
 9. **Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and,**
 10. **The approved Preliminary Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired. However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council.**
8. No. 08SR033 - Section 35, T1N, R7E
A request by Dream Design International, Inc. to consider an application for a **SDCL 11-6-19 Review to allow the construction of a lift station** on a portion of the unplatted balance of the W1/2 SE1/4; SE1/4 SE1/4, Section 35, T1N, R7E, Rapid City, Pennington County, South Dakota, more generally described

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as being located southeast of the intersection of Sammis Trail and Vilrickson Place.

Planning Commission continued the SDCL 11-6-19 Review to allow the construction of a lift station to the September 24, 2009 Planning Commission meeting at the applicant's request.

10. No. 09CA009 - South Boulevard Addition

A request by Dream Design International, Inc. to consider an application for a **Amendment to the Adopted Comprehensive Plan to change the land use designation from Residential to Office Commercial with a Planned Commercial Development** on Lots 31 and 32 of Block 18 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 336 Meade Street.

Planning Commission continued the Amendment to the Adopted Comprehensive Plan to change the land use designation from Residential to Office Commercial with a Planned Commercial Development to the July 9, 2009 Planning Commission meeting.

11. No. 09RZ026 - South Boulevard Addition

A request by Dream Design International, Inc. to consider an application for a **Rezoning from Medium Density Residential District to Office Commercial District** on Lots 31 and 32 of Block 18 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 336 Meade Street.

Planning Commission continued the Rezoning from Medium Density Residential District to Office Commercial District to the July 9, 2009 Planning Commission meeting.

13. No. 09OA004 – Ordinance Amendment

A request by City of Rapid City to consider an application for an **Ordinance Amendment to Amend the Off-street Parking Requirements to include Requirements for a Tire Sales and Service Facility by Amending Table 17.50.270 of the Rapid City Municipal**.

Planning Commission recommended that the Ordinance Amendment to Amend the Off-street Parking Requirements to include Requirements for a Tire Sales and Service Facility by Amending Table 17.50.270 of the Rapid City Municipal Code be approved.

*14. No. 09PD020 - Stoney Creek South Subdivision

A request by ARC International, Inc. for Chad Carpenter to consider an application for a **Major Amendment to a Planned Commercial Development** on Lots 1, 2 and 3 of Stoney Creek South Subdivision, located in the NW1/4 of the SW1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 5610 Bendt Drive.

Planning Commission continued the Planned Commercial Development -

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Initial and Final Development Plan to the July 9, 2009 Planning Commission meeting to allow the correct legal description to be advertised.

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 Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

15. No. 09PL023 - Murphy Ranch Estates Subdivision
A request by Davis Engineering, Inc. to consider an application for a **Layout and Preliminary Plat** for proposed Lots 3R, 4, 5, 6 and 7 of Block 7, Lots 3, 4, 5 and 6 of Block 8 of Murphy Ranch Estates Subdivision, legally described as the unplatted portion of Tract F of the NE1/4 of the NW1/4 of Section 14, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located southeast of the intersection of Springfield Road and Knuckleduster Road.

Planning Commission continued the Layout and Preliminary Plat to the July 23, 2009 Planning Commission meeting.

16. No. 09PL024 - Pleasant View Subdivision
A request by D.C. Scott Co. Land Surveyors for William M. Jobgen to consider an application for a **Preliminary Plat** for proposed Lots 1 and 2 of Lot 7 of Pleasant View Subdivision, legally described as Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located south of Miracle Lane between Carlin Street and Crane Drive.

Planning Commission continued the Preliminary Plat to the July 9, 2009 Planning Commission meeting.

17. No. 09SV012 - Pleasant View Subdivision
A request by D.C. Scott Co. Land Surveyors for William M. Jobgen to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code** for proposed Lots 1 and 2 of Lot 7 of Pleasant View Subdivision, legally described as Lot 7 of Pleasant View Subdivision, located in the SE1/4 SE1/4 and in Lot B of the SW1/4 SW1/4 of Section 11, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located south of Miracle Lane between Carlin Street and Crane Drive.

Planning Commission continued the Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way and install curb, gutter, sidewalk, street light conduit, sewer, water and additional pavement as per Chapter 16 of the Rapid City Municipal Code to

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the July 9, 2009 Planning Commission meeting to be heard in conjunction with the associated Preliminary Plat.

18. No. 09SC003 - Original Town of Rapid City

A request by Raymond Graff for Dublin Square, Inc. to consider an application for a **Sidewalk Café Permit** on the Main Street right-of-way adjacent to Lots 15 and 16 of Block 83 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 504 Mt. Rushmore Road.

Planning Commission approved the Sidewalk Café Permit request with the following stipulations:

1. **A minimum 5 foot wide clear pedestrian path shall be maintained at all times;**
2. **Physical barricades shall be provided around the sidewalk café since alcoholic beverages will be served. In particular, the barricades shall consist of stanchions and chains in compliance with the submitted design details. The barricades shall not be attached permanently to the sidewalk and shall not exceed four feet in height;**
3. **No portion of the sidewalk café shall be located within the Mount Rushmore Road right-of-way;**
4. **Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall continually be provided. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In addition, the insurance shall be renewed yearly and a copy of the insurance document submitted to the City for review and approval. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked;**
5. **The proposed sidewalk café shall conform to the plans and design criteria submitted as part of this Sidewalk Café Permit and shall be operated in compliance with Chapter 12.20.020(E) of the Rapid City Municipal Code; and,**
6. **The Sidewalk Café Permit may be revoked for cause, consisting of failure to maintain the standards required for this permit as per Chapter 12.20.020(E).12.**

19. No. 09SC007 - Original Town of Rapid City

A request by Rich Dunkelberger for Cortez LLC d/b/a Hotel Alex Johnson to consider an application for a **Sidewalk Café Permit** on the Sixth Street right-of-way adjacent to Lots 30 and 32 of Block 84 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 523 Sixth Street.

Planning Commission approved the Sidewalk Café Permit request with the following stipulations:

1. **A minimum 5 foot wide clear pedestrian path shall be maintained at all times;**

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2. **Physical barricades shall be provided around the sidewalk café since alcoholic beverages will be served. In particular, the barricades shall consist of stanchions and chains in compliance with the submitted design details. The barricades shall not be attached permanently to the sidewalk and shall not exceed four feet in height;**
 3. **All elements associated with the sidewalk café shall be located within the boundary of the sidewalk café at all times;**
 4. **Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall continually be provided. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In addition, the insurance shall be renewed yearly and a copy of the insurance document submitted to the City for review and approval. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked;**
 5. **The proposed sidewalk café shall conform to the plans and design criteria submitted as part of this Sidewalk Café Permit and shall be operated in compliance with Chapter 12.20.020(E) of the Rapid City Municipal Code; and,**
 6. **The Sidewalk Café Permit may be revoked for cause, consisting of failure to maintain the standards required for this permit as per Chapter 12.20.020(E).12.**
20. No. 09SC008 - Original Town or Rapid City
A request by Michelle Pulling for Alternative Fuel Coffee House to consider an application for a **Sidewalk Café Permit** on the Main Street right-of-way located adjacent to a portion of Lots 23 & 24 of Block 74, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 620 Main Street.

Planning Commission approved the Sidewalk Café Permit request with the following stipulations:

1. **A minimum 5 foot wide clear pedestrian path shall be maintained at all times;**
2. **The sandwich board sign shall be 24 inches by 36 inches as proposed. In addition, the sign shall be located within the area of the sidewalk café. The sign shall contain no off-premises advertising and shall display no logo or advertising copy other than for the primary business of the occupant of the abutting property;**
3. **Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall continually be provided. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked;**
4. **The proposed sidewalk café shall conform to the plans and design criteria submitted as part of this Sidewalk Café Permit and shall be**

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operated in compliance with Chapter 12.20.020(E) of the Rapid City Municipal Code; and,

5. **The Sidewalk Café Permit may be revoked for cause, consisting of failure to maintain the standards required for this permit as per Chapter 12.20.020(E).12.**

21. No. 09SR025 - Big Horn Sheep Preserve
A request by Cody Schad to consider an application for a **SDCL 11-6-19 Review to allow a trail to cross a section line** on Lot 2 of Bighorn Sheep Preserve of Section 7, T1S, R7E, BHM and Government Lot 6 of Section 6, T1S, R7E, BHM, Pennington County, South Dakota, more generally described as being located at the northern terminus of Strato Bowl Road.

Planning Commission continued the SDCL 11-6-19 Review to allow an access road to cross a section line highway to the July 9, 2009 Planning Commission meeting to allow the applicant to submit additional information.

22. No. 09SR026 - South Boulevard Addition
A request by Steven Dunn for Black Hills Power to consider an application for a **SDCL 11-6-19 Review to expand a utility substation** on Lots 23 thru 26 with ten foot wide of an adjacent vacated alley of South Boulevard Addition, located in the NW1/4 of Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east side of Fifth Street between Cleveland and Oakland Street.

Planning Commission continued the SDCL 11-6-19 Review to expand a utility substation to the July 9, 2009 Planning Commission meeting.

24. No. 09SR048 - Section 23, T2N, R7E
A request by Dream Design International, Inc. to consider an application for a **SDCL 11-6-19 Review to construct a water main, storm sewer and drainage improvements on public property** on the unplatted S1/2 NE1/4 less Rainbow Ridge Subdivision and less right-of-way, Section 23, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the western terminus of Sagewood Street and Alma Street.

Planning Commission continued the SDCL 11-6-19 Review to construct a water main, storm sewer and drainage improvements on public property to the July 9, 2009 Planning Commission meeting.

25. No. 09VR002 - Section 22, T1N, R7E
A request by Olsen Development Company, Inc. to consider an application for a **Vacation of Section Line Highway** on the south 495 feet of the NE1/4 SE1/4 less Lot 1 and the unplatted portion of the SE1/4 SE1/4, all located in the SE1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2000 Golden Eagle Drive.

Planning Commission recommended that the vacation of the western three feet of section line highway be approved.

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26. No. 09VR003 - Sections 22 and 23, T1N, R7E

A request by Olsen Development Company, Inc. to consider an application for a **Vacation of Section Line Highway** on the south 495 feet of the NE1/4 SE1/4 less Lot 1 and the unplatted portion of the SE1/4 SE1/4, and Tract B of Tract 1 of the W1/2 SW1/4 less the IGT Subdivision and less right-of-way all located in the SE1/4 of Section 22 and the SW1/4 of Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2000 Golden Eagle Drive.

Planning Commission recommended that the request to vacate the section line highway be approved.

27. No. 09VR004 - Sections 22 and 27, T1N, R7E

A request by Olsen Development Company, Inc. to consider an application for a **Vacation of Section Line Highway** on the south 495 feet of the NE1/4 SE1/4 less Lot 1 and the unplatted portion of the SE1/4 SE1/4, of Section 22 and the E1/2 N1/2 NE1/4 of Section 27, all located in the SE1/4 of Section 22 and the NE1/4 of Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2000 Golden Eagle Drive.

Planning Commission recommended that the request to vacate the section line highway be approved with the following stipulations:

1. **Prior to City Council approval, a utility easement, reviewed and approved by Montana Dakota Utilities Company, Qwest Corporation and the City of Rapid City, shall be recorded for the existing Montana Dakota Utilities Company gas line and Qwest Corporation telephone line located within the section line highway;**
2. **Prior to City Council approval, an access easement shall be recorded at the Register of Deed's Office securing a turnaround at the western terminus of the area of the section line highway to be vacated; and,**
3. **Prior to City Council approval, an Exception shall be obtained to allow a 1,125 foot long cul-de-sac with no intermediate turnarounds in lieu of a maximum 500 foot long cul-de-sac with an intermediate turnaround every 600 feet.**

28. No. 09VR005 - Country Club Heights

A request by Fisk Land Surveying & Consulting Engineers for Tom Rau and Dana Vogt to consider an application for a **Vacation of Right-of-way** on Lot 16 of Block 2 and Lot 18 of Block 1 of Country Club Heights, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2809 and 2812 Frontier Drive.

Planning Commission recommended that the Vacation of Right-of-way be approved with the following stipulation:

1. **Prior to City Council approval, the utility easement document shall be signed by the adjacent property owners, Dana Vogt, Thomas Rau, Sherwood L. Corner and Lila Mae Corner. Upon approval of the Vacation of Right-of-way request and the subsequent recording of the Vacation Resolution at the Register of Deed's Office, the utility**

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easement shall be recorded to insure that the existing utilities are secured within an easement.

---END OF CONSENT CALENDAR---

9. No. 09CA008 - SSJE Subdivision and DDE Subdivision
A request by James L. Scull, Jr. to consider an application for a **Summary of Adoption Action on an Amendment to the Adopted Comprehensive Plan to change the land use designation from General Commercial to Light Industrial with a Planned Industrial Development** on a parcel of land, located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota. The Point of Beginning of said parcel being identical with the northwesterly corner of Lot 2 of SSJE Subdivision recorded at the Pennington County Register of Deeds Office in Plat Book 29 Page 167, said corner being marked with a 5/8" rebar with survey cap said corner being the Point of Beginning: Thence First Course: along the northerly line of said Lot 2 a bearing of S89°56'10"E and a distance of 273.99 feet to 5/8" iron rod; Thence Second Course: along a line bearing S89°57'50"E and a distance of 617.49 feet to a the northeasterly corner of said Parcel and an intersection with the Section 1/16th line of said Section 32; Thence Third Course: along said Section 1/16th line a bearing of S00°07'24"W and a distance of 813.51 feet to the West 1/16 corner of said Section 32 which is marked with a magnetic nail with flasher marked "LS 4371"; Thence Fourth Course: along the southerly section line of said Section 32 a bearing of N89°52'58"W and a distance of 630.09 feet to a 5/8' rebar with survey cap marked "LS 4371"; Thence Fifth Course: continuing along the southerly section line of said Section 32 a bearing of N89°52'47"W and a distance of 170.11 feet to the southwesterly corner of Lot 7 of said SSJE Subdivision marked with a 5/8' rebar with survey cap marked "LS 4897"; Thence Sixth Course: along the westerly line of said Lot 7 a bearing of N00°09'09"E and a distance of 205.41 feet to the northwesterly corner of said Lot 7 and an intersection with the southerly right-of-way line of Jess Street marked with a 5/8' rebar with survey cap marked "LS 4897"; Thence Seventh Course: along a line with a bearing of N49°19'44"W and a distance of 87.31' to an intersection with the northerly right-of-way line of Jess Street and the southwesterly corner of Lot 2 of Lot A of D.D.E. Subdivision as recorded in Plat Book 29, Page 68; Thence Eighth Course: along the westerly line of said Lot 2 of Lot A a bearing of N00°00'30"E and a distance of 150.00 feet; Thence Ninth Course: continuing along the westerly line of said Lot 2 of Lot A a bearing of S89°53'09"W and a distance of 25.00 feet; Thence Tenth Course: continuing along the westerly line of said Lot 2 of Lot A a bearing of N00°09'42"E and a distance of 52.51 feet to the southwesterly corner of Lot 1 of said SSJE Subdivision marked with a 5/8' rebar; Thence Eleventh Course: along the westerly line of said Lot 1 a bearing of N00°26'40"E and a distance of 119.65 feet to the southwesterly corner of Lot 2 of said SSJE Subdivision marked with a 5/8' rebar; Thence Twelfth Course: along the westerly line of said Lot 2 a bearing of N00°00'48"E and a distance of 228.14 feet to the Point of Beginning. Basis of Bearings established by GPS observations, base located at the northeasterly corner of Lot K-2 S. Said Parcel of Land Contains 16.043 acres, more or less., more generally described as being located adjacent to Kermit Lane east and west, south of Jess Street.

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Scull stated that he would be abstaining from discussion and voting due to a conflict of interest.

Brewer moved, Brown seconded and carried to approve the summary and authorized publication in the Rapid City Journal. (5 to 0 to 1 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no and Scull abstaining).

*12. No. 09PD021 - South Boulevard Addition

A request by Dream Design International, Inc. to consider an application for a **Planned Commercial Development - Initial and Final Development Plan** on Lots 31 and 32 of Block 18 of South Boulevard Addition, Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 336 Meade Street.

Fisher presented the staff recommendation to continue the Planned Commercial Development request to the July 9, 2009 Planning Commission meeting.

Hennies moved, Brown seconded and unanimously carried to continue the Planned Commercial Development - Initial and Final Development Plan to the July 9, 2009 Planning Commission meeting. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

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 Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

23. No. 09SR047 - Section 34, T2N, R7E

A request by Jerome Horst to consider an application for a **SDCL 11-6-19 Review to install sanitary sewer main in a public right-of-way on the Rand Road right-of-way** located adjacent to Lot A of the NW1/4 NE1/4 less Lots H1 and H2 and Lot B of Tract F of the Deadwood Avenue Tract, Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1130 Rand Road.

Tegethoff presented the staff recommendation to continue the SDCL 11-6-19 Review request to the July 9, 2009 Planning Commission meeting.

Hennies moved, Scull seconded and unanimously carried to continue the SDCL 11-6-19 Review to extend a sanitary sewer main in the public right-of-way to the July 9, 2009 Planning Commission meeting. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

---BEGINNING OF REGULAR AGENDA ITEMS---

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29. No. 08SR076 - Sections 16 and 21, T1N, R8E

A request by Dream Design International, Inc. to consider an application for a **SDCL 11-6-19 Review to allow the acquisition of right-of-way and construction of Minnesota Street** on right-of-way located in the NW1/4 of the SW1/4 and in the S1/2 of the S1/2, Section 16, T1N, R8E, also in the NE1/4 of the NW1/4 and in the N1/2 of the NE1/4 of Section 21, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Elk Vale Road and south of the Existing Plum Creek Development.

Fisher presented the staff recommendation to continue the SDCL 11-6-19 Review request to the July 9, 2009 Planning Commission meeting.

Brown moved, Scull seconded and unanimously carried to continue the SDCL 11-6-19 Review to allow the construction of Phase Two and Three of Minnesota Street to the July 9, 2009 Planning Commission meeting. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

*30. No. 09PD009 - Rushmore Mall Addition

A request by Tom Danson for Running Supply, Inc. to consider an application for a **Planned Commercial Development - Initial and Final Development Plan** Lot 18 of Rushmore Mall Addition in the NE1/4 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota and in a portion of Lot M-2 of Marshall Heights Tract in the NW1/4 of Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2200 North Maple Avenue.

Tegethoff presented the staff recommendation to continue the Planned Commercial Development request to the July 23, 2009 Planning Commission meeting.

Waltman and Scull stated that they would be abstaining from discussion and voting due to a conflict of interest.

Hennies moved, Brown seconded and carried to continue the Planned Commercial Development - Initial and Final Development Plan to the July 23, 2009 Planning Commission meeting. (4 to 0 to 2 with Anderson, Brewer, Brown and Hennies voting yes and none voting no and Scull and Waltman abstaining)

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 Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

*31. No. 09PD016 - Vista Lake Subdivision

A request by Site Dynamics, Inc. for SWS, LLC to consider an application for **A Major Amendment to a Planned Residential Development to allow**

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additional cellular facilities in the Office Commercial zoning district on Lot 1, Vista Lake Subdivision #2, Section 8, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4616 Jackson Boulevard.

Fisher presented the staff recommendation to continue the Major Amendment request to the July 23, 2009 Planning Commission meeting.

Brown moved, Brewer seconded and unanimously carried to continue the Major Amendment to a Planned Residential Development to allow additional cellular facilities in the Office Commercial zoning district to the July 23, 2009 Planning Commission meeting. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

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 Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

Fisher requested that items 32 and 33 be taken concurrently.

32. No. 09PL025 - Red Cliff Terrace Subdivision

A request by Fisk Land Surveying & Consulting Engineers for Sandra Fredrickson to consider an application for a **Layout and Preliminary Plat** for proposed Lots 1 and 2 of Lot G of Tract C of the South Part of Lot 7 of Red Cliff Terrace Subdivision, legally described as Lot G of Tract C of the South Part of Lot 7 of Red Cliff Terrace Subdivision, located in the SW1/4 NW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4330 Jackson Boulevard.

33. No. 09SV013 - Red Cliff Terrace Subdivision

A request by Fisk Land Surveying & Consulting Engineers for Sandra Fredrickson to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to dedicate additional right-of-way, to reduce the pavement width and to waive the requirement to provide sidewalk, curb, gutter, street light conduit, water and sewer along Red Cliff Terrace, to allow a five foot wide Utility and Minor Drainage Easement along the westerly line of proposed Lot 1 in lieu of an eight foot wide easement and to waive the requirement to provide a ten foot wide planting screen easement along Jackson Boulevard** for proposed Lots 1 and 2 of Lot G of Tract C of the South Part of Lot 7 of Red Cliff Terrace Subdivision, legally described as Lot G of Tract C of the South Part of Lot 7 of Red Cliff Terrace Subdivision, located in the SW1/4 NW1/4, Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 4330 Jackson Boulevard.

Fisher presented the staff recommendation to approve the Layout and Preliminary Plat and the Variance to the Subdivision Regulations requests with

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stipulations. Fisher identified the modifications to the plat document to accommodate the drainage and proposed approach to the development. Fisher stated that staff recommends that sidewalk be provided along one side of the street to provide pedestrian access. Fisher stated that access for Emergency Vehicle apparatus be provided by increasing the pavement width to 20 feet.

In response to Hennies' question, Fisher identified the new location of the drainage ditch upon expansion of the road. Fisher added that an additional single family residence is planned for construction.

In response to Anderson's question, Fisher stated that the applicant is dedicating an additional six feet of easement width for the access.

Janelle Finck, Fisk Land Surveying and Consulting Engineers, Inc., identified the access provided for the existing property owners. Finck expressed her opinion that the access is a private access and should not be subject to the improvement requirements. Finck stated that the existing property owners do not want any improvements to the access. Finck added that Red Cliff Lane is a platted private easement. Finck identified the topographic challenges to bring the access into compliance with the minimum width requirement. Finck requested that the Planning Commission approve the variances waiving the sidewalk and pavement.

In response to Scull's question, Finck stated that the approach for the shared access is provided off of Jackson Boulevard.

In response to Brewer's question, Finck stated that the City and State's approval for a shared access has been acquired.

In response to Anderson's question, Finck stated that the residence behind the existing development is accessed through Red Cliff Terrace. Finck identified that the underlying easement was in existence prior to the development of the condominiums. Finck expressed her opinion that the topography would not support additional development in the area.

In response to Brewer's question, Finck identified ownership of the easement. Discussion followed.

Behlings, stated that the Fire Department does encourage the provision of the additional width of surface but would leave the decision to the Planning Commission.

In response to Hennies question, Elkins indicated that the Planning Commission could require a non access easement be placed along the east of the property line.

Discussion followed regarding placing a note on the plat that identifies that no access be allowed off of Red Cliff Terrace.

Brewer moved, Anderson seconded and unanimously carried to

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recommend that the Layout and Preliminary Plat be approved with the following stipulations:

1. Prior to Preliminary Plat approval by the Planning Commission, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Growth Management Department;
2. Prior to Preliminary Plat approval by the City Council, a drainage plan shall be submitted for review and approval if any subdivision improvements are required;
3. Prior to Preliminary Plat approval by the City Council, a grading plan shall be submitted for review and approval if any subdivision improvements are required;
4. Prior to Preliminary Plat approval by the City Council, an Erosion and Sediment Control Permit in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval;
5. Prior to Preliminary Plat approval by the City Council, construction plans for Red Cliff Terrace shall be submitted for review and approval showing the easement constructed with a minimum 20 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
6. Prior to Preliminary Plat approval by the City Council, an Exception shall be obtained to allow service lines to cross another lot or construction plans shall be submitted for review and approval showing the service lines in compliance with the City's Utility Design Standards;
7. Prior to submittal of a Final Plat application, the shed located on proposed Lot G2 shall be removed or surety posted to insure that the shed is removed and/or to allow a single family residence to be constructed on the property;
8. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid;
9. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and,
10. The approved Layout and Preliminary Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired. However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council; and,
11. That prior to submittal of a Final Plat application, the plat document shall be revised to show a non-access easement along Red Cliff Terrace; and,

That the Variance to the Subdivision Regulations to waive the requirement: to dedicate additional right-of-way along Red Cliff Terrace be denied without prejudice;

That the Variance to the Subdivision Regulations to reduce the Utility and Minor Drainage Easement from 8 feet to 5 feet along the westerly lot line of proposed Lot 1 be denied without prejudice;

That the Variance to the Subdivision Regulations to waive the requirement

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to provide a ten foot wide planting screen easement along Jackson Boulevard be denied without prejudice;

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk, curb, gutter, street light conduit, water and sewer along Red Cliff Terrace be approved with the following stipulations:

- 1. Prior to Planning Commission approval, drainage information shall submitted for review and approval to address street drainage along Red Cliff Terrace to insure that curb and gutter is not needed;**
- 2. Prior to Planning Commission approval, an Exception shall be obtained to allow a service line to cross another lot;**

That the Variance to the Subdivision Regulations to reduce the pavement width from 20 feet to 15 feet be approved with the stipulation that a non-access easement be provided along Red Cliff Terrace. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

34. No. 09SC004 - Original Town of Rapid City

A request by Orris Enterprises, Inc. to consider an application for a **Sidewalk Café Permit** on the 7th Street Right-of-way located adjacent to Lots 17 and 18 and the north 55 feet of Lots 19, 20 and 21 of Block 84 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 520 7th Street.

Fisher presented the staff recommendation to approve the Sidewalk Café permit with stipulations. Fisher identified the type of furniture, stanchions and umbrellas currently used by the applicant. Fisher commented on the types of signs allow for the sidewalk café uses. Fisher stated that no signage may be placed on the umbrellas as per the adopted Ordinance. Fisher added that the sign within the sidewalk café indicating “no alcohol beyond this point” may remain if it is lowered from 54” to 42” or an Ordinance Amendment is obtained to allow a 54” high sign. Fisher stated that the applicant is aware that an Ordinance Amendment would have to be applied for to allow an increased height for the sign.

In response to Waltman’s question, Fisher stated that numerous options for barricades were reviewed by the Sidewalk Café Ordinance Committee to allow for easy removal and access for emergency personnel.

Brewer expressed his support for the Ordinance to allow Sidewalk Café permits and the requirements for compliance. Brewer expressed his support for higher quality umbrellas.

Waltman expressed her support for barricades.

Fisher stated that the stanchions can be bolted to the sidewalk, but would need to be able to breakaway for emergency access.

Fisher stated that the signage for open container is allowed but that the height must be reduced to comply with the Ordinance.

Eric Orris, Vino 100, expressed stated that the “No open container” sign was

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placed at the direction of the Rapid City Police Department. Orris expressed his opinion that 42 inches in height is not an acceptable height. Orris requested that beer logos be an allowed use on the umbrellas to benefit the business. Orris stated that the stanchions in use are of a high quality and can be easily removed to allow emergency access. Orris provided a copy of the sign for review the Planning Commission and staff.

Brewer expressed support for the sidewalk café use for the business. Brewer added that he supports the sign to be placed at a reasonable height.

Elkins stated that the Planning Commission does not have the authority to grant an exception to the Ordinance requirements for the signage on the umbrellas and the signage height.

Brewer moved, Brown seconded and unanimously carried to approve the Sidewalk Café Permit request with the following stipulations:

- 1. A minimum 5 foot wide clear pedestrian path shall be maintained at all times;**
- 2. Physical barricades shall be provided around the sidewalk café since alcoholic beverages will be served. In particular, the barricades shall consist of stanchions and chains in compliance with the submitted design details. The barricades shall not be attached permanently to the sidewalk and shall not exceed four feet in height;**
- 3. No logos or other forms of advertisement shall be allowed on the proposed umbrellas;**
- 4. All lighting within the sidewalk café area shall be designed so as not to cause a glare to passing motorists or pedestrians. Table top lighting may include candles and battery-operated fixtures;**
- 5. Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall continually be provided. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In addition, the insurance shall be renewed yearly and a copy of the insurance document submitted to the City for review and approval. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked;**
- 6. The proposed sidewalk café shall conform to the plans and design criteria submitted as part of this Sidewalk Café Permit and shall be operated in compliance with Chapter 12.20.020(E) of the Rapid City Municipal Code;**
- 7. The Sidewalk Café Permit may be revoked for cause, consisting of failure to maintain the standards required for this permit as per Chapter 12.20.020(E).12; and,**
- 8. The proposed sign shall not exceed 42 inches in height. In addition, the sign shall be located within the barricaded area of the sidewalk café. The sign shall contain no off-premises advertising and shall display no logo or advertising copy other than for the primary business of the occupant of the abutting property. (6 to 0 with**

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**Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes
and none voting no)**

Tegethoff requested that items 35 and 36 be taken concurrently.

*35. No. 09UR015 - Original Town of Rapid City

A request by Barbara Klinkel for Late Harvest, Inc. to consider an application for a **Conditional Use Permit to allow an on-sale liquor establishment** on a parcel of land located in the South 90' of Lots 17, 18 and 19 in Block 85 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota and the adjoining vacated Sixth Street and St. Joseph Street rights-of-way (Misc. Book 28, Page 3576 and Misc. Book 29, Page 8191), said parcel more commonly known as 530 Sixth Street and currently occupied by "Tally's Restaurant" and the exterior perimeter of the ground floor which is shown on the attached exhibit and more fully described as follows: Beginning at the intersection of the vacated portions of Sixth Street and St. Joseph Street rights-of-way as they adjoin Lot 17 in Block 85 of the Original Town of Rapid City, thence, northeasterly along the easterly edge of Sixth Street right-of-way and along the westerly edge of the existing building, a distance of 37.9 feet more or less to the northerly wall of said Tally's Restaurant; thence, southeasterly at a right angle and along said northerly wall, a distance of 75 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 3.9 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's Restaurant, a distance of 5.4 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 6.5 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's Restaurant, a distance of 7 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 23.7 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's Restaurant, a distance of 3.8 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 3.8 feet more or less to a point on the northerly line of the vacated portion of St. Joseph Street right-of-way as it adjoins Lot 19 in Block 85 of the Original Townsite of Rapid City; thence, northwesterly and along the northerly line of said vacated portion of St. Joseph Street right-of-way a distance of 58.8 feet more or less to the point of beginning, and A parcel of land located in the South 90' of Lots 17, 18 and 19 in Block 85 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota and the adjoining vacated Sixth Street and St. Joseph Street rights-of-way (Misc. Book 28, Page 3576 and Misc. Book 29, Page 8191), said parcel more commonly known as 530 Sixth Street and currently occupied by "Tally's Restaurant", the exterior perimeter of a portion of the basement floor which is shown on the attached exhibit and more fully described as follows: Beginning at the intersection of the vacated portions of Sixth Street and St. Joseph Street rights-of-way as they adjoin Lot 17 in Block 85 of the Original Town of Rapid City, thence, northeasterly along the easterly edge of Sixth Street right-of-way and along the westerly edge of the perimeter basement wall, a distance of 20.9 feet more or less to an interior basement wall; thence, southeasterly at a right angle and along an interior basement wall, a distance of 48.2 feet more or less; thence, southwesterly at a right angle and

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along an interior basement wall, a distance of 2.5 feet more or less; thence, southeasterly at a right angle and along an interior basement wall and stairway, a distance of 26.7 feet more or less; thence, southwesterly at a right angle and along the interior basement wall, a distance of 18.4 feet more or less; thence, northwesterly at a right angle and along portions of the exterior basement wall, a distance of 74.9 feet more or less to the point of beginning, more generally described as being located at 522 Sixth Street.

36. No. 09SC006 - Original Town of Rapid City

A request by Barbara Klinkel for Late Harvest, Inc. to consider an application for a **Sidewalk Café Permit** on the Sixth Street and Saint Joseph Street rights-of-way adjacent to a parcel of land located in the South 90' of Lots 17, 18 and 19 in Block 85 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota and the adjoining vacated Sixth Street and St. Joseph Street rights-of-way (Misc. Book 28, Page 3576 and Misc. Book 29, Page 8191), said parcel more commonly known as 530 Sixth Street and currently occupied by "Tally's Restaurant" and the exterior perimeter of the ground floor which is shown on the attached exhibit and more fully described as follows: Beginning at the intersection of the vacated portions of Sixth Street and St. Joseph Street rights-of-way as they adjoin Lot 17 in Block 85 of the Original Town of Rapid City, thence, northeasterly along the easterly edge of Sixth Street right-of-way and along the westerly edge of the existing building, a distance of 37.9 feet more or less to the northerly wall of said Tally's Restaurant; thence, southeasterly at a right angle and along said northerly wall, a distance of 75 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 3.9 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's Restaurant, a distance of 5.4 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 6.5 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's Restaurant, a distance of 7 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 23.7 feet more or less; thence, northwesterly at a right angle and along an exterior wall of said Tally's Restaurant, a distance of 3.8 feet more or less; thence, southwesterly at a right angle and along the easterly wall of said Tally's Restaurant, a distance of 3.8 feet more or less to a point on the northerly line of the vacated portion of St. Joseph Street right-of-way as it adjoins Lot 19 in Block 85 of the Original Townsite of Rapid City; thence, northwesterly and along the northerly line of said vacated portion of St. Joseph Street right-of-way a distance of 58.8 feet more or less to the point of beginning,, more generally described as being located at 522 Sixth Street.

Tegethoff presented the staff recommendation to approve the Conditional Use Permit and the Sidewalk Café Permit with stipulations.

Hennies moved, Brewer seconded and unanimously carried to approve the Conditional Use Permit to allow an on-sale liquor establishment with the following stipulations:

1. **No outdoor dining shall be allowed after 10 p.m.;**
2. **The proposed structure shall conform architecturally to the plans and**

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- elevations submitted. Any expansion to the use will require a Major Amendment to the Conditional Use Permit;
3. The on-sale liquor establishment shall be operated in conjunction with a full service restaurant;
 4. A Sign Permit shall be obtained prior to any signs being placed on the property and shall comply with the Sign Code Regulations. The signs shall meet the site plan as shown and as approved by the Historic Sign Review Committee;
 5. A Sidewalk Café Permit shall be obtained prior to any structures being placed in the right-of-way;
 6. All applicable provisions of the International Fire Codes shall be continually met;
 7. The applicant shall obtain all required approvals from the Preservation Commission and the Historic Sign Review Committee prior to making any changes to the building and/or signage; and,
 8. The Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years.

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 Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

Planning Commission approved the Sidewalk Café Permit request with the following stipulations:

1. A Conditional Use Permit allowing on-sale liquor establishment shall be obtained;
2. A minimum 5 foot wide clear pedestrian path shall be maintained at all times;
3. Physical barricades shall be provided around the sidewalk café since alcoholic beverages will be served. In particular, the barricades shall consist of stanchions and chains in compliance with the submitted design details. The barricades shall not be attached permanently to the sidewalk and shall not exceed four feet in height;
4. All elements associated with the sidewalk café shall be located within the boundary of the sidewalk café at all times;
5. Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall continually be provided. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In addition, the insurance shall be renewed yearly and a copy of the insurance document submitted to the City for review and approval. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked;
6. The proposed sidewalk café shall conform to the plans and design criteria submitted as part of this Sidewalk Café Permit and shall be

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operated in compliance with Chapter 12.20.020(E) of the Rapid City Municipal Code; and,

7. **The Sidewalk Café Permit may be revoked for cause, consisting of failure to maintain the standards required for this permit as per Chapter 12.20.020(E).12. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)**
37. No. 09SR024 - Section 9, T1N, R8E

A request by Koozie Johnson for West River Electric Association, Inc. to consider an application for a **SDCL 11-6-19 Review to allow the construction of a public utility line and to authorize the granting of a utility easement** on the N1/2 SE1/4 NW1/4 Less Lot H1, S1/2 SE1/4 NW1/4; NE1/4 SW1/4; W1/2 SE1/4, excepting therefrom Tract A of the E1/2 SW1/4 and the W1/2 SE1/4, and the Department of Transportation Railroad Right-of-way lying in Section 9, T1N, R8E, BHM, Pennington County, South Dakota, Department of Transportation Railroad, all in Section 10, T1N, R8E, BHM, Pennington County, South Dakota, and Department of Transportation Railroad, Section 15, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located south of the intersection of the Southeast Connector and S.D. Highway 44, at the eastern terminus of Garden Lane and west of Pioneer Drive.

Fisher presented the staff recommendation to approve the SDCL 11-6-19 Review request.

Brown moved, Scull seconded and unanimously carried to approve the SDCL 11-6-19 Review to allow the construction of a public utility line and to authorize the granting of a utility easement. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

38. No. 09SR040 - Rapid City Greenway Tract
- A request by City of Rapid City to consider an application for a **SDCL 11-6-19 to authorize the relocation of a right-of-way, to relocate a street, to create a stormwater facility and to extend a public utility** on a portion of Tracts 5, 6 and 7 Rapid City Greenway Tracts and adjacent Hartland Court right-of-way, located in Sections 3, 4, 9 and 10, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of Jackson Boulevard and west of 32nd Street.

Fisher presented the staff recommendation to approve the SDCL 11-6-19 Review request.

Brewer moved, Scull seconded and unanimously carried to approve the SDCL 11-6-19 to authorize the relocation of a right-of-way, to relocate a street, to create a stormwater facility and to extend a public utility. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

- *39. No. 09UR014 - Riverside Addition
- A request by Khoury's Mediterranean Cuisine to consider an application for a

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Major Amendment to a Conditional Use Permit to allow an on-sale liquor establishment on a portion of the W1/2 of Lot 4 and Lots 5 thru 13 of Block 3 of Riverside Addition, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1109 Omaha Street.

Tegethoff presented the staff recommendation to approve with the Major Amendment to a Conditional Use Permit request.

Brewer moved, Scull seconded and unanimously carried to approve the Major Amendment to a Conditional Use Permit to allow an on-sale liquor establishment with the following stipulations:

1. **Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, may be allowed as a Minimal Amendment to the Conditional Use Permit. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The lighting for the signs must be designed to preclude shining on the adjacent properties and/or street(s). A sign permit must also be obtained for each individual sign;**
2. **The parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan;**
3. **The landscape plan shall continually comply with all requirements of the Zoning Ordinance and the approved landscape plan;**
4. **All applicable provisions of the International Fire Codes shall be continually met; and,**
5. **The Major Amendment to a Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)**

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 Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

Tegethoff requested that items 40 and 41 be taken concurrently.

- *40. No. 09UR016 - Original Town of Rapid City
A request by Frank Morrison for Frankies, LLC., d/b/a Thirsty's to consider an application for a **Major Amendment to a Conditional Use Permit to expand an on-sale liquor establishment** on Lots 10, 11 and 12 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 819 Main Street.
41. No. 09SC005 - Original Town of Rapid City
A request by Frank Morrison for Frankies, LLC., d/b/a Thirsty's to consider an

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application for a **Sidewalk Café Permit** on the Main Street Right-of-way adjacent to Lots 10, 11 and 12 of the Original Town of Rapid City, Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 819 Main Street.

Tegethoff presented the staff recommendation to approve the Major Amendment to a Conditional Use Permit and the Sidewalk Café Permit application with stipulations.

Scull moved, Hennies seconded and unanimously carried to approve the Major Amendment to a Conditional Use Permit to expand an on-sale liquor establishment with the following stipulations:

- 1. All applicable provisions of the International Fire Codes shall be continually met;**
- 2. The proposed structure shall conform architecturally to the plans and elevations submitted. Any expansion to the use will require a Major Amendment to the Conditional Use Permit;**
- 3. The on-sale liquor establishment shall be operated in conjunction with a full service restaurant;**
- 4. A Sign Permit shall be obtained prior to any signs being placed on the property and shall comply with the Sign Code Regulations. The signs shall meet the site plan as shown and as approved by the Historic Sign Review Committee;**
- 5. A Sidewalk Café Permit shall be obtained prior to any structures being placed in the Main Street right-of-way;**
- 6. No parking shall be allowed on Lot 12 of Block 82 of the Original Town of Rapid City;**
- 7. No tables shall be placed in the Main Street right-of-way adjacent to Lot 12 of Block 82 of the Original Town of Rapid City until vertical curbing is installed along the street right-of-way; and,**
- 8. The Major Amendment to a Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years; and,**

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 Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

That the Sidewalk Café Permit request be approved with the following stipulations:

- 1. A Major Amendment to the Conditional Use Permit allowing an outdoor patio shall be obtained;**
- 2. A minimum 5 foot wide clear pedestrian path shall be maintained at all times;**
- 3. Physical barricades shall be provided around the sidewalk café since alcoholic beverages will be served. In particular, the barricades shall consist of stanchions and chains in compliance with the submitted**

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design details. The barricades shall not be attached permanently to the sidewalk and shall not exceed four feet in height;

4. All elements associated with the sidewalk café shall be located within the boundary of the sidewalk café at all times;
5. Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall continually be provided. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In addition, the insurance shall be renewed yearly and a copy of the insurance document submitted to the City for review and approval. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked;
6. The proposed sidewalk café shall conform to the plans and design criteria submitted as part of this Sidewalk Café Permit and shall be operated in compliance with Chapter 12.20.020(E) of the Rapid City Municipal Code; and,
7. The Sidewalk Café Permit may be revoked for cause, consisting of failure to maintain the standards required for this permit as per Chapter 12.20.020(E).12. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

*42. No. 09UR013 - Robbinsdale Addition No. 10

A request by B. L. and Darlene Buchanan to consider an application for a **Conditional Use Permit to allow an oversized garage in the Low Density Residential zoning district** on Lot 11 of Block 3 of Robbinsdale Addition No. 10, Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 235 E. Nebraska Street.

Tegethoff presented the staff recommendation to continue the Conditional Use Permit request to the July 9, 2009 Planning Commission meeting.

Hennies moved, Brewer seconded and unanimously carried to continue the Conditional Use Permit to allow an oversized garage in the Low Density Residential zoning district to the July 9, 2009 Planning Commission meeting. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

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 Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

43. Discussion Items

- A. A request from the Historic Preservation Commission to adopt the Comprehensive Preservation Plan as an element of the City of Rapid City's Comprehensive Plan.

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Elkins presented the request from the Historic Preservation Commission to adopt the Comprehensive Preservation Plan as an element of the City of Rapid City's Comprehensive Plan.

Brewer requested additional information for review.

Elkins encouraged the Planning Commission to continue the request to the July 9, 2009 Planning Commission meeting if they require additional information. Elkins added that mapping is not part of the process and adoption of the plan does not change the boundaries of any historic district. Discussion followed.

Hennies moved, Scull seconded to continue the discussion of the adoption of the Comprehensive Preservation Plan as an element of the City of Rapid City's Comprehensive Plan to the July 9, 2009 Planning Commission meeting. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

- B. Requirements for Property Owner Signatures on Development Applications.

Elkins presented the existing policy regarding owner signatures on applications. Elkins identified updates to the existing policy. Elkins added that the City Attorney's Office has recommended that the current policy remain in effect within the provision that if a signature is not obtained from the property owner the owner would be notified by certified return receipt mail. Discussion followed.

Elkins requested that the Planning Commission continue the Requirements for Property Owner Signatures on Development Applications to the July 9, 2009 Planning Commission meeting to allow a John Skulborstad to participate in the discussion. Discussion followed.

Schad encouraged that the request be continued.

Scull expressed his support for the policy and the new proposed requirements to notify the land owner.

Brown moved, Hennies seconded and unanimously carried to continue the Requirements for Property Owner Signatures on Development Applications to the July 9, 2009 Planning Commission meeting. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

- C. Request Authorization for Ordinance Amendment to Allow Wind Energy Conversion Systems and Microcell Wireless Antennas on Poles as a Conditional Use in the Heavy Industrial Zoning District.

Elkins presented the staff recommendation to authorize staff to proceed with a public hearing to consider an Ordinance Amendment to Allow Wind

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Energy Conversion Systems and Microcell Wireless Antennas on Poles as a Conditional Use in the Heavy Industrial Zoning District.

Brewer moved, Scull seconded and unanimously carried to authorize staff to advertise for public hearing an Ordinance Amendment to Allow Wind Energy Conversion Systems and Microcell Wireless Antennas on Poles as a Conditional Use in the Heavy Industrial Zoning District. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

- D. Subcommittee Report on Procedures for Special Exceptions to the Flood Development Standards.

Elkins reviewed the Subcommittee on Procedures for Special Exceptions to the Flood Development Standards recommendations for changes to the current process. Elkins reviewed Special Exception process.

Hennies moved, Brown seconded and unanimously carried to endorse and maintain procedures for Special Exceptions to the Flood Development Standards report. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

- E. Update on the Status of the Flood Plain Policy Subcommittee Recommendations.

Elkins requested that the Planning Commission continue the Update on the Status of the Flood Plain Policy Subcommittee Recommendations to the July 9, 2009 Planning Commission meeting.

Brewer moved, Scull seconded and unanimously carried to continue the Update on the Status of the Flood Plain Policy Subcommittee Recommendations to the July 9, 2009 Planning Commission meeting. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

- F. Request Authorization for Ordinance Amendment to allow sales of medical supplies and equipment rental in the Office Commercial District.

Elkins reviewed a request by the Rapid City Regional Hospital for Planning Commission to sponsor an Ordinance Amendment to allow sales of medical supplies and equipment rental in the Office Commercial District.

Allen Berreth, Rapid Regional Heal Network, requested a change in zoning regulations to allow a Home Care Medical equipment facility in an office environment. Berreth identified other similar uses located in Rapid City.

Waltman stated that she would be abstaining from discussion and voting due to a conflict of interest.

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In response to Anderson's question, Elkins stated that currently the Office Commercial allows no sales of merchandise. Elkins added that the District is intended to allow professional offices and multi-family dwellings.

In response to Anderson's question, Elkins stated that the applicant could request a rezoning.

In response to Brewer's question, Elkins identified the zoning of the subject properties and the adjacent zoning. Discussion followed.

Glenn Bryant, stated that the service to the community would be more efficient if the use is allowed in the Office Commercial Zoning District. Discussion followed.

Hennies moved, Brown seconded and unanimously carried to authorize staff to advertise for public hearing to consider amendments to allow sales of medical supplies and equipment rental in the Office Commercial District. (5 to 0 to 1 with Anderson, Brewer, Brown, Hennies and Scull voting yes and none voting no and Waltman abstaining)

44. Staff Items

Elkins requested for a volunteer to serve on the Sign Code Board of Appeals. Brewer and Waltman volunteered to serve on the Sign Code Board of Appeals.

Elkins thanked Pete Anderson for his service to the Planning Commission.

Elkins thanked Brown and Landguth for service and for being willing to continue to serve on the Planning Commission.

Elkins suggested that the Planning Commission continue the discussion regarding Sidewalk Café and wait a few weeks to consider issues that arise throughout the summer. In response to a question, Elkins suggested that the September 24, 2009 Planning Commission meeting would be appropriate. There was a general concurrence from the Commission members.

Anderson thanked staff for their service and assistance.

45. Planning Commission Items

A. Election of Officers.

Waltman opened the floor for nominations to the Chair, Vice-Chair and Secretary.

Brown, moved, Brewer seconded and unanimously carried to nominate Dennis Landguth as Secretary. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none

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voting no)

Waltman moved, Brewer seconded and unanimously carried to nominate Commissioner Andy Scull as Vice-Chairperson. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

Waltman nominated Hennies, Brown seconded and unanimously carried to nominate Commissioner Hennies as Chairperson. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)

Waltman thanked the staff for the service and expressed her appreciate to be able to serve as Chairperson for the Planning Commission.

46. Committee Reports

A. City Council Report (June 1, 2009)

The City Council concurred with the recommendations of the Planning Commission with the exception of the following items:

No. 09RZ020 - Hillsview Subdivision - A request by City of Rapid City to consider an application for a **Rezoning from No Use District to General Commercial District** of Lots 4 and 5 of Hillsview Subdivision and the 75 foot wide S.D. Highway 44 right-of-way lying adjacent to and south of Lot 5 of the Hillsview Subdivision, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Valley Drive and north of S.D. Highway 44.

On April 23, 2009 the Planning Commission recommended that the **Rezoning from No Use District to General Commercial District** be approved. On June 1, 2009 the Rapid City Council denied the **Rezoning from No Use District to General Commercial District**.

No. 09RZ021 - Hillsview Subdivision

A request by City of Rapid City to consider an application for a **Rezoning from No Use District to General Commercial District** of Lot 15 Revised less the north 350 feet and Lot 17 all of Hillsview Subdivision and the north 75 feet of the S.D. Highway 44 right-of-way lying adjacent and south of Lot 17 and Lot 15 Revised of Hillsview Subdivision all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Valley Drive and north of S.D. Highway 44.

On April 23, 2009, the Planning Commission recommended that the **Rezoning from No Use District to General Commercial District** be approved. On June 1, 2009, the Rapid City Council approved the **Rezoning from No Use District to General Commercial District** for Lot 17 only and denied the remaining lots.

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- B. Sign Code Board of Appeals
- C. Zoning Board of Adjustment
- D. Parks and Recreation Subcommittee
- E. Capital Improvements Subcommittee
- F. Americans With Disabilities Act Compliance Committee
- G. Drinking Water Protection Committee
- H. Tax Increment Financing Committee
- I. Off-Premise Sign Permit Committee
- J. Infrastructure Development Partnership Fund Committee
- K. Floodplain Boundary Policy Committee
- L. Landscape Code Committee
- M. Smart Growth Committee
- N. Others

There being no further business, Brown moved, Hennies seconded and unanimously carried to adjourn the meeting at 9:00 a.m. (6 to 0 with Anderson, Brewer, Brown, Hennies, Scull and Waltman voting yes and none voting no)