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MINUTES OF THE
RAPID CITY PLANNING COMMISSION
July 23, 2009

MEMBERS PRESENT: Erik Braun, John Brewer, Gary Brown, Julie Gregg, Thomas Hennies, Dennis Landguth, Linda Marchand and Andrew Scull. Ron Weifenbach, Council Liaison was also present

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

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

Hennies 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 12 and 23 be removed from the Consent Agenda for separate consideration.

Scull and Brown requested that Items 4, 5, 11, 20 and 23 be removed from the Consent Agenda for separate consideration.

Motion by Gregg, Seconded by Scull and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 27 in accordance with the staff recommendations with the exception of Items 4, 5, 11, 12, 20 and 23. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the July 9, 2009 Planning Commission Meeting Minutes.
2. 09TP021 – 2010 – 2014 Rapid City Area Transportation Improvement Program – Draft Report.

Planning Commission recommended approval of the 2010-2014 Rapid City Area Transportation Improvement Program – Draft Report.

3. No. 08OA003 - Ordinance Amendment
A request by City of Rapid City to consider an application for an **Ordinance Amendment to amend Section 17.50.335 "Sight Triangles" of the Rapid City Municipal Code.**

Planning Commission recommended that the Ordinance Amendment to amend Section 16.50.335 "Sight Triangles " of the Rapid City Municipal

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Code be continued to the November 19, 2009 Planning Commission meeting.

6. 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.

Planning Commission continued the Preliminary Plat to the August 6, 2009 Planning Commission meeting.

7. 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, located in the NE1/4, Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, 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

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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 be continued to the August 6, 2009 Planning Commission meeting to be heard in conjunction with the associated Preliminary Plat application.

8. No. 09CA015 - Section 35, T2N, R7E

A request by City of Rapid City to consider an application for an **Amendment to the Adopted Comprehensive Plan to revise the Major Street Plan by eliminating, adding and realigning collector streets** on the E1/2 of the NE1/4 NE1/4, SE1/4 of the NE1/4 and the north 330 feet of the NE1/4 SE1/4, all located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of I-190 and north of Omaha Street (S.D. Highway 44).

Planning Commission recommended that the Comprehensive Plan Amendment to the Major Street Plan by eliminating, adding, and realigning collector streets be approved.

9. No. 09OA005 - Ordinance Amendment

A request by City of Rapid City to consider an application for an **Ordinance Amendment to allow Wind Energy Conversion Systems and Microcell Wireless Antennas on poles as Conditional Uses in the Heavy Industrial Zoning District by Amending Section 17.24.030 of the Rapid City Municipal Code.**

Planning Commission recommended that the Ordinance Amendment to allow Wind Energy Conversion Systems and Microcell Wireless Antennas on poles as Conditional Uses in the Heavy Industrial Zoning District by Amending Section 17.24.030 of the Rapid City Municipal Code be approved.

*10. No. 09PD016 - Vista Lake Subdivision

A request by Site Dynamics, Inc. for SWS, LLC to consider an application for a

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Major Amendment to a Planned Residential Development to allow additional cellular facilities in the Office Commercial zoning district for 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.

Planning Commission continued the Major Amendment to a Planned Residential Development to allow additional cellular facilities in the Office Commercial zoning district to the August 6, 2009 Planning Commission meeting at the applicant's request.

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.

13. 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.

Planning Commission continued the Layout and Preliminary Plat to the August 6, 2009 Planning Commission meeting.

14. 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 between Carlin Street and Crane Drive.

Planning Commission continued the Preliminary Plat to the August 6, 2009 Planning Commission meeting.

15. 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 between Carlin Street and Crane Drive.

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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 the August 6, 2009 Planning Commission meeting to be heard in conjunction with the associated Preliminary Plat.

16. No. 09PL034 - Aspen Estates Subdivision

A request by Fisk Land Surveying & Consulting Engineers for Walter J. Bradsky to consider an application for a **Layout Plat** for proposed Lots 5A and 5B of Aspen Estates Subdivision, legally described as Lot 5 of Aspen Estates Subdivision, located in the SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota, more generally described as being located at 7800 Elkhart Road.

Planning Commission continued the Layout Plat to the August 27, 2009 Planning Commission meeting to allow the applicant to submit additional information.

17. No. 09SV014 - Aspen Estates Subdivision

A request by Fisk Land Surveying & Consulting Engineers for Walter J. Bradsky to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water and sewer along S.D. Highway 44, to waive the requirement to install curb, gutter, street light conduit, water, sewer, to reduce the pavement width from 24 feet to 22 feet and to waive the requirement to dedicate right-of-way along Elkhart Road, Kenosha Road, and Canterbury Road as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lots 5A and 5B of Aspen Estates Subdivision, legally described as Lot 5 of Aspen Estates Subdivision, located in the SW1/4 of Section 12, T1N, R6E, BHM, Pennington County, South Dakota, more generally described as being located at 7800 Elkhart Road.

Planning Commission continued the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water and sewer along S.D. Highway 44 and to waive the requirement to install curb, gutter, street light conduit, water, sewer, to reduce the pavement width from 24 feet to 22 feet and to waive the requirement to dedicate right-of-way along Elkhart Road, Kenosha Road, and Canterbury Road as per Chapter 16.16 of the Rapid City Municipal Code to the August 27, 2009 Planning Commission meeting.

18. 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** for 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

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between Cleveland and Oakland Street.

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

19. 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** for 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 August 6, 2009 Planning Commission meeting.

21. No. 09SR052 - Original Town of Rapid City

A request by Gregg Cook to consider an application for a **SDCL 11-6-19 Review to allow temporary structures in the right-of-way** on the Apolda Street right-of-way located adjacent to the south 50 feet of Lots 28 thru 32 of Block 36 of the Original Town of Rapid City, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located Apolda Street from 7th Street to the Sports Rock property.

Planning Commission denied the SDCL 11-6-19 Review to allow temporary structures in the right-of-way.

22. No. 09SR057 - Original Town of Rapid City

A request by FourFront Design, Inc. to consider an application for a **SDCL 11-6-19 Review to place structures in the right-of-way** on the 7th Street right-of-way adjacent to the north 40 feet of Lot 32 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 517 7th Street.

Planning Commission approved the SDCL 11-6-19 Review to place structures in the right-of-way.

24. No. 09SR062 - Section 5, T1N, R8E

A request by Katy Stuk Humane Society of the Black Hills to consider an application for a **SDCL 11-6-19 Review to expand a structure on public property** on Lot 1 located in the SE1/4 SW1/4 and the SW1/4 SE1/4, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1820 East St. Patrick Street.

Planning Commission denied the SDCL 11-6-19 Review to expand a structure on public property without prejudice.

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25. No. 09SR063 - Westberry Trails Subdivision

A request by Hermanson Egge Engineering, Inc. for Larry and Lisa Hermanson to consider an application for a **SDCL 11-6-19 review to construct street improvements on the Section Line Highway and extend a public utility** on E1/2SE1/4NW1/4, W1/2W1/2SW1/4NE1/4, Government Lots 1 and 2 and Tract A of Westberry Trails of Section 6, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at the southern terminus of Westberry Drive.

Planning Commission continued the SDCL 11-6-19 Review to construct street improvements within a section line highway and to extend a public utility to the August 6, 2009 Planning Commission meeting to allow the applicant to submit additional information.

26. No. 09SR065 - Rapid City Greenway Tract

A request by Rapid City Convention & Visitors Bureau to consider an application for a **SDCL 11-6-19 Review to allow temporary structures on public property** on Tract 20 less Lot H1 of the Rapid City Greenway Tract, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the Memorial Park Bandshell.

Planning Commission approved the SDCL 11-6-19 Review to allow a temporary structure on public property if the following additional information is submitted prior to Planning Commission approval:

1. **A Special Exception to the Flood Area Construction Regulations to allow a temporary structure in the floodplain is approved.**

*27. No. 09UR020 - MDU Subdivision

A request by Scott Goble for SWS, LLC to consider an application for a **Major Amendment to a Conditional Use Permit to allow expansion of an existing structure (communication tower)** for Lot 1 of MDU Subdivision, Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 718 Steele Avenue.

Planning Commission approved the Major Amendment to a Conditional Use Permit to allow expansion of an existing structure (communication tower) with the following stipulations:

1. **Prior to Planning Commission approval, the applicant shall submit a revised site plan showing two proposed parking spaces for the communication facility with one of the spaces being "van" handicap accessible or the applicant shall demonstrate that the existing parking is sufficient for the office, warehouse and communication facility uses located on the property or a Variance shall be obtained to reduce the parking requirement;**
2. **A building permit shall be obtained prior to the start of construction of the concrete pad or the placement of the equipment cabinets and antennas;**
3. **Prior to issuance of a building permit, a Floodplain Development Permit shall be obtained;**

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4. The tower shall continue to be designed to allow for the location of a minimum of three carriers;
5. The tower shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other Federal or State authority;
6. The tower shall remain unpainted allowing the galvanized steel color to show or the tower shall be painted white unless alternative colors are required by the Federal Aviation Administration or other Federal or State authority;
7. No commercial advertising signage shall be allowed on the tower; 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.

---END OF CONSENT CALENDAR---

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; 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.

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

Brewer moved, Marchand seconded and carried to continue the Preliminary Plat to the August 27, 2009 Planning Commission meeting. (7 to 0 to 1 with Braun, Brewer, Brown, Gregg, Hennies, Landguth and Marchand voting yes and none voting no and Scull abstaining)

5. No. 08PL124 - Morningstar Subdivision
A request by CETEC Engineering Services, Inc. for OS Development, Inc. to consider an application for a **Preliminary Plat** for proposed Lot 1 of Block 1, Lot 1 of Block 2, Lots 1 thru 40 of Block 3, Lots 1 thru 7 of Block 4, Lots 1 thru 10 of Block 5, Lots 1 thru 6 of Block 6, Lots 1 thru 12 of Block 7, Lots 1 thru 8 of Block 8, Lots 1 thru 10 of Block 9, Tracts A and B and the dedicated public Right-of-

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way, legally described as a tract of land located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 22 and the NE $\frac{1}{4}$ NE $\frac{1}{4}$, of Section 27, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. Being more particularly described as follows: Commencing at the East $\frac{1}{4}$ Corner of said Section 22, said point being monumented with a nail in the surface of the asphalt of Reservoir Rd and having two reference monuments consisting of a brass cap and iron pipe, one bears N40°53'23"W 46.84 feet, the second bears S42°28'55"W 47.86 feet; Thence S11°01'40"W 211.80 feet the True Point of Beginning, said point is on the westerly Right-of-Way line of said Reservoir Rd; Thence N88°20'56"W 42.22 feet to the beginning of a curve concave to the northeast having a radius of 454.00 feet; Thence along said curve a distance of 240.79 feet to the beginning point of a reverse curve having a radius of 666.00 feet; Thence along said curve a distance of 763.21 feet to a point; Thence N42°15'21"W 103.29 feet to the beginning of a curve concave to the northeast having a radius of 740.00 feet; Thence along said curve a distance of 109.90 feet to a point; Thence N04°01'19"W 212.28 feet to a point; Thence S55°45'42"W 75.36 feet to a point; Thence N86°53'21"W 134.46 feet to a point; Thence S10°21'24"E 98.19 feet to a point; Thence S35°06'10"W 63.00 feet to a point; Thence S46°21'05"E 109.89 feet to the beginning of a non-tangent curve concave to the southwest having a radius of 936.00 feet and a chord bearing of S45°14'35"E; Thence along said curve a distance of 97.60 feet to a point; Thence S42°15'21"E 82.00 feet to a point; Thence S47°44'39"W 267.00 feet to a point; Thence S42°15'21"E 318.00 feet to the beginning of a curve concave to the southwest having a radius of 669.00 feet; Thence along said curve a distance of 415.25 feet to a point; Thence S04°27'54"E 52.00 feet to the beginning of a non-tangent curve concave to the west having a radius of 669.00 feet and a chord bearing of S00°04'26"E ; Thence along said curve a distance of 50.53 feet to a point; Thence S02°05'22"W 618.45 feet to a point; Thence N87°54'38"W 157.00 feet to a point; Thence S02°05'22"W 82.00 feet to a point; Thence S47°05'22"W 14.14 feet to a point; Thence N87°54'38"W 95.00 feet to a point; Thence S02°05'22"W 89.55 feet to the beginning of a curve concave to the northwest having a radius of 407.00 feet; Thence along said curve a distance of 283.67 feet to a point; Thence S42°01'34"W 129.91 feet to a point; Thence S47°44'39"W 76.00 feet to a point; Thence S42°15'21"E 25.35 feet to the beginning of a curve concave to the northeast having a radius of 1238.00 feet; Thence along said curve a distance of 692.63' to a point; Thence S32°05'22"W 61.42 feet to the beginning of a curve concave to the northwest having a radius of 2060.00 feet; Thence along said curve a distance of 464.18 feet to a point; Thence S45°00'00"W 183.94 feet to a point; Thence S45°00'00"E 172.00 feet to a point; Thence N45°00'00"E 86.99 feet to a point; Thence S90°00'00"E 14.14 feet to a point; Thence S45°00'00"E 100.00 feet to a point; Thence N45°00'00"E 478.38 feet to a point; Thence S64°12'57"E 223.55 feet to the beginning of a non-tangent curve concave to the southwest having a radius of 254.00 feet and a chord bearing of S28°27'35"E; Thence along said curve a distance of 263.73 feet to a point; Thence S88°42'49"E 120.00 feet to the beginning of a non-tangent curve concave to the west having a radius of 374.00 feet and a chord bearing of S01°38'45"W; Thence along said curve a distance of 4.69 feet to a point; Thence S02°00'19"W 29.40 feet to a point; Thence S87°59'41"E 199.00 feet to a point along the westerly Right-of-Way line of said Reservoir Road; Thence N02°00'19"E 678.41 feet along

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said Right-of-Way where it intersects the South line of the Southeast quarter of said Section 22, from which the Southeast corner of said section 22 bears S88°27'49"E 33.00 feet, said point being monumented with an iron rod below the surface of the asphalt; Thence N02°03'51"E 38.00 along the Right-of-Way of said Reservoir Rd to a point; Thence N88°27'48"W 515.70 feet to the beginning of a curve concave to the northeast having a radius of 1162.00 feet; Thence along said curve a distance of 264.57 feet to a point; Thence N32°05'22"E 194.31 feet to the beginning of a curve concave to the northwest having a radius of 1066.00 feet; Thence along said curve a distance of 465.06 feet to a point; Thence S87°56'54"E 23.94 feet to the southwest corner of Tract 1 of the Bradeen Subdivision, said point being monumented with an iron rod and cap stamped "Cetec Eng LS 4725"; Thence N02°05'22"E 986.42 feet along the west line of said Tract 1 to the beginning of a non-tangent curve concave to the southwest having a radius of 1014.96 feet and a chord bearing N22°20'38"W said point is also the northwest corner of said Tract 1 and being monumented with an iron rod and cap stamped "Cetec Eng LS 4725"; Thence along said curve a distance of 695.42 feet to a point; Thence N42°03'11"W 203.20 feet to a point; Thence N41°26'28"W 12.09 feet to the beginning of a non-tangent curve concave to the south having a radius of 613.96 feet and a chord bearing of S89°59'42"E; Thence along said curve a distance of 686.58 feet to the beginning point of a reverse curve having a radius of 506.00 feet; Thence along said curve a distance of 268.36 feet to a point; Thence S88°20'56"E 41.85 feet to a point on the westerly Right-of-Way line of said Section 22; Thence N02°03'51"E 52.00 feet along said Right-of-Way line to the True Point of Beginning, Section 27, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Reservoir Road and south of the intersection of S.D. Highway 44 and Reservoir Road.

In response to Hennies' question, Elkins recommended that the Planning Commission give the applicant notice that the item be resolved at the September 24, 2009 Planning Commission meeting.

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

Landguth moved, Brown seconded and carried to continue the Preliminary Plat to the September 24, 2009 Planning Commission meeting at the applicant's request. (7 to 0 to 1 with Braun, Brewer, Brown, Gregg, Hennies, Landguth and Marchand voting yes and none voting no and Scull abstaining)

- *11. No. 09PD026 - Section 4, T1N, R7E
A request by CETEC Engineering Services, Inc. for Canyon Lake Methodist Church to consider an application for a **Planned Residential Development - Initial and Final Development Plan** for Block 1 less Lot 1 and Lot 1 of Block 1 of the NW1/4 SE1/4 of Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3500 Canyon Lake Drive.

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

Brewer moved, Landguth seconded and unanimously carried to approve the Planned Residential Development - Initial and Final Development Plan with the following stipulations:

- 1. The proposed structure(s) shall conform architecturally to the plans and elevations and color palette submitted as part of this Planned Commercial Development Plan;**
- 2. A building permit must be obtained prior to any construction and a certificate of occupancy obtained prior to occupancy. In addition, all plans shall be stamped by a Registered Professional Engineer and/or Architect per SDCL 36-18A;**
- 3. The parking lot shall be constructed and maintained in compliance with the parking plan submitted as a part of this application and Section 17.50.270 of the Rapid City Municipal Code;**
- 4. The lighting must be arranged so as to provide security and to reflect light toward the parking areas;**
- 5. 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 Planned Commercial Development. 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;**
- 6. The landscaping plan shall comply with all requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;**
- 7. The currently adopted International Fire Code shall be continually met;**
- 8. Prior to issuance of a building permit the applicant shall obtain approval of a SDCL 11-6-19 Review to extend a public water main;**
- 9. Prior to issuance of a building permit an Erosion and Sediment Control Permit shall be obtained;**
- 10. Prior to issuance of a building permit, all redline comments made on the construction plans must be addressed and resubmitted for review and approval. In addition, the red lined drawings must be returned to the Growth Management Department; and,**
- 11. The Planned Residential Development shall expire if the use is not undertaken 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. (7 to 0 to 1 with Braun, Brewer, Gregg, Hennies, Landguth, Marchand and Scull voting yes and none voting no and Brown 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

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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.

12. No. 09PL014 - Discovery Subdivision

A request by Dream Design International, Inc. to consider an application for a **Preliminary Plat** for proposed Lots 1, 2 and 3 of Tract 3 of Discovery Subdivision, legally described as Tract 3 of Discovery Subdivision located in the NE1/4 of the SE1/4 and in the SE1/4 of the NE1/4 of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1851 Discovery Circle.

Fisher presented the staff recommendation to acknowledge the applicant's request to deny the Preliminary Plat request without prejudice.

Brown moved, Gregg seconded and carried to deny the Preliminary Plat without prejudice at the applicant's request. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull voting yes and none voting no)

20. No. 09SR049 - Marshall Subdivision

A request by Western Dakota Tech. to consider an application for a **SDCL 11-6-19 Review to allow an electronic display sign** for Tract A of Marshall Subdivision, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 800 Mickelson Drive.

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

Brewer moved, Landguth seconded and carried to approve the SDCL 11-6-19 Review to construct electronic display sign on public property. (7 to 0 to 1 with Braun, Brewer, Brown, Gregg, Hennies, Landguth and Marchand voting yes and none voting no and Scull abstaining)

23. No. 09SR061 - Rapid City Greenway Tract

A request by Patrick J. O'Leary for Minneluzahan Senior Citizen's Center to consider an application for a **SDCL 11-6-19 Review to construct a sign on public property** on Lot RU-18, RU Lots and Tract 21, Rapid City Greenway Tract, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 315 North Fourth Street.

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

Landguth moved, Scull seconded and unanimously carried to continue the SDCL 11-6-19 Review to the August 6, 2009 Planning Commission meeting. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull voting yes and none voting no)

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---BEGINNING OF REGULAR AGENDA ITEMS---

28. 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 August 6, 2009 Planning Commission meeting.

Planning Commission continued the SDCL 11-6-19 Review to allow the construction of Phase Two and Three of Minnesota Street to the August 6, 2009 Planning Commission meeting. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull voting yes and none voting no)

Bulman requested that items 29 and 30 be taken concurrently.

29. No. 09CA011 - Hillsview Subdivision

A request by City of Rapid City to consider an application for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from General Commercial to Heavy Industrial with a Planned Industrial Development** on Lots 4 and 5 of Hillsview Subdivision and the 75 foot wide S.D. Highway 44 right-of-way lying adjacent and south of Lot 5 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.

30. No. 09RZ028 - Hillsview Subdivision

A request by City of Rapid City to consider an application for a **Rezoning from No Use District to Heavy Industrial District** of Lots 4 and 5 of Hillsview Subdivision and the 75 foot wide S.D. Highway 44 right-of-way lying adjacent and south of Lot 5 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.

Bulman presented the Future Land Use Committee recommendation to deny the Comprehensive Plan Amendment and the Rezoning request. Bulman added that the Future Land Use Committee determined that the Heavy Industrial use is not appropriate for the area. Bulman identified the location of the subject property and adjacent Low Density Residential zoning. Bulman reviewed the Future Land Use Committee's concerns with the possible negative effects future uses allowed in Heavy Industrial Zoning Districts may have on the surrounding neighborhood. Bulman reviewed a letter from an adjacent property owner that is in opposition to

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the Comprehensive Plan and Rezone request.

In response to Scull's question, Bulman stated that the property is grandfathered in as it exists and that the applicant would not be able to obtain a building permit for a Heavy Industrial use if the property is not zoned Heavy Industrial District. Discussion followed.

In response to Hennies' question, Weifenbach stated that the Council requested that the requests be resubmitted to a zoning district that would allow the property owners to rebuild in a catastrophic event. Weifenbach added that the Council recommended that a new application be brought back to Planning Commission for a Heavy Industrial District to allow the property owner to upgrade and clean up the existing property.

Elkins reiterated the discussion at Council. Elkins added the Future Land Use Committee has concerns for the increased Heavy Industrial use. Elkins added the County Zoning designation was General Commercial prior to annexation.

Jerry Olsen, property owner, stated that the intent is to maintain the concrete production. Olsen added that the need for Heavy Industrial is to allow for structures for storage to clean up the existing site.

Karen Gunderson-Olsen, Alderperson, stated that the Future Land Use Committee viewed the property and has concerns with that may have a negative impact to a business that serves as an employer for Rapid City. Gunderson-Olsen expressed her concern with the close proximity to the adjacent residential neighborhood. Gunderson-Olsen stated that the Future Land Use Committee determined that the General Commercial designation is appropriate for the subject property.

Discussion followed regarding General Commercial Zoning of the property prior to annexation and the effect of annexation on the subject property.

Scull moved, Gregg seconded to approve the Amendment to the adopted Comprehensive Plan to change the land use designation from General Commercial to Heavy Industrial with a Planned Industrial Development.

Brown expressed the Future Land Use Committee's opposition to the proposed Comprehensive Plan Amendment and Rezoning requests.

Roll Call Vote (3 to 5 with Braun, Gregg and Scull voting yes and Brewer, Brown, Hennies, Landguth and Marchand voting no)

Brown moved, Landguth seconded and carried to recommended that the Amendment to the adopted Comprehensive Plan to change the land use designation from General Commercial to Heavy Industrial with a Planned Industrial Development and the Rezoning from No Use District to Heavy Industrial District be denied. Roll Call Vote (5 to 3 with Brewer, Brown, Hennies, Landguth and Scull voting yes and Braun, Gregg and Scull voting

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no)

31. No. 09CA012 - Hillsview Subdivision

A request by City of Rapid City to consider an application for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Low Density Residential to General Commercial** on that portion of Lot 15 Revised of Hillsview Subdivision described as follows: Commencing at the southwest corner of Lot 15 Revised; thence N00°03'23"W 283.51 feet, more or less, to the Point of Beginning; thence N00°03'23"W 198.47 feet, more or less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 198.82 feet, more or less; thence N89°50'46"W 129.72 feet, more or less, to the Point of Beginning; located in the NE¼ SE¼ of 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.

Bulman presented the Future Land Use Committee recommendation that the Amendment to the Comprehensive Plan and Rezoning requests be denied with the exception that 09RZ029 be approved in part with a revised legal description and denied in part with a revised legal description. Bulman added that the Future Land Use Committee recommended that the Heavy Industrial Land Use designation is not appropriate for the subject property and adjacent neighborhoods. Bulman commented on the concerns of an adjacent property owner as presented in the letter distributed on the dais.

In response to Hennies' question, Bulman stated that Mr. Nielsen is the property owner not Mr. Olsen.

In response to Scull's question, Bulman identified the existing and proposed uses of each parcel individually and cumulatively and the recommendation from the Future Land Use Committee for each request.

Royal Nielsen, property owner requested that the Planning Commission approve the Comprehensive Plan Amendments and Rezoning requests. Nielsen added that the current use has existed on the subject property for years. Nielsen commented on the current condition of the subject property. Nielsen expressed concerns with drainage from adjacent property to his property. Nielsen added that his intent is to construct a warehouse to clean up the property.

Landguth moved, Brown seconded and carried to recommended that the Amendment to the adopted Comprehensive Plan to change the land use designation from Low Density Residential to General Commercial be denied. (7 to 1 with Braun, Brewer, Brown, Gregg, Hennies, Landguth and Marchand voting yes and Scull voting no)

32. No. 09RZ029 - 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 that portion of Lot 15 Revised of Hillsview Subdivision described as follows: Beginning at the southwest corner of Lot 15 Revised; thence N00°03'23"W 481.98 feet, more or

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less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 482.22 feet, more or less; thence S38°37'42"W 80.71 feet, more or less; thence N51°22'18"W 101.19 feet, more or less to the Point of Beginning; located in the NE¼ SE¼ of Section 5, and the 75 foot wide right of way located adjacent and south of the above described property, 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.

Landguth moved, Marchand seconded and unanimously carried to recommend that the Rezoning from No Use District to General Commercial District be approved for the following legal description: That portion of Lot 15 Revised of HillsvieW Subdivision described as follows: Beginning at the southwest corner of Lot 15 Revised; thence N00°03'23"W 481.98 feet, more or less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 482.22 feet, more or less; thence S38°37'42"W 80.71 feet, more or less; thence N51°22'18"W 101.19 feet, more or less to the Point of Beginning; located in the NE¼ SE¼ of Section 5, and the 75 foot wide right of way located adjacent and south of the above described property, all located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota less that portion of Lot 15 Revised of HillsvieW Subdivision described as follows: Commencing at the southwest corner of Lot 15 Revised; thence N00°03'23"W 283.51 feet, more or less, to the Point of Beginning; thence N00°03'23"W 198.47 feet, more or less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 198.82 feet, more or less; thence N89°50'46"W 129.72 feet, more or less, to the Point of Beginning; located in the NE¼ SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and, recommended that the Rezoning from No Use District to General Commercial District be denied for the following legal description: That portion of Lot 15 Revised of HillsvieW Subdivision described as follows: Commencing at the southwest corner of Lot 15 Revised; thence N00°03'23"W 283.51 feet, more or less, to the Point of Beginning; thence N00°03'23"W 198.47 feet, more or less; thence N90°00'00"E 129.91 feet, more or less; thence S00°00'00"E 198.82 feet, more or less; thence N89°50'46"W 129.72 feet, more or less, to the Point of Beginning; located in the NE¼ SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull voting yes and none voting no)

33. No. 09CA013 - HillsvieW Subdivision

A request by City of Rapid City to consider an application for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from Low Density Residential to Light Industrial with a Planned Industrial Development** on that portion of Lot 15 Revised of HillsvieW Subdivision described as follows: Beginning at the northeast corner of Lot 15 Revised; thence S00°00'00"E 349.61 feet, more or less; thence N89°50'46"W 200.00 feet, more or less; thence N00°00'00"W 198.82 feet, more or less; thence N90°00'00"W 129.91 feet, more or less; thence N00°03'23"W 150.00 feet, more or less; thence N89°56'06"E 330.06 feet, more or less, to the Point of Beginning; located in the

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NE¼ SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the south 293 feet of Lot 6 of Marshall Subdivision, located in the SE¼ NE¼ of 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.

Scull expressed his support for the proposed Comprehensive Plan Amendment and Rezoning requests. Discussion followed.

Landguth moved, Marchand seconded and carried to recommend that the Amendment to the Adopted Comprehensive Plan to change the land use designation from Low Density Residential to Light Industrial with a Planned Industrial Development be denied. (7 to 1 with Braun, Brewer, Brown, Gregg, Hennies, Landguth and Marchand voting yes and Scull voting no)

34. No. 09RZ031 - Hillsview Subdivision

A request by City of Rapid City to consider an application for a **Rezoning from No Use District to Light Industrial District** of that portion of Lot 15 Revised of Hillsview Subdivision described as follows: Beginning at the northeast corner of Lot 15 Revised; thence S00°00'00"E 349.61 feet, more or less; thence N89°50'46"W 200.00 feet, more or less; thence N00°00'00"W 198.82 feet, more or less; thence N90°00'00"W 129.91 feet, more or less; thence N00°03'23"W 150.00 feet, more or less; thence N89°56'06"E 330.06 feet, more or less, to the Point of Beginning; located in the NE¼ SE¼ of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the south 293 feet of Lot 6 of Marshall Subdivision, located in the SE¼ NE¼ of 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.

Landguth moved, Marchand seconded and carried to recommend that the Rezoning from No Use District to Light Industrial District be denied. (7 to 1 with Braun, Brewer, Brown, Gregg, Hennies, Landguth and Marchand voting yes and Scull voting no)

35. No. 09CA014 - Hillsview Subdivision

A request by City of Rapid City to consider an application for an **Amendment to the Adopted Comprehensive Plan to change the land use designation from General Commercial to Heavy Industrial Industrial with a Planned Industrial Development** on that portion of Lot 15 Revised of Hillsview Subdivision described as follows: Beginning at the southeast corner of Lot 15 Revised; thence N51°22'18"W 320.51 feet, more or less; thence N38°37'42"E 80.71 feet, more or less; thence N00°00'00"W 283.40 feet, more or less; thence S89°50'46"E 200.00 feet, more or less; thence S00°00'00"E 546.00 feet, more or less to the Point of Beginning; located in the NE¼ SE¼ of Section 5, and the 75 foot wide right-of-way located adjacent and south of the above described parcel, 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.

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Landguth moved, Marchand seconded and carried to recommend that the Amendment to the adopted Comprehensive Plan to change the land use designation from General Commercial to Heavy Industrial with a Planned Industrial Development be denied. (7 to 1 with Braun, Brewer, Brown, Gregg, Hennies, Landguth and Marchand voting yes and Scull voting no)

36. No. 09RZ030 - Hillsview Subdivision

A request by City of Rapid City to consider an application for a **Rezoning from No Use District to Heavy Industrial District** of that portion of Lot 15 Revised of Hillsview Subdivision described as follows: Beginning at the southeast corner of Lot 15 Revised; thence N51°22'18"W 320.51 feet, more or less; thence N38°37'42"E 80.71 feet, more or less; thence N00°00'00"W 283.40 feet, more or less; thence S89°50'46"E 200.00 feet, more or less: thence S00°00'00"E 546.00 feet, more or less to the Point of Beginning; located in the NE¼ SE¼ of Section 5, and the 75 foot wide right-of-way located adjacent and south of the above described parcel, 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.

Landguth moved, Marchand seconded and carried to recommend that the Rezoning from No Use District to Heavy Industrial District be denied. (7 to 1 with Braun, Brewer, Brown, Gregg, Hennies, Landguth and Marchand voting yes and Scull voting no)

37. No. 09OA006 - Ordinance Amendment

A request by City of Rapid City to consider an application for an **Ordinance Amendment to allow sales of medical supplies and equipment rental as a Conditional Use in the Office Commercial Zoning District by Amending Section 17.40.030 of the Rapid City Municipal.**

Fisher presented staff's recommendation to deny the Ordinance Amendment request. Fisher stated that the Rapid City Regional Hospital staff requested that the staff Planning Commission authorize staff to advertise for public hearing to consider the Ordinance Amendment. Fisher reviewed the allowed Office Commercial designated uses. Fisher presented a compromise that would allow the proposed use be allowed as an accessory use to the Medical Clinics currently permitted. Fisher cautioned the Planning Commission against introducing retail sales use to the Office Commercial Zoning District since it will establish a precedent.

Tim Sughrue, Chief Executive Officer for Rapid City Regional Hospital stated that the intent is to locate a medical supply and equipment rental business similar to the one in Spearfish in Rapid City. Sughrue identified the proposed location for the new use. Sughrue requested that the Planning Commission approve the Ordinance Amendment request. Saghrue added that home medical equipment is not a typical retail use. Saghrue added that the Rapid City Regional Hospital would not support the compromise proposed.

Vern Osterloo, Director of Construction Management for Rapid City Regional

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Hospital requested that the Planning Commission approve the Ordinance Amendment to allow the sales of medical supplies and equipment rental. Osterloo expressed his opinion that there would be minimal increase to traffic from the proposed use.

In response to Landguth's question, Elkins stated that the hospital itself is zoned General Commercial. Discussion continued.

Brewer expressed his support for the Ordinance Amendment.

Brewer moved, Marchand seconded to approve the Ordinance Amendment to allow sales of medical supplies and equipment rental as a Conditional Use in the Office Commercial Zoning District by Amending Section 17.40.030 of the Rapid City Municipal. Discussion followed.

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

Braun expressed his opposition to the Ordinance Amendment request. Discussion followed.

Hennies expressed his support for the Ordinance Amendment request.

Brewer moved, Marchand seconded and carried to recommend that the Ordinance Amendment to allow sales of medical supplies and equipment rental as a Conditional Use in the Office Commercial Zoning District by Amending Section 17.40.030 of the Rapid City Municipal Code be approved. (6 to 1 to 1 with Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull voting yes and Braun voting no and Brown abstaining)

*38. 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** for 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.

Elkins presented the staff recommendation to acknowledge the applicant's withdrawal of the Planned Commercial Development request.

Brown moved, Marchand seconded and unanimously carried to acknowledged the applicant's withdrawal of the Planned Commercial Development - Initial and Final Development Plan. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull voting yes and none voting no)

The Rapid City Planning Commission's action on this item is final unless

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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.

*39. No. 09PD029 - Autumn Hills Plaza Subdivision

A request by N.W.E. Management for Autumn Hills Properties, LLC to consider an application for a **Major Amendment to a Planned Commercial Development to allow an on-sale liquor establishment** for Lots 1 and 2 of Autumn Hills Plaza Subdivision, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 5312 Sheridan Lake Road.

Fisher presented the staff recommendation to continue the Major Amendment request to the August 6, 2009 Planning Commission meeting.

Brown moved, Marchand seconded and unanimously carried to continue the Major Amendment to a Planned Commercial Development to the August 6, 2009 Planning Commission meeting. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull 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.

*40. No. 09PD030 - Kepp Heights Subdivision No. 3

A request by Fisk Land Surveying & Consulting Engineers for Shelby E. and Jessica A. Nester to consider an application for a **Major Amendment to a Planned Residential Development to revise the previously approved building envelope location** for Lot 10 of Kepp Heights Subdivision No. 3, located in the NW1/4 of Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1551 South Kepp Court.

Tegethoff presented the staff recommendation to continue the Major Amendment request to the August 6, 2009 Planning Commission meeting.

Elkins stated that the location of the parcel is incorrect and that the description would need to be changed to reference the general location as Grand Vista Court.

Rob Schlimgen, area resident expressed his opposition to the Major Amendment request.

Brian Hammerbeck, area resident expressed opposition to the proposed Major Amendment request. Hammerbeck presented photos of the proposed relocation

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of the building envelope. Hammberebeck requested that the Planning Commission enforce the stipulations of the original development plan. Hammberebeck identified rugged topography of the subject property. Discussion followed.

Wayne Krause, area resident expressed opposition to the Major Amendment request and the proposed relocation of the building envelope noting the negative impact on his property value and enjoyment of the home.

Brown moved, Gregg seconded and unanimously carried to continue the Major Amendment to a Planned Residential Development to the August 6, 2009 Planning Commission meeting. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull 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.

*41. No. 09PD031 - KW Subdivision

A request by LeAnn Harlan for Conrads Big "C" Signs to consider an application for a **Major Amendment to a Planned Commercial Development to allow an on-sale liquor establishment and to revise the previously approved sign package** for Lot B of Lot 1 of Lot D of KW Subdivision, Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1333 North Elk Vale Road.

Tegethoff presented the staff recommendation to approve the Major Amendment to a Planned Commercial Development request with stipulations.

Gregg left the meeting at this time.

Brown moved, Landguth seconded and unanimously carried to approve the Major Amendment to a Planned Commercial Development to allow an on-sale liquor establishment and to revise the previously approved sign package with the following stipulations:

- 1. The on-sale liquor establishment shall be operated in conjunction with a hotel banquet facility;**
- 2. 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 Planned Commercial Development. 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;**
- 3. All applicable provisions of the International Fire Code shall be**

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- continually met;
4. A minimum of 134,528 landscaping points with four landscaping islands shall be provided. All landscaping shall be installed in accordance with the approved plans. The landscaping plan shall comply with all requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
 5. A minimum of 168 parking spaces shall be provided. In addition, six of the parking spaces shall be handicap accessible spaces. Two of the handicap spaces shall be "van accessible". All provisions of the Off-Street Parking Ordinance shall be continually met; and,
 6. The Major Amendment to a Planned Commercial Development 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. (7 to 0 with Braun, Brewer, Brown, Hennies, Landguth, Marchand and Scull 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.

*42. No. 09PD033 - Aladdin Heights Subdivision

A request by Gordon Phillips for The Lost Steer, LLC to consider an application for a **Planned Commercial Development - Initial and Final Development Plan to allow an on-sale liquor establishment** for Lots 1 and 2 of Block 1 of Aladdin Heights Subdivision, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 5412 South Highway 16.

Gregg returned to the meeting at this time.

Elkins presented the staff recommendation to approve the Planned Commercial Development with stipulations and revised proposed development.

In response to Landguth's question, Elkins stated that staff has reviewed the possible negative impact of the increase in traffic from the proposed use. Discussion followed.

In response to Brewer's question, Elkins stated that the application is from the tenant.

Gordon Phillips, owner and operator of the Lost Steer stated that there is a lease agreement in place with the property owner. Discussion followed.

Schad stated that the Covenant Agreement will be executed with the land owner and will run with the property. Discussion followed.

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In response to Scull's question, Phillips stated that he would be working with staff to meet the stipulations. Discussion followed.

Scull moved, Brown seconded and carried to approve the Major Amendment to a Planned Commercial Development – Initial and Final Development Plan to allow an on-sale liquor establishment with the following stipulations:

- 1. Prior to issuance of a building permit, a revised site plan shall be submitted for review and approval identifying a dumpster location including a screening fence or wall that does not conflict with the off-street parking area. In addition, an elevation identifying the proposed materials for the screening fence or wall shall be submitted for review and approval;**
- 2. Prior to issuance of a building permit, revised drainage information shall be submitted for review and approval including but not limited to the detail for the detention pond outfall pipe with a 4 inch reducer as identified in the drainage report. In addition, the report shall be revised as necessary to reflect all revisions to the off-street parking lot layout and design;**
- 3. Prior to issuance of a building permit, a revised site plan shall be submitted for review and approval demonstrating the provision of a minimum of 44 off-street parking spaces. The plan shall identify no more than three approach locations onto Northview Drive. An exception is hereby granted for the approach into the off-street parking lot on the west side of the structure with the installation of pin down curbing or other vertical curbing as described in stipulation No. 5. However, the off-street parking area on the east side of the building shall be reconfigured to comply with City standards with no more than two approaches onto Northview Drive. Curbing shall be installed to eliminate the off-street parking that backs into the public right-of-way along the north side of the structure. Curbing or other landscape protection devices shall be provided around the boundary of the off-street parking lot to be constructed east of the building. The plan shall identify the installation of reinforced concrete driveways in accordance with City policy; however, asphalt millings may be used on the balance of the off-street parking lot. The off-street parking lot shall be striped in accordance with the approved plan. Included with the revised site plan shall be a truck routing plan demonstrating how delivery vehicles can safely maneuver the site in accordance with eh provisions of the Rapid City Municipal Code. Snow storage areas shall also be identified on the revised plan;**
- 4. The signage shall conform to the design, color and location as shown in the sign package approved with this Initial and Final Planned Commercial Development. Changes to the sign package, which the Growth Management Director determines to be consistent with the original approved sign package shall be allowed as a Minimal Amendment to the Planned Commercial Development. In**

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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 all signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall be obtained for each new sign including all temporary signs;

5. An exception is hereby granted reducing the minimum off-street parking aisle width from 26 feet to 24 feet for the parking lot located on the west side of the building; however, a revised site plan shall be submitted for review and approval identifying the installation of pin down curbing along the western boundary of the parking lot and shall be so located to preclude vehicles from encroaching into the right-of-way. In addition, pin down curbing or other vertical curb shall be installed along the northern boundary of the parking area west of the structure to control access and identify the drive aisle and approach location in accordance with City policy. Pin down curbs or other vertical curbing shall also be provided along the southern boundary of the parking area on the west side of the building to preclude vehicles from illegally encroaching onto the adjacent property.
6. Prior to issuance of a building permit, a revised site plan shall be submitted for review and approval identifying the provision of a six foot wall or screening fence along the eastern boundary of the outdoor service area. An elevation of the proposed fence or wall including information regarding the materials, design and color shall be submitted for review and approval;
7. All provisions of the General Commercial Zoning District shall be met unless an Exception is specifically granted as a stipulation of this Final Development Plan or a subsequent Major Amendment;
8. A building permit shall be obtained prior to construction of the off-street parking area and/or any building alterations. A certificate of occupancy shall be obtained prior to occupancy;
9. The proposed structure shall conform architecturally to the plans, elevations and color palette submitted as a part of this Initial and Final Commercial Development Plan;
10. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way to preclude creating a hazard to the passing motorist or constituting a nuisance of any kind;
11. Prior to issuance of a building permit, a revised landscape plan shall be submitted for review and approval demonstrating compliance with all provisions of the Rapid City Municipal Code. Specifically, the shrubs and trees shall be relocated and in as much as possible landscaping shall be provided between Northview Drive and the off-street parking area as well as along the east side of the outdoor service area. Additional tree species shall be provided. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary. No portion of the site shall be bare dirt including those areas between the street line and the property

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- line along Northview Drive;
12. The property may be used as an on-sale liquor establishment in conjunction with a full service restaurant or as a restaurant. Any change in use shall require a Major Amendment to the Planned Commercial Development;
 13. The Planned Commercial Development 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;
 14. An Erosion and Sediment Control Plan and Permit shall be submitted for review and approval prior to the initiation of construction of the off-street parking areas;
 15. Prior to issuance of a building permit, all required water system information must be submitted for review and approval;
 16. Prior to issuance of a building permit, additional information regarding the on-site wastewater system shall be submitted for review and approval. Additionally, if the applicant is allowed to use the existing on-site waste water system, the applicant may be required to enter into an agreement regarding hooking onto the City sewer system;
 17. Prior to issuance of a building permit, a developmental lot agreement shall be submitted for review and approval;
 18. The property owner shall enter into a covenant agreement with the City of Rapid City insuring the installation of fire sprinkler protection along with the associated monitoring and alarm systems. The property owner shall enter into the covenant agreement with the City of Rapid City within 120 days of the approval of the Final Development Plan by the Rapid City Planning Commission, or the applicant shall obtain approval of a Major Amendment or the occupancy of the structure shall cease;
 19. All other provisions of the International Fire Code shall be continually met.

In response to Hennies question, Elkins identified the location of a cross over to access the property.

(8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull 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. No. 09SR051 - Rapid City Greenway Tract
A request by Mona Drolc for Ups of Downs Family Support Group to consider an application for a **SDCL 11-6-19 Review to allow temporary structures on public property** for Tract 20 of the Rapid City Greenway Tract, Section 36, T2N,

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R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the Memorial Park Bandshell.

Tegethoff 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 Review to allow temporary structures on public property for three years, if the City Council approves the Special Exception to the Flood Area Construction Regulations of the Rapid City Municipal Code. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull voting yes and none voting no)

44. No. 09SR060 - Original Town of Rapid City and Rapid City Greenway Tract
A request by Rushmore Plaza Civic Center to consider an application for a **SDCL 11-6-19 Review request to allow temporary structures on public property** on Lot D and Lot ER less hotel lot of the Original Town of Rapid City and Tract 20 less Lot HI in the Rapid City Greenway Tract, all located in Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of North Fifth Street between North Street and Omaha Street.

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

Brewer moved, Marchand seconded and unanimously carried to approve the SDCL 11-6-19 Review request to allow temporary structures on public property. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull voting yes and none voting no)

45. No. 09SR064 - Airport Addition
A request by Scott Goble for SWS, LLC to consider an application for a **SDCL 11-6-19 Review to construct communication structures** on Block 20 excepting therefrom the south eight and one-half feet thereof in Airport Addition, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 232 Wright Street.

Fisher presented the staff recommendation to approve the SDCL 11-6-19 Review request noting the fence height exception has been approved by the City Council.

Scott Goble, SWS, LLC requested that the Planning Commission approve the SDCL 11-6-19 Review.

Hennies expressed his concern for the proposed fence materials and possible graffiti.

Brewer moved, Marchand seconded and unanimously carried to approve the SDCL 11-6-19 Review to construct communication structures. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull

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voting yes and none voting no)

*46. No. 09UR017 - Madison's Subdivision

A request by Monica Sorensen Haeder to consider an application for a **Major Amendment to a Conditional Use Permit** for Lot 5 of Madison's Subdivision, Section 13, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 602 Auburn Drive.

Fisher presented the staff recommendation to approve the Major Amendment request with stipulations.

Marchand moved, Braun seconded and unanimously carried to approve the Major Amendment to a Conditional Use Permit with the following stipulations:

- 1. Prior to Planning Commission approval, the first 50 feet of the driveway to the parsonage shall be paved;**
- 2. Prior to Planning Commission approval, three medium deciduous trees shall be planted as per the previously approved landscape plan. In addition, all the landscaping shall be continually maintained in a live vegetative state and replaced as necessary;**
- 3. Prior to Planning Commission approval, the applicant shall sign a waiver of right to protest any future assessment for the construction of a sidewalk along Haines Avenue as it abuts the property;**
- 4. A building permit and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 5. The currently adopted International Fire Code shall be continually met;**
- 6. Prior to issuance of a Certificate of Occupancy, the existing sidewalk located in the parking lot shall be extended to Auburn Drive and along Auburn Drive as it abuts the property as shown on the applicant's site plan;**
- 7. The school shall be operated in compliance with the proposed operational plan. In particular, the school shall be a two phased project with the first phase consisting of four employees and 37 children and shall consist of a toddler program and a primary preschool/kindergarten program. In addition, the school shall operate Monday through Friday only between the hours of 8:00 a.m. and 11:30 a.m. with office hours from 7:00 a.m. to noon. The second phase shall consist of a maximum of six additional employees and 27 additional children and include grades 1 through 5. In addition, the school and office shall operate Monday through Friday only between the hours of 8:00 a.m. to 3:30 p.m.;**
- 8. The existing fenced playground located at the eastern end of the church shall be utilized by the school children. If the church is expanded in the future and the existing playground is eliminated, an alternate playground shall be constructed north of the existing playground as shown on the applicant's site plan. In addition, a six foot high chain link fence shall be constructed around the playground area;**

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9. A minimum of 51 parking spaces shall be provided. In addition, three of the parking spaces shall be handicap accessible with one of the handicap spaces being "van" accessible;
10. The Major Amendment to the Conditional Use Permit shall allow a school in conjunction with the previously approved church with a parsonage and equipment shed to be located on the property. Any change in use shall require a Major Amendment to the Conditional Use Permit; and,
11. The Conditional Use Permit shall expire if the use is not undertaken 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. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull 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.

*47. No. 09UR018 - Baken Park Subdivision

A request by CMA Patrick G. Bles for BDUBS, LLC to consider an application for a **Conditional Use Permit to allow an on-sale liquor establishment** for Lot D, E, F & G of Lot 1 of the NE1/4 NE1/4, less Lot H of the Lot 1 of Baken Park Subdivision (NKA Tract 11 of the Rapid City Greenway Tract) less Lot H1 of said Lot D, less Lot H1, Lot H2, Lot H3 of said Lot E, less Lot H1 and Lot H2 of said Lot 6, Section 3, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2001 West Main Street.

Tegethoff presented the staff recommendation to approve the Conditional Use Permit request with stipulations.

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

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

1. Prior to Planning Commission approval, the applicant shall submit a revised site plan demonstrating that the structure is located outside of the 100 Year Federally Designated Flood Plain or the applicant must obtain a Flood Plain Development Permit;
2. Prior to Planning Commission approval a sign package be submitted for review and approval demonstrating the size and location of all existing and proposed signs on the property;
3. 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;
4. The on-sale liquor establishment shall be operated in conjunction

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- with a full service restaurant;
5. All applicable provisions of the International Fire Codes shall be continually met;
 6. A Building Permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy; and,
 7. 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. (7 to 0 to 1 with Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull voting yes and none voting no and Braun 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.

*48. No. 09UR019 - Northern Heights Subdivision

A request by Troy Erickson for M.G. Oil Co. to consider an application for a **Conditional Use Permit to allow an on-sale liquor establishment** for Lot 1 of Tract A of Block 1 of Northern Heights Subdivision, Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southwest corner of the intersection of Lindbergh Avenue and Haines Avenue.

Tegethoff presented the staff recommendation to approve the Conditional Use Permit request with stipulations.

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

1. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
2. A minimum of 74 parking spaces shall be provided and one of the parking spaces shall be a handicap accessible space. All provisions of the Off-Street Parking Ordinance shall be continually met and shall be constructed in accordance with the approved plan;
3. A minimum of 51,486 landscaping points shall be provided. The landscaping plan shall comply with all requirements of the Zoning Ordinance and shall be installed in accordance with the approved plan. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
4. All signage shall conform to the design, color and location as shown in the sign package submitted as a part of the Conditional Use Permit. Changes to the proposed sign package, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Conditional Use Permit. In addition, the Growth Management

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Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. The lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign;

5. The lighting shall be designed to be reflected within the property boundaries so as not to shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind;
6. The currently adopted International Fire Code shall be continually met;
7. All provisions of the General Commercial Zoning District shall be met unless an exception is specifically authorized as a stipulation of this Major Amendment to a Conditional Use Permit application or a subsequent Major Amendment; and,
8. The Conditional Use Permit shall expire if the use is not undertaken 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. (8 to 0 with Braun, Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull 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.

49. Discussion Items

- A. Approve the 2010-2014 Capital Improvement Plan.

Elkins presented the staff recommendation to approve the 2010-2014 Capital Improvement Plan.

In response to Brewer's question, Elkins stated that Department of Transportation funds are not part of the Capital Improvement Plan however, the City's expenditures are coordinated with those of the South Dakota Department of Transportation. Discussion followed.

50. Staff Items

Elkins stated that Travis Tegethoff has resigned from the Growth Management Department. Elkins thanked Tegethoff for his service to the Planning Commission, Growth Management Department and the Community.

51. Planning Commission Items

Hennies welcomed Erik Braun to the Planning Commission.

There being no further business, Brown moved, Hennies seconded and unanimously carried to adjourn the meeting at 9:00 a.m. (8 to 0 with Braun,

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Brewer, Brown, Gregg, Hennies, Landguth, Marchand and Scull voting yes and none voting no)