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MINUTES OF THE
RAPID CITY PLANNING COMMISSION
May 6, 2010

MEMBERS PRESENT: Erik Braun, John Brewer, Gary Brown, Julie Gregg, Doug Kinniburgh, Dennis Landguth, Linda Marchand, Steve Rolinger, Andrew Scull and Pat Wyss. Karen Gunderson-Olsen, Council Liaison was also present

STAFF PRESENT: Marcia Elkins, Bob Dominicak, Karen Bulman, Jim Flaaen, Mary Bosworth, Ted Johnson, Karley Halsted, Mike Schad and Carol Campbell.

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

Scull 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 5 and 9 be removed from the Consent Agenda for separate consideration.

Motion by Wyss, Seconded by Rolinger and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 17 in accordance with the staff recommendations with the exception of Items 5 and 9. (10 to 0 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the April 22, 2010 Planning Commission Meeting Minutes.
2. No. 10CA002 - Section 5, T1N, R8E
A request by Jim Letner 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 with a Planned Commercial Development to Light Industrial** on a portion of Lot B of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the northeasterly corner of Lot B of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, common to a point on the southerly edge of the dedicated right-of-way of East St. Charles Street, and common to a point on the westerly edge of the dedicated right-of-way of Creek Drive, and the Point of Beginning: Thence, first course: S00°06'11"W, along the easterly boundary of said Lot B of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, common to the westerly edge of the right-of-way of said Creek Drive, a distance of 265.72 feet, to a point on the easterly boundary of said Lot B of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, common to a point on the westerly edge of the right-of-way of said Creek Drive; Thence, second course: N89°52'00"W, a distance of 581.46 feet, to a point on the westerly boundary of said Lot B of Lot 3 of Tract D of the SW $\frac{1}{4}$ of

the SW $\frac{1}{4}$ of Section 5, common to the easterly boundary of Lot A of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5; Thence, third course: N00°01'08"W, along the westerly boundary of said Lot B of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, common to the easterly boundary of said Lot A of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, a distance of 265.72 feet, to the northwesterly corner of said Lot B of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, common to the northeasterly corner of said Lot A of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, and common to a point on the southerly edge of the right-of-way of said East St. Charles Street; Thence, fourth course: S89°52'01"E, along the northerly boundary of said Lot B of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, common to the southerly edge of the right-of-way of said East St. Charles Street, a distance of 582.03 feet, to the northeasterly corner of said Lot B of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, common to a point on the southerly edge of the dedicated right-of-way of East St. Charles Street, and common to a point on the westerly edge of the dedicated right-of-way of Creek Drive, and the Point of Beginning, more generally described as being located south of E. St. Charles Street and west of Creek Drive.

Planning Commission approved the summary and authorized publication in the Rapid City Journal.

3. No. 10CA009 - Sections 3, 4, 5, 6, 8 and 9 and 10, T1N, R7E,
A request by City of Rapid City to consider an application for a **Summary of Adoption Action on an Amendment to the Comprehensive Plan to adopt the Red Dale Drainage Basin Design Plan** for the Red Dale Drainage Basin located in all or portions of Sections 3, 4, 5, 6, 8 and 9 and 10, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located north of Jackson Boulevard and west of 32nd Street.

Planning Commission approved the summary and authorized publication in the Rapid City Journal.

4. No. 10CA012 - Melody Acres Subdivision No. 2
A request by City of Rapid City 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 Mobile Home Residential with a Planned Residential Development to Mobile Home Residential** on all of Melody Acres Subdivision No. 2, and the Scott Street, Cactus Drive, East Fairmont Street, and South Valley Drive rights-of-way located adjacent to Melody Acres Subdivision No. 2 in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 9, all located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on South Valley Drive.

Planning Commission approved the summary and authorized publication in the Rapid City Journal.

6. No. 10SV005 - Feay Reder Subdivision
A request by Fisk Land Surveying & Consulting Engineers for Darryl Johnson to consider an application for a **Variance to the Subdivision Regulations to**

waive the requirement to dedicate right-of-way, construct pavement, curb, gutter, sidewalk, street light conduit, water, sewer along the Section Line Highway, and to reduce the required pavement width from 48 feet to 22 feet, to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer along Sheridan Lake Road as per Chapter 16.16 of the Rapid City Municipal Code for proposed Lots 14A and 14B of Lot 14 of Feay Reder Subdivision, legally described as Lot 14 of Feay Reder Subdivision, located in the N1/2 NW1/4 of Section 36, T1N, R6E, BHM, Pennington County, South Dakota, more generally described as being located at 9850 Sheridan Lake Road.

Planning Commission approved the Variance to the Subdivision Regulations to waive the requirement to dedicate right-of-way, construct pavement, curb, gutter, sidewalk, street light conduit, water, sewer along the Section Line Highway, and to reduce the required pavement width from 48 feet to 22 feet, to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer along Sheridan Lake Road as per Chapter 16.16 of the Rapid City Municipal Code with the following stipulation:

1. **Prior to City Council approval, the applicant shall sign a waiver of right to protest future assessments for the improvements.**

7. No. 10PL014 - Feay Reder Subdivision

A request by Fisk Land Surveying & Consulting Engineers for Darryl Johnson to consider an application for a **Layout and Preliminary Plat** for proposed Lots 14A and 14B of Lot 14 of Feay Reder Subdivision, legally described as Lot 14 of Feay Reder Subdivision, located in the N1/2 NW1/4 of Section 36, T1N, R6E, BHM, Pennington County, South Dakota, more generally described as being located at 9850 Sheridan Lake Road.

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

1. **Prior to Preliminary Plat approval by the City Council, road construction plans for the section line highway located along the north lot line shall be submitted for review and approval. In particular, the construction plans shall show the street located within a 49 foot right-of-way, and constructed with a 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;**
2. **Prior to Preliminary Plat approval by the City Council, road construction plans for Sheridan Lake Road shall be submitted for review and approval. In particular, the construction plans shall show the street located in a minimum 100 foot wide right of-way and constructed with a 48 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;**
3. **Prior to Preliminary Plat approval by the City Council, a grading and drainage plan, as well as an erosion and sediment control plan shall be submitted for review and approval if subdivision improvements are required;**

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4. **Prior to Preliminary Plat approval by the City Council, a cost estimate of the required subdivision improvements shall be submitted for review and approval;**
 5. **Prior to submittal of a Final Plat application, reserve drainfield areas for on-site wastewater treatment shall be shown on the plat or a note shall be placed on the plat indicating that at the time a Building Permit application is submitted, a reserve drainfield area for on-site wastewater treatment will be identified and held in reserve unless a public sewer system is provided;**
 6. **Prior to submittal of a Final Plat application, the existing shed shall be removed from the major drainage easement;**
 7. **Prior to submittal of a Final Plat application, the Wild Fire Mitigation Plan shall be revised and resubmitted for review and approval;**
 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 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. 10PL015 - Settlers Creek Townhomes
A request by Bob Brandt for Rushmore Properties, LLC to consider an application for a **Preliminary Plat** for proposed Lot 10A and Lot 10B of Block 2 of Settlers Creek Townhomes, legally described as the unplatted parcel located in the N1/2 SE1/4 of Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1400 Philadelphia Street.

Planning Commission continued the Preliminary Plat to the May 27, 2010 Planning Commission meeting.

10. No. 10PL020 - Murphy Ranch Estates Subdivision
A request by Ron Davis of Davis Engineering, Inc. to consider an application for a **Preliminary Plat** for proposed Lots 8 thru 10 of Block 7, Lots 1R and 7 thru 11 of Block 8 and Lots 3 thru 9 of Block 10 of Murphy Ranch Estates Subdivision, legally described as the unplatted of Tract F of the NW1/4 and Lot 1 of Block 8 of Murphy Ranch Subdivision, Section 14, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at 5670 E. Highway 44.

Planning Commission continued the Preliminary Plat to the May 27, 2010 Planning Commission meeting at the applicant's request.

11. No. 10PL021 - Elks Crossing

A request by Dream Design International, Inc. to consider an application for a **Preliminary Plat** for proposed Lots 1 thru 22 of Block 4, Lots 1 thru 15 of Block 5, Lots 1 & 2 of Block 6, Lot 1 of Block 7, Rust Ridge Court right-of-way, Fieldstone Drive right-of-way and Vinecliff Drive right-of-way of Elks Crossing, legally described as an unplatted portion of the E1/2 of the SW1/4, Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Elk Vale Road on Fieldstone Drive.

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

1. **Prior to Preliminary Plat approval by the City Council, 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, the construction plans shall be revised to show the cul-de-sac bulb for Rust Ridge Court with a minimum 96 foot diameter paved surface in lieu of a 94 foot diameter paved surface or a Variance to the Subdivision Regulations shall be obtained;**
3. **Prior to Preliminary Plat approval by the City Council, an Exception shall be obtained to allow a lot twice as long as it is wide or the plat document shall be revised to comply with the length to width requirement;**
4. **Prior to Preliminary Plat approval by the City Council, the plat document shall be revised to show a non-access easement along the entire west lot line of Lots 15 and 20 of Block 4 or an Exception to the Street Design Criteria Manual shall be obtained;**
5. **Prior to Preliminary Plat approval by the City Council, the construction plans shall be revised to eliminate the proposed parking lot on Lot 13, Block 4. In addition, the construction plans shall be revised to show water and sewer service to the lot or a Variance to the Subdivision Regulations shall be obtained;**
6. **Prior to Preliminary Plat approval by the City Council, a Master Utility Plan showing private utilities shall be submitted for review and approval;**
7. **Prior to Preliminary Plat approval by the City Council, a cost estimate of the subdivision improvements shall be submitted for review and approval;**
8. **Upon submittal of a Final Plat application, the applicant shall submit a copy of a recorded covenant agreement which states that fire sprinkler protection shall be provided for any one and/or two family dwelling units greater than 3,600 square feet in area and for all commercial construction;**
9. **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;**
10. **Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and,**
11. **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.

12. No. 10PL025 - Nelson Subdivision

A request by D.C. Scott Co. Land Surveyors for Jim and Delana Nelson to consider an application for a **Layout Plat** for proposed Lots 1 and 2 of Nelson Subdivision, legally described as the NW1/4 SW1/4 SW1/4 and the N1/2 N1/2 SW1/4 SW1/4 SW1/4 lying east of Nemo Road, the NE1/4 SW1/4 SW1/4 and the N1/2 N1/2 SE1/4 SW1/4 SW1/4 of Section 25, T1N, R6E, BHM, Pennington County, South Dakota, more generally described as being located at 13545 and 13555 Bittersweet Road.

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

1. **Prior to submittal of a Preliminary Plat application, the property shall be rezoned by Pennington County from Limited Agriculture District to Low Density Residential District or a Variance to reduce the lot size from 10 acres to 4.99 acres in the Limited Agriculture District shall be obtained or the plat document shall be revised to provide a minimum 10 acre lot size;**
2. **Upon submittal of a Preliminary Plat application, road construction plans for Nemo Road shall be submitted for review and approval. In particular, the road construction plans shall show the street located within a minimum 100 foot wide right-of-way and constructed with a minimum 36 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained. In addition, the plat document shall be revised to show the dedication of 10 feet of additional right-of-way or a Variance to the Subdivision Regulations shall be obtained;**
3. **Upon submittal of a Preliminary Plat application, road construction plans for the section line highway located along the west lot line shall be submitted for review and approval. In particular, the road construction plans shall show the section line highway located within a dedicated 45 foot wide right-of-way and 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 or the section line highway shall be vacated. If the applicant proposes to vacate the section line highway, then all of the adjoining property owner(s) shall sign the petition to vacate the section line highway;**
4. **Upon submittal of a Preliminary Plat application, road construction plans for the proposed 66 foot wide access easement shall be submitted for review and approval. In particular, the road construction plans shall show the street located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. If visitor parking is provided at the rate of one paved parking stall per**

- dwelling located within 300 feet of each residence and the street is posted with no parking signs, then the street may be located in a minimum 45 foot wide right-of-way and constructed with a minimum 20 foot wide paved surface, curb, gutter, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained. In addition, a turnaround shall be provided at the end of the street with a minimum 110 foot wide diameter easement or right-of-way and constructed with a minimum 96 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
5. Prior to submittal of a Preliminary Plat application, an Exception shall be obtained to allow the proposed 66 foot wide access easement as a 1,400 foot long cul-de-sac street without an intermediate turnaround in lieu of a maximum 500 foot long cul-de-sac street with an intermediate turnaround every 600 feet as per the Street Design Criteria Manual or the plat document shall be revised accordingly;
 6. Upon submittal of a Preliminary Plat application, road construction plans for Bittersweet Road shall be submitted for review and approval. In particular, the road construction plans shall show the street located in a minimum 49 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
 7. Prior to submittal of a Preliminary Plat application, the plat document shall be revised to show a collector street extending through the northeast corner of the property as per the Major Street Plan or a Comprehensive Plan Amendment to the Major Street Plan shall be obtained to eliminate and/or relocate the street. In addition, upon submittal of a Preliminary Plat application, construction plans for the collector street shall be submitted for review and approval showing the street located within a minimum 60 foot wide right-of-way and constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained;
 8. Upon submittal of a Preliminary Plat application, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. If individual on-site wastewater systems are utilized, then an on-site wastewater plan prepared by a Professional Engineer demonstrating that the soils are suitable for on-site wastewater systems shall be submitted for review and approval. In addition, dry sewer mains shall be provided pursuant to the adopted Source Water Protection Study recommendation;
 9. Upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the extension of water mains shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. If a private water system is utilized, then an on-site water plan prepared by a Professional Engineer shall be submitted for review and approval. In addition, the

water plans shall demonstrate that adequate fire and domestic flows are being provided. The plat document shall also be revised to provide utility easements as needed;

10. Prior to submittal of a Final Plat application, a reserve drainfield area for on-site wastewater treatment shall be shown on the plat or a note shall be placed on the plat indicating that at the time a Building Permit application is submitted, a reserve drainfield area for on-site wastewater treatment will be identified and held in reserve unless a public sewer system is provided;
 11. Prior to submittal of a Final Plat application, a Wild Fire Mitigation Plan shall be submitted for review and approval and the plan shall be implemented;
 12. Prior to submittal of a Final Plat application, the plat document shall be revised to show a non-access easement along Nemo Road;
 13. Prior to submittal of a Final Plat application, the plat document shall be revised to show a ten foot wide planting screen easement along Nemo Road or a Variance to the Subdivision Regulations shall be obtained. In addition, the planting screen easement shall not conflict with utility easement(s);
 14. Prior to submittal of a Preliminary Plat application, the plat document shall be revised to show a different name for the subdivision since Nelson Subdivision already exists;
 15. Upon submittal of a Preliminary Plat application, a grading and drainage plan shall be submitted for review and approval if subdivision improvements are required or site grading is proposed;
 16. Upon submittal of a Preliminary Plat application, a cost estimate of the subdivision improvements shall be submitted for review and approval;
 17. Upon submittal of a Final Plat application, the applicant shall submit proof of the legal entity which will provide the mechanism for street maintenance and snow removal. In particular, an agreement with Pennington County shall be submitted for review and approval indicating that the proposed street shall be accepted by Pennington County for road maintenance and snow removal, or evidence shall be submitted for review and approval that a road district has been established in accordance with SDCL 31-12A-1, or a legally binding agreement shall be submitted for review and approval by the City Council which guarantees sufficient financial commitment to provide these services;
 18. Upon submittal of a Final Plat application, the applicant shall submit proof of the legal entity which will provide the mechanism for maintenance and ownership of the well;
 19. 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; and,
 20. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.
13. No. 10RZ022 - Melody Acres No. 2
A request by City of Rapid City to consider an application for a **Rezoning from**

No Use District to Mobile Home Residential District of Lot 32 of Melody Acres No. 2, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2800 Cactus Drive.

Planning Commission continued the Rezoning from No Use District to Mobile Home Residential District to the May 27, 2010 Planning Commission meeting.

14. No. 10RZ033 - Rapid Valley Subdivision

A request by City of Rapid City to consider an application for a **Rezoning from No Use District to Low Density Residential District** of Block 1, Block 2, Block 5, Block 6, and Lots 1-6 of Block 3, all of Rapid Valley Subdivision, the 20 foot wide E. St. Francis Street right-of-way located adjacent and north of Block 5, the 40 foot wide E. St. Francis Street right-of-way located north of Block 6, Sedivy Lane located west and adjacent to Block 5, the 20 foot wide Pecan Lane located adjacent to Lots 10-12 of Block 2 and the 40 foot wide Pecan Lane located adjacent to Lots 1-6 of Block 3 and Lots 13-18 of Block 2, and the 40 foot wide Olive Lane, all located in Rapid Valley Subdivision, Section 8, T1N, R8E, BHM, Rapid City, Pennington County, SD; and, Lots 1-10 of Long Acre Square Subdivision and Long Acre Drive, and Blocks 1-2 of Sedivy Subdivision and Blanche Drive and Garden Lane, and the south 40 feet of the East St. Patrick Street right-of-way located north of and adjacent to Pecan Lane, Olive Lane, Block 1, Block 2 and Lot 1 of Block 3 of Rapid Valley Subdivision, all located in Section 8, T1N, R8E, BHM, Rapid City, Pennington County, SD; and, Lots 1-21 of Eden Gardens Addition and Eden Lane and Garden Lane, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, SD; and, Lot 1, Lot B of Lot 2, Lot A of Lot 2-3, Lot 3D of Lot 3, Lot W of Lot 8B & Lot 1 of Lot 9B, all of SW1/4 NW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east and west of Valley Drive and south of S.D. Highway 44.

Planning Commission tabled the Rezoning from No Use District to Low Density Residential District.

*15. No. 10UR007 - Canyon Lake Heights

A request by Sperlich Consulting, Inc. for Todd LaCroix to consider an application for a **Conditional Use Permit to allow the construction of a garage that exceeds the allowable square footage for a private garage as per Section 17.04.315 of the Rapid City Municipal Code** for Lot B of Lot 10 of Canyon Lake Heights, located in the NW1/4 NW1/4, Section 16, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3401 Fairhaven Drive.

Planning Commission approved the Conditional Use Permit to allow the construction of a garage that exceeds the allowable square footage for a private garage as per Section 17.04.315 of the Rapid City Municipal Code with the following stipulations:

1. **Prior to the issuance of a building permit, the applicant shall file a Covenant Agreement with Register of Deeds indicating that the garage will only be used for residential purposes and a copy**

- submitted to the Growth Management office;
2. Prior to issuance of a building permit, the site plan must be revised to show that the first 50 feet of the proposed driveway be paved;
 3. Prior to issuance of a building permit for the existing single family residence with attached garage, the encroached portion of the Section Line Right-of-Way be vacated or the encroachment shall be eliminated;
 4. Prior to issuance of a building permit, a wild land fuel mitigation plan be obtained;
 5. 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.

*16. No. 10UR008 - Rapid City Greenway Tract

A request by Kent Brugger to consider an application for a **Conditional Use Permit to allow a temporary structure in the Flood Hazard Zoning District** for Tract 1 of Rapid City Greenway Tract located in Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of the intersection of Chapel Lane and Shore Drive.

Planning Commission continued the Conditional Use Permit to allow a temporary structure in the Flood Hazard Zoning District to the May 27, 2010 Planning Commission meeting.

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.

17. No. 10VR002 - Section 31, T2N, R8E

A request by Dream Design International, Inc. to consider an application for a **Vacation of Right-of-way** on a portion of the Racine Street right-of-way, located in the SE1/4 of the SW1/4, Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located in the Racine Street right-of-way north of East Omaha Street between South Waterloo Street and LaCrosse Street.

Planning Commission continued the Vacation of Right-of-way to the May 27, 2010 Planning Commission meeting.

---END OF CONSENT CALENDAR---

*5. No. 10PD019 - Boulevard Addition

A request by Henriksen, Inc. for Jenny Day to consider an application for a **Planned Residential Development - Initial and Final Development to allow a child care center** of Lots 19 thru 24 of Block 9 of Boulevard Addition, Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1123 Kansas City Street.

Elkins presented the staff recommendation to continue the Planned Residential Development to the May 27, 2010 Planning Commission meeting at the applicant's request.

Larry Titus, area resident, expressed his concern regarding the possible negative impact from increased traffic as a result of the proposed daycare business. Titus requested that a traffic impact study be conducted and presented prior to approval by the Planning Commission. Titus expressed his opinion that the parking is not adequate for the proposed business. Titus expressed concern for old growth trees on the subject property.

In response to Brown's question regarding traffic studies, Elkins stated that there have been no traffic studies conducted and she will have staff review those concerns for consideration by the Planning Commission. Elkins added that staff will address parking, noise concerns and the old growth cottonwoods in the staff report.

In response to Scull's question regarding the original development plan for the YMCA (former church building) Elkins stated that staff will link the operational plan and bring it forward at the next Planning Commission meeting.

Jenny Day, the applicant identified the number of children that would be cared for on the site. She also stated that the old growth cottonwoods would not be disturbed.

In response to Scull's question, Day stated that she has submitted an operational plan for staff to review. Discussion followed.

Rolinger moved, Marchand seconded and unanimously carried to continue the Planned Residential Development - Initial and Final Development Plan to allow a child care center to the May 27, 2010 Planning Commission meeting. (10 to 0 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss 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.

9. No. 10PL016 - Norman Ranch Subdivision

A request by Sperlich Consulting, Inc. for Scott Weyer of Weyer Creations to consider an application for a **Layout Plat** for proposed Lots A thru E of Lot 1 of

Judicial Lot 4 of Norman Ranch Subdivision, legally described as Lot 1 of Judicial Lot 4, located in the NW1/4 of the NW1/4, Section 28, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located approximately 1.424 miles southwest of the intersection of Old Folsom Road and S.D. South Highway 79.

Elkins presented the staff recommendation to continue the Layout Plat to the July 8, 2010 Planning Commission meeting.

Brewer moved, Brown seconded and unanimously carried to continue the Layout Plat to the July 8, 2010 Planning Commission meeting. (10 to 0 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

---BEGINNING OF REGULAR AGENDA ITEMS---

*18. No. 09PD048 - Stoney Creek South Subdivision

A request by Sperlich Consulting, Inc. for J. Scull Construction to consider an application for a **Planned Commercial Development - Initial and Final Development to include an on-sale liquor establishment** of Lot 1A of Block 1 of Stoney Creek South Subdivision, located in the NW1/4 SW1/4, Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 5550 Sheridan Lake Road.

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

Elkins presented the site plan for the proposed development on the subject property. Elkins presented the staff recommendation to approve the Planned Commercial Development request with the stipulations.

In response to Karen Gunderson-Olsen's question, Kale McNaboe of Sperlich Consulting identified the phasing plan for the proposed development.

Rolinger moved, Marchand seconded and carried to approve the Planned Commercial Development – Initial and Final Development Plan with the following stipulations:

- 1. The proposed commercial structure in Phase One shall be used for retail, office, restaurant with on-sale liquor and medical clinic uses as allowed in the General Commercial District. No other use is allowed as a part of this Planned Commercial Development. The final development of the patio/courtyard and the two additional buildings and/or any other use or change in use will require a Major Amendment to the Planned Commercial Development;**
- 2. All provisions of the General Commercial District shall be met unless otherwise specifically authorized as a stipulation of this Planned Commercial Development or a subsequent Major Amendment;**
- 3. The commercial structure shall conform architecturally to the plans, elevations and color palette approved with the Planned**

Commercial Development;

4. All signage shall conform to the design, color and location as shown in the sign package submitted as part of the Planned Commercial Development. No electronic signs are being approved as a part of this sign package. 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 Planned Commercial Development. 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 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 parking plan shall continually comply with all requirements of the Zoning Ordinance and the approved parking plan. In particular, a minimum of 66 parking spaces shall be provided with three of the spaces being handicap accessible and one of the handicap spaces being "van accessible";
6. The landscaping plan shall continually comply with all requirements of the Zoning Ordinance and the approved landscaping plan. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
7. 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;
8. The proposed dumpster shall be screened on all four sides with a 6 foot high opaque privacy fence;
9. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
10. All International Fire Codes shall be continually met; and,
11. The Planned Commercial 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. (8 to 0 to 1 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger and Wyss voting yes and none voting no and Scull 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.

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 public water main, storm sewer and drainage improvements** 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.

Elkins presented the staff recommendation to approve the SDCL 11-6-19 Review to construct a public water main, storm sewer and drainage improvements.

Rolinger moved, Brown seconded and unanimously carried to approve the SDCL 11-6-19 Review to construct a public water main, storm sewer and drainage improvements. (10 to 0 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)

20. No. 10AN002 - Melody Acres Subdivision

A request by Shawn Brinkman and Kurt Garlick to consider an application for a **Petition for Annexation** on Lots 3M, 3P, 3Q and 3R and 3L revised of Melody Acres Subdivision, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of S.D. Highway 44 and east of Valley Drive.

Bulman presented the staff recommendation to approve the Petition for Annexation. Bulman stated that two of the four property owners have signed a voluntary annexation application. Bulman added that one of the property owners has not responded and one does not want to be annexed. Bulman added that 75 percent of the value of property and 75 percent of the registered voters have signed the petitions to allow annexation of the area.

Kinniburgh stated that he would be abstaining from discussion and voting due to a conflict of interest as he owns the adjacent property.

Landguth moved, Wyss seconded and carried to recommend that the Petition for Annexation be approved contingent on any payment due to the Rapid Valley Fire Protection District being made by the City of Rapid City. (8 to 0 to 1 with Braun, Brewer, Brown, Gregg, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no and Kinniburgh abstaining)

*21. No. 10PD032 - McMahon Subdivision

A request by Sperlich Consulting, Inc. for Bill Brown to consider an application for a **Planned Commercial Development - Initial and Final Development Plan** of Lot B of Tract E-3R of McMahon Subdivision, located in the NE1/4 of the SW1/4, Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southwest of the intersection of Haines Avenue and Kathryn Avenue.

Flaen presented the staff recommendation to approve the Planned Commercial Development - Initial and Final Development Plan with stipulations. Discussion followed.

In response to Braun's question, Flaen stated that the mini-storage units are on the west side of the subject property.

Rolinger moved, Gregg seconded and unanimously carried to approve the Planned Commercial Development - Initial and Final Development Plan with the following stipulations:

- 1. Prior to Planning Commission approval, elevations and design features for the mini-storage building shall be submitted for review and approval, or a Major Amendment to the Planned Commercial Development must be obtained;**
- 2. A minimum of 37,463 landscaping points shall be provided. The landscaping shall be installed as per the approved landscape plan and shall comply with all requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live, vegetative state;**
- 3. The Planned Commercial Development shall allow the property to be used as a car wash and mini-storage. Any change in the proposed uses shall require a Major Amendment to the Planned Commercial Development;**
- 4. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 5. A minimum of two permanent striped parking spaces shall be provided. One of the spaces shall be "van" handicap accessible. Striped stacking lanes of 69 feet each shall be provided behind each service bay to provide an additional 12 spaces. In addition, a 30 foot access aisle shall be continually maintained immediately adjacent to the controlled access area of the mini-storage building. All provisions of the Off-Street Parking Ordinance shall be continually met;**
- 6. Prior to issuance of a building permit, an erosion and sediment control permit shall be obtained;**
- 7. All provisions of the adopted Fire Code shall be continually met;**
- 8. All signage shall conform to the design, color and location as shown in the sign package approved as a part of the Planned Commercial Development. No electronic signs are approved as a part of this Development Plan. The addition of electronic signage will require a Major Amendment to the Planned Commercial Development. 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 Planned Commercial Development. 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 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;**
- 9. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorists;**
- 10. The proposed structures shall conform architecturally to the proposed elevations, design plans and color palette submitted as a part of this Initial and Final Development Plan;**
- 11. All provisions of the General Commercial District shall be met**

unless an exception is specifically authorized as a stipulation of this Initial and Final Development Plan, or as a subsequent Major Amendment; and,

12. **The Planned Commercial Development shall allow the applicant to complete the two phases of development in four years as proposed. A time extension may be granted upon written request to the Growth Management Director, and prior to the Final Development Plan expiration date, a one year extension for Final Development Plan approval may be granted. (10 to 0 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss 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.

*22. No. 10PD033 - Marshall Heights Tract

A request by Cetec Engineering Services, Inc. for Bethel Assembly of God Church to consider an application for a **Major Amendment to a Planned Residential Development** of Lot C-2 and half of the vacated Marshall Boulevard and Lot 1 of Lot C-1 and half of the vacated Marshall Boulevard adjoining of Marshall Heights Tract, all in Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1202 North Maple Avenue.

Elkins presented the staff recommendation to continue the Major Amendment to a Planned Residential Development to the May 27, 2010 Planning Commission meeting.

Dave Marrs, adjacent property owner expressed concern with possible increase in runoff from the parking lot.

Elkins stated that staff has requested drainage information; however, the item is being continued as the information has not yet been submitted.

Braun moved, Gregg seconded and unanimously carried to continue the Major Amendment to a Planned Residential Development to the May 27, 2010 Planning Commission meeting. (10 to 0 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss 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.

Elkins requested the Items 23 and 24 be taken concurrently.

23. No. 10PL011 - Noyes Subdivision

A request by Doug Noyes to consider an application for a **Preliminary Plat** for proposed Lots 1 and 2 of Noyes Subdivision, legally described as Lots A, B, D & E of replat of Lot 13 of Block 31 of Boulevard Addition and a portion of Fairview Street Right-of-way, located in Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of Clark Street, west of 12th Street and the eastern terminus of Forest Hills Drive connecting with Clark Street.

Elkins presented the staff recommendation to approve the Plat application and the Subdivision Variance request with stipulations. Elkins reviewed the site plan. Elkins further noted the historic difficulty with topography and unstable soils of the subject property and adjacent area.

In response to Karen Gunderson-Olsen's question regarding the location of the curb cuts, Elkins reviewed the site plan and the locations of the proposed driveways. Halsted stated that the properties are sharing a curb cut and shared access.

In response to Brewer's questions regarding the location of the building lots and the possibility of tree removal, Elkins stated that she anticipated that some trees would need to be removed. Brewer commented on an earlier discussion from adjacent property owners regarding drainage concerns. Halsted identified the location of the detention pond that will capture the onsite drainage. Halsted stated that the plan is in accordance with the Drainage Basin Master Plan. Discussion followed.

In response to Landguth's question regarding geotechnical stability issues, Elkins identified the grading and damage issues on the property and the subsequent work to mitigate any reoccurrence. Discussion followed.

In response to Scull's question regarding the requirement for geotechnical report for the building sites, Elkins stated that staff requested the information because of the site specific conditions of the property. Elkins further noted that the geotechnical information is not typically a requirement of platting.

Doug Noyes, the applicant stated that there is no intent to remove the large trees on the property; although some of the scrub oak will need to be removed. Noyes commented on the path of runoff from the subject property. Noyes concurred with the need for the geotechnical report.

Wyss moved Gregg seconded and unanimously carried to recommended that the Preliminary Plat be approved with the following stipulations:

1. **Prior to Preliminary Plat approval by the Planning Commission, the applicant shall submit a revised site plan identifying the existing approach locations on adjacent properties to ensure that the separation requirements of the Street Design Criteria Manual are being met;**

2. **Prior to Preliminary Plat approval by the Planning Commission approval, revised plans showing sidewalks along both the north and south sides of Clark Street, as it abuts the property, shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained;**
 3. **Prior to Preliminary Plat approval by the City Council, road construction plans for Clark Street as it abuts the property shall be submitted for review and approval. In particular, the construction plans shall show Clark Street constructed with street light conduit or a Variance to the Subdivision Regulations shall be obtained;**
 4. **Prior to Preliminary Plat approval by the City Council, construction plans for the adjacent alley as it abuts the property shall be submitted for review and approval. In particular, the construction plans shall show the alley constructed with a 16 foot wide paved surface or a Variance to the Subdivision Regulations shall be obtained;**
 5. **Prior to Preliminary Plat approval by the City Council, a cost estimate for any required subdivision improvements must be submitted for review and approval;**
 6. **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;**
 7. **Prior to the City's acceptance of the public improvements, warranty surety shall be submitted for review and approval as required; and,**
 8. **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 the applicant may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council. (10 to 0 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)**
24. No. 10SV006 - Noyes Subdivision
A request by Doug Noyes to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install pavement along the alley right-of-way and to install sidewalks along the north side of Clark Street and to install street light conduit along Clark Street as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lots 1 and 2 of Noyes Subdivision, legally described as Lots A, B, D & E of replat of Lot 13 of Block 31 of Boulevard Addition and a portion of Fairview Street Right-of-way, located in Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of Clark Street, west of 12th Street and the eastern terminus of Forest Hills Drive connecting with Clark Street.

In response to Scull's question, Elkins suggested that the Planning Commission make a separate motion to acknowledge the applicant's withdrawal in part and approve in part with stipulations for the Variance to the Subdivision regulations request.

Wyss moved Gregg seconded and unanimously carried to acknowledge the withdrawal of the Variance to the Subdivision Regulations to waive the requirement to install sidewalks along the north side of Clark Street; and, Planning Commission recommended that the Variance to the Subdivision Regulations to install pavement along the alley right-of-way and to install street light conduit along Clark Street as per Chapter 16.16 of the Rapid City Municipal Code be approved with the following stipulation:

- 1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements. (10 to 0 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)**

25. No. 10SE004 - Rapid City Greenway Tract

A request by Kent Brugger to consider an application for a **Special Exception to the Flood Area Construction Regulations** on Tract 1 of Rapid City Greenway Tract located in Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of the intersection of Chapel Lane and Shore Drive.

Tech presented the staff recommendation to deny the Special Exception to the Flood Area Construction Regulations request. Tech added that in the past the Planning Commission has approved similar requests with stipulations.

Kent Brugger, the applicant, stated that the request is for the purpose of a reception and all appropriate permits have been obtained from the Parks and Recreation Department. Brugger requested that the Special Exception be approved. Brugger added that an evacuation plan has been presented. Brugger requested that the Planning Commission would allow the tent to be removed the following morning.

Marchand expressed her concern regarding the request to remove the tent the next morning and the possible hazard of an event in the evening.

Rolinger suggested that the applicant provide a contact number in case of an emergency. Discussion followed regarding possible stipulations of approval.

Landguth moved, Brewer seconded and unanimously carried to approve the Special Exception to the Flood Area Construction Regulations with the following stipulations:

- 1. That the event will be stopped and the structures removed if ordered by the Police Chief, Fire Chief, Mayor, Emergency Management Director, or the Public Works Director; and,**
- 2. That the structures for the event be removed by noon the next day and that a 24 hour contact number be provided by the applicant. (10 to 0 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)**

26. No. 10SR013 - North Rapid Addition

A request by Josh Christiansen for NeighborWorks Dakota Home Resources to consider an application for a **SDCL 11-6-19 Review to authorize the acquisition of property for a community garden** on Lots 19 and 20 of Block 25 of North Rapid Addition, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 706 Lemmon Avenue.

Elkins presented the staff recommendation to approve the SDCL 11-6-19 Review with the exception of the paving and prohibit the backing of vehicles into the right-of-way requirements.

In response to Karen Gunderson-Olsen's question regarding the City's acquisition of the property, Elkins stated that the property is being gifted to the City and that the Planning Commission must take action on the 11-6-19 before the Council can accept the property. Discussion followed.

Josh Christianson, the applicant, Deputy Executive Director for NeighborWorks Dakota Home Resources, stated that the property was purchased with Neighborhood Stabilization Funds from Stimulus money from the Federal Government. Christianson added that the property was attracting crime because of the abandoned nature. Christianson expressed his opinion regarding the positive impact of the gardens on the neighborhood.

In response to Brewer's question, Christianson reviewed the fence materials, the proposed shed and the site plan of the garden spots. Discussion followed.

In response to Karen Gunderson-Olsen's question, Christianson stated that pathways would place the garden spots out of the shaded areas of the fence to allow proper growth.

Lengthy discussion followed regarding fence options, possible steps that may be taken to mitigate any criminal activity, lighting provisions and the paving surfaces.

Rolinger moved, Marchand seconded and unanimously carried to approve the SDCL 11-6-19 Review to authorize the acquisition of property and the use as a community garden with the following stipulations:

- 1. The requirement to pave the access and parking area is hereby waived;**
- 2. The requirement prohibiting the backing of vehicles into a right-of-way is hereby waived; and,**
- 3. That the fence may be changed or removed as desired by the applicant. (10 to 0 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)**

27. No. 10SR022 - Original Town of Rapid City

A request by Wyss Associates, Inc. for ATTA to consider an application for a **SDCL 11-6-19 Review to construct structures on public property** on Lots 1 thru 16 and west ½ of the vacated Second Street abutting Lot 1 and the east half

of that portion of the vacated Third Street abutting Lot 16 and the north half of the vacated alley, the north half of Lot 17 thru 20 and the half of alley abutting said Lots, the south half of lots 17 thru 20 and the north half of the vacated Denver Street adjacent to said Lots, Lots 21 thru 22, the south half of the vacated alley and the north half of the vacated Denver Street adjacent to said Lots, Lots 23 thru 24, the south half of the vacated alley and the north half of the vacated Denver Street adjacent to said Lots, Lots 25 thru 32, the west half of vacated Second Street adjacent to said Lot 32, the south of vacated Alley and the north vacated Denver Street adjacent to said Lots 25 thru 32 of Block 8 of the Original Town of Rapid City, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 230 Denver Street.

Elkins presented the staff recommendation to continue the SDCL 11-6-19 review to the May 27, 2010 Planning Commission meeting.

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

Rolinger moved, Marchand and carried to continue the SDCL 11-6-19 Review to construct structures on public property to the May 27, 2010 Planning Commission meeting. (9 to 0 to 1 with Braun, Brewer, Brown, Gregg, Kinniburgh, Landguth, Marchand, Rolinger and Scull voting yes and none voting no and Wyss abstaining)

Brown left the meeting at this time.

28. Discussion Items

A. Aida Compton for Bully Blends Coffee & Tea, Inc.-Sidewalk Café Permit.

Aida Compton presented her request to allow the Sidewalk Café Permit be transferred to the proposed new location of Bully Blends. Compton reviewed the previous application she submitted for the Sidewalk Café Permit. Compton stated she was informed as a result of a conversation with the Growth Management staff that the sidewalk café permit stays with the location. Compton requested that the Planning Commission waive the fee for a new sidewalk café permit for the new location.

In response to Scull's question, Compton reviewed the fees paid to acquire the Sidewalk Café Permit.

Mike Schad stated that the \$250.00 fee is for the administrative review of the application and are site specific and are approved for a specific property. Schad stated that the City Attorney's Office has determined that the Planning Commission may not waive the fee for the administrative review. Schad reiterated that the City Attorney's Office has also determined that the review is site specific. Discussion followed regarding the Ordinance and application fees.

Braun expressed his opinion that if the City Attorney's Office does not feel that the Planning Commission has the right to review the fee requirement

that the Planning Commission should defer to Council.

Kinniburgh expressed his opinion that the Council would need to address the applicant's question.

In response to Wyss's question, Elkins stated that the permit is specific to the site as long as all of the stipulations of approval are being met. Elkins stated that the new business would have to meet all the requirements of the previously approved Sidewalk Café Permit.

In response to Compton's question, Elkins reviewed the requirements for the new business to utilize the Sidewalk Café Permit. Discussion followed.

Brewer commented that a Conditional Use Permit belongs to the property. Brewer reviewed the provisions in the Ordinance.

In response to Rolinger's question regarding the City Council's ability to waive the fee, Schad stated that the City Council does not have the authority to waive the fee or transfer the Sidewalk Café Permit. Discussion followed.

Schad stated that the Ordinance mechanism strongly implies that the permit is for the location requiring site plan submission and insurance.

Landguth moved, Wyss seconded to deny the request to waive the Sidewalk Café Permit fee. (7 to 2 with Braun, Brewer, Gregg, Landguth, Marchand, Scull and Wyss voting yes and Rolinger and Kinniburgh voting no)

29. Staff Items

30. Planning Commission Items

31. Committee Reports

A. City Council Report (April 19, 2010)

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

No. 10CA002 - Section 5, T1N, R8E

A request by Jim Letner 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 with a Planned Commercial Development to Light Industrial** on a portion of Lot B of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the northeasterly corner of Lot B of Lot 3 of Tract D of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 5, common to a point on the southerly edge of the dedicated right-of-way of East St. Charles Street, and common to a point on the westerly edge of the dedicated right-of-way of Creek Drive, and the Point of Beginning: Thence, first course:

S00°06'11"W, along the easterly boundary of said Lot B of Lot 3 of Tract D of the SW¼ of the SW¼ of Section 5, common to the westerly edge of the right-of-way of said Creek Drive, a distance of 265.72 feet, to a point on the easterly boundary of said Lot B of Lot 3 of Tract D of the SW¼ of the SW¼ of Section 5, common to a point on the westerly edge of the right-of-way of said Creek Drive; Thence, second course: N89°52'00"W, a distance of 581.46 feet, to a point on the westerly boundary of said Lot B of Lot 3 of Tract D of the SW¼ of the SW¼ of Section 5, common to the easterly boundary of Lot A of Lot 3 of Tract D of the SW¼ of the SW¼ of Section 5; Thence, third course: N00°01'08"W, along the westerly boundary of said Lot B of Lot 3 of Tract D of the SW¼ of the SW¼ of Section 5, common to the easterly boundary of said Lot A of Lot 3 of Tract D of the SW¼ of the SW¼ of Section 5, a distance of 265.72 feet, to the northwesterly corner of said Lot B of Lot 3 of Tract D of the SW¼ of the SW¼ of Section 5, common to the northeasterly corner of said Lot A of Lot 3 of Tract D of the SW¼ of the SW¼ of Section 5, and common to a point on the southerly edge of the right-of-way of said East St. Charles Street; Thence, fourth course: S89°52'01"E, along the northerly boundary of said Lot B of Lot 3 of Tract D of the SW¼ of the SW¼ of Section 5, common to the southerly edge of the right-of-way of said East St. Charles Street, a distance of 582.03 feet, to the northeasterly corner of said Lot B of Lot 3 of Tract D of the SW¼ of the SW¼ of Section 5, common to a point on the southerly edge of the dedicated right-of-way of East St. Charles Street, and common to a point on the westerly edge of the dedicated right-of-way of Creek Drive, and the Point of Beginning, more generally described as being located south of E. St. Charles Street and west of Creek Drive.

On March 25, 2010 the Planning Commission recommended that **Amendment to the Adopted Comprehensive Plan to change the land use designation from General Commercial with a Planned Commercial Development to Light Industrial** be denied without prejudice. On April 19, 2010 the City Council approved the **Amendment to the Adopted Comprehensive Plan to change the land use designation from General Commercial with a Planned Commercial Development to Light Industrial**.

There being no further business, Gregg moved, Wyss seconded and unanimously carried to adjourn the meeting at 8:37 a.m. (9 to 0 with Braun, Brewer, Gregg, Kinniburgh, Landguth, Marchand, Rolinger, Scull and Wyss voting yes and none voting no)