

DRAFT

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
August 25, 2011

MEMBERS PRESENT: Erik Braun, John Brewer, Dennis Landguth, Linda Marchand, Dennis Popp, Steve Rolinger, Andrew Scull, Jan Swank and Len Weimer. John Roberts, Council Liaison was also present.

MEMBERS ABSENT: Josh Snyder and Kay Rippentrop

STAFF PRESENT: Brett Limbaugh, Vicki Fisher, Kip Harrington, Fletcher Lacock, Robert Laroco, Karen Bulman, Patsy Horton, Tim Behlings, Dale Tech, Ted Johnson, Allison Marsland and Risë Ficken.

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

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

Staff requested that Items 4 and 19 be removed from the Consent Agenda for separate consideration.

Brewer requested that Items 11 and 17 be removed from the Consent Agenda for separate consideration.

Motion by Rolinger, Seconded by Marchand and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 29 in accordance with the Planning Commission recommendations with the exception of Items 4, 11, 17 and 19. (9 to 0 with Braun, Brewer, Landguth, Marchand, Popp, Rolinger, Scull, Swank and Weimer voting yes and none voting no)

---CONSENT CALENDAR---

1. Planning Commission approved the August 4, 2011 Planning Commission Meeting Minutes.
2. No. 10VR007 - Scott's Addition
A request by Fisk Land Surveying & Consulting Engineers for Marilou Yarber to consider an application for a **Vacation of Right-of-Way** for a portion of the Van Buren Street Right-of-way lying adjacent to the S1/2 of Lot 8 and the S1/2 S1/2 of Lots 9-11 of Block 20, Scott's Addition, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 902 Silver Street.

Planning Commission continued the Vacation of Right-of-Way to the September 8, 2011 Planning Commission meeting.
3. No. 11AN001 - Section 10, T1N, R8E
A request by Dream Design International, Inc. to consider an application for a **Petition for Annexation** for a portion of the NW¼ of the SW¼ of Section 10,

T1N, R8E, BHM, Pennington County, South Dakota more fully described as follows: Commencing at the Section ¼ Corner common to Sections 9 and 10, T1N, R8E, BHM, thence, S00°05'57"W, along the section line common to said Sections 9 and 10, a distance of 169.01 feet, thence, S89°54'03"E, a distance of 33.00 feet to a point on the easterly edge of Jolly Lane right-of-way, and the point of beginning; Thence, first course: S51°11'21"E, a distance of 388.65 feet; Thence, second course: S38°48'39"W, a distance of 190.00 feet, to a point on the northerly edge of E. Highway 44 right-of-way; Thence, third course: N51°11'21"W, along the northerly edge of said E. Highway 44 right-of-way, a distance of 190.24 feet; Thence, fourth course: N30°37'50"W, along the northerly edge of said E. Highway 44 right-of-way, a distance of 70.45 feet, to the easterly edge of said Jolly Lane right-of-way; Thence, fifth course: N00°05'57"E, along the easterly edge of said Jolly Lane right-of-way, a distance of 211.79 feet, to a point the point of beginning, more generally described as being located at the northeast corner of Jolly Lane and East Highway 44.

Planning Commission recommends 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.

5. No. 11CA007 - Section 35, T2N, R7E

Summary of Adoption Action for a request by the City of Rapid City to consider an application for an **Amendment to the Comprehensive Plan to revise the Major Street Plan by adding a collector street and eliminating two collector streets** for the E1/2 of the NE1/4 of Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of Omaha Street and west of Interstate 190.

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

6. No. 11CA008 - Menard Subdivision

A request by Sperlich Consulting, Inc. for Century Resources, Inc. to consider an application for a **Comprehensive Plan Amendment to change the land use designation from General Commercial to Light Industrial** for Lot 3R of Block 1 of Menard Subdivision located in the NE1/4 of the SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on the south side of East Anamosa Street southeast of the intersection of East Anamosa Street and North Creek Drive.

Planning Commission recommended approval of the Amendment to the Comprehensive Plan to change the future land use designation from General Commercial to Light Industrial.

7. No. 11RZ011 - Menard Subdivision

A request by Sperlich Consulting, Inc. for Century Resources, Inc. to consider an application for a **Rezoning from General Commercial District to Light Industrial District** for a portion of Lot 3R of Block 1 of Menard Subdivision, located in the NE1/4 of the SW1/4, Section 32, T2N, R8E, B.H.M., Rapid City, Pennington County, South Dakota more fully described as follows: Commencing

at the southeasterly corner of Lot 2 of Block 1 of Menard Subdivision, common with the northeasterly corner of Lot 3R of Block 1 of Menard Subdivision, and common to a point on the westerly edge of the dedicated right-of-way of East Anamosa Street; Thence, S44°48'01"E, along the northeasterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to the westerly edge of said dedicated right-of-way of East Anamosa Street, a distance of 25.00 feet, to a point on the northeasterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to a point on the westerly edge of said dedicated right-of-way of East Anamosa Street, and the Point of Beginning; Thence, first course: S44°48'01"E, along the northeasterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to the westerly edge of said dedicated right-of-way of East Anamosa Street, a distance of 157.22 feet, to a point on the northeasterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to a point on the westerly edge of said dedicated right-of-way of East Anamosa Street; Thence, second course: S45°11'32"W, a distance of 330.05 feet, to a point on the southwesterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to a point on the easterly boundary of a portion of the NE1/4 of the SW1/4 of Section 32, T2N, R8E, B.H.M.; Thence, third course: N44°47'38"W, along the southwesterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to the easterly boundary of a portion of said NE1/4 of the SW1/4 of Section 32, T2N, R8E, B.H.M., a distance of 157.38 feet, to a point on the southwesterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to a point on the easterly boundary of a portion of the said NE1/4 of the SW1/4 of Section 32, T2N, R8E, B.H.M.; Thence, fourth course: N45°13'14"E, a distance of 330.03 feet, to a point on the northeasterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to a point on the westerly edge of said dedicated right-of-way of East Anamosa Street, and the Point of Beginning, more generally described as being located on the south side of East Anamosa Street southeast of the intersection of East Anamosa Street and North Creek Drive.

Planning Commission recommended approval of the Rezoning from General Commercial District to Light Industrial District in conjunction with the associated Comprehensive Plan Amendment.

8. No. 11RZ012 - Menard Subdivision

A request by Sperlich Consulting, Inc. for Century Resources, Inc. to consider an application for a **Rezoning from General Agriculture District to Light Industrial District** for a portion of Lot 3R of Block 1 of Menard Subdivision, located in the NE1/4 of the SW1/4 of Section 32, T2N, R8E, B.H.M., Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at the southeasterly corner of Lot 3R of Block 1 of Menard Subdivision, common to the northeasterly corner of Lot 5 of Block 1 of Menard Subdivision, and common to a point on the westerly edge of the right-of-way of East Anamosa Street, and the Point of Beginning; Thence, first course: S45°11'32"W, along the southerly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to the northwesterly boundary of said Lot 5 of Block 1 of Menard Subdivision, a distance of 329.02 feet, to the southwesterly corner of said Lot 3R of Block 1 of Menard Subdivision, common to a point on the northwesterly boundary of said Lot 5 of Block 1 of Menard Subdivision, and common to a point on the easterly boundary of a portion of the NE1/4 of the SW1/4 of Section 32, T2N, R8E,

B.H.M.; Thence, second course: N44°47'38"W, along the southwesterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to the easterly boundary of a portion of the said NE1/4 of the SW1/4 of Section 32, T2N, R8E, B.H.M., a distance of 50.00 feet, to a point on the southwesterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to a point on the easterly boundary of a portion of the said NE1/4 of the SW1/4 of Section 32, T2N, R8E, B.H.M.; Thence, third course: N45°11'32"E, a distance of 330.05 feet, to a point on the easterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to a point on the westerly edge of said right-of-way of East Anamosa Street; Thence, fourth course: S44°48'01"E, along the easterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to the westerly edge of said right-of-way of East Anamosa Street, a distance of 10.12 feet, to a point of curvature on the easterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to a point on the westerly edge of said right-of-way of East Anamosa Street; Thence, fifth course: southeasterly, along the easterly boundary of said Lot 3R of Block 1 of Menard Subdivision, common to the westerly edge of said right-of-way of East Anamosa Street, curving to the right on a curve with a radius of 800.00 feet, a delta angle of 02°51'26", an arc length of 39.90 feet, a chord bearing of S43°18'25"E, and a chord distance of 39.89 feet, to the southeasterly corner of Lot 3R of Block 1 of Menard Subdivision, common to the northeasterly corner of Lot 5 of Block 1 of Menard Subdivision, and common to a point on the westerly edge of the right-of-way of East Anamosa Street, and the Point of Beginning, more generally described as being located on the south side of East Anamosa Street southeast of the intersection of East Anamosa Street and North Creek Drive.

Planning Commission recommended approval of the Rezoning from General Agriculture District to Light Industrial District.

9. No. 11PL040 - Menard Subdivision

A request by Sperlich Consulting, Inc. for Century Resources, Inc. to consider an application for a **Preliminary Plat** for proposed Lot 2R and Lot 3R-2 of Block 1 of Menard Subdivision, legally described as Lot 2 and Lot 3R of Block 1 of Menard Subdivision located in the NE1/4 of the SW1/4 of Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on the south side of East Anamosa Street southeast of the intersection of East Anamosa Street and North Creek Drive.

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

1. **Prior to submittal of a Final Plat application, the plat document shall be revised to show Lot 3R-2 as Lot 3R2; and,**
2. **The approved Preliminary Plat shall be valid for two years from the date of approval of the plat. 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.**

10. No. 11CA009 - Stoney Creek South Subdivision

A request by Dream Design International, Inc. to consider an application for a **Comprehensive Plan Amendment to change the land use designation from**

General Commercial with a Planned Commercial Development to Low Density Residential with a Planned Residential Development for Lots 1 through 6 of Block 2 of Stoney Creek South Subdivision located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on the west side of Bendt Drive, south of Catron Boulevard and east of Sheridan Lake Road.

Planning Commission recommended approval of the Comprehensive Plan Amendment to change the land use designation from General Commercial with a Planned Commercial Development to Low Density Residential with a Planned Residential Development.

12. No. 11RZ015 - Stoney Creek South Subdivision

A request by Dream Design International, Inc. to consider an application for a **Rezoning from General Agriculture District to Low Density Residential District** for a portion of Lots 1-2 of Block 2 of Stoney Creek South Subdivision located in the W1/2 of the SW1/4 of Section 22, T1N, R7E, BHM Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at the southeasterly corner of Lot 1, Block 2 of Stoney Creek South Subdivision, common to the northeasterly corner of Outlot D of Stoney Creek South Subdivision, common to a point on the westerly edge of Bendt Drive right-of-way, and the point of beginning; Thence, first course: N71°39'46"W, along the southerly boundary of said Lot 1, common to the northerly boundary of said Outlot D, a distance of 56.04 feet; Thence, second course: N01°22'01"E, a distance of 131.18 feet; Thence, third course: S88°37'59"E, a distance of 54.43 feet, to a point on the easterly boundary of Lot 2, Block 2 of Stoney Creek South Subdivision, common to a point on the westerly edge of said Bendt Drive right-of-way; Thence, fourth course: southwesterly, along the easterly boundary of Block 2 of Stoney Creek South Subdivision, common to the westerly edge of said Bendt Drive right-of-way, curving to the right, on a curve with a radius of 274.00 feet, a delta angle of 12°12'30", a length of 58.38 feet, a chord bearing of S02°39'01"W, and chord distance of 58.27 feet; Thence, fifth course: southwesterly, along the easterly boundary of said Block 2, common to the westerly edge of said Bendt Drive right-of-way, curving to the left, on a curve with a radius of 326.00 feet, a delta angle of 13°23'48", a length of 76.22 feet, a chord bearing of S02°03'22"W, and chord distance of 76.05 feet; Thence, sixth course: S04°38'33"E, along the easterly boundary of said Block 2, common to the westerly edge of said Bendt Drive right-of-way, a distance of 13.31 feet, to the point of beginning, more generally described as being located on the west side of Bendt Drive, south of Catron Boulevard and east of Sheridan Lake Road.

Planning Commission recommended approval of the Rezoning from General Agriculture District to Low Density Residential District in conjunction with the associated Comprehensive Plan Amendment.

*13. No. 11PD032 - Stoney Creek South Subdivision

A request by Dream Design International, Inc. to consider an application for an **Initial and Final Residential Development Plan** for Lots 1 through 6 of Block 2 of Stoney Creek South Subdivision located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being

located on the west side of Bendt Drive, south of Catron Boulevard and east of Sheridan Lake Road.

Planning Commission approved the Initial and Final Residential Development Plan 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. Prior to issuance of a building permit, an Erosion and Sediment Control permit shall be obtained;**
- 3. Prior to issuance of a Certificate of Occupancy for the townhomes, a Final Plat shall be reviewed and approved creating individual townhome lots for those lots to be developed with townhomes;**
- 4. A minimum 20 foot front setback shall be provided for all principle structures;**
- 5. All provisions of the Low Density Residential District shall be met unless specifically authorized as a stipulation of this Initial and Final Residential Development Plan or a subsequent Major Amendment;**
- 6. All provisions of the currently adopted International Fire Code shall be continually met. In addition, any expansion or alteration of the project shall be coordinated with the Rapid City Fire Department;**
- 7. The applicant shall obtain permits to work in the Right-of-way prior to installation of any service lines;**
- 8. The proposed structures shall conform architecturally to the plans, elevations and color palette reviewed and approved as a part of this Planned Residential Development. Revisions to the design of the structures that the Growth Management Director determines to be consistent with the original approved elevations shall be allowed as a Minimal Amendment to the Planned Residential Development;**
- 9. This Planned Residential Development shall allow for the construction of townhomes and/or single-family residences on Lots 1 through 6 of Block 2 located on Bendt Drive. Other uses permitted within a Low Density Residential District shall be allowed. Conditional uses allowed within a Low Density Residential District shall require a Major Amendment to the Planned Residential Development; and,**
- 10. The Planned Residential 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.**

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

15. No. 11OA003 - Ordinance Amendment
A request by the City of Rapid City to consider an application for an Ordinance defining a "side loaded garage" by adding Section 17.04.631 to the Rapid City Municipal Code.

Planning Commission recommended approval of the Ordinance Amendment to add Section 17.04.631 of the Rapid City Municipal Code by defining a “side loaded garage”.

16. No. 11OA004 - Ordinance Amendment

A request by the City of Rapid City to consider an application for an **Ordinance reducing front yard setbacks on certain street classifications in the Low Density Residential District-1 by amending Section 17.10.050 of the Rapid City Municipal Code.**

Planning Commission recommended approval of the Ordinance reducing the front yard setbacks on certain street classifications in the Low Density Residential District-1 by amending Section 17.10.050 of the Rapid City Municipal Code.

18. No. 11OA006 - Ordinance Amendment

A request by City of Rapid City to consider an application for an **Ordinance reducing front yard setbacks on certain street classifications in the Medium Density Residential District by amending Section 17.12.050 of the Rapid City Municipal Code.**

Planning Commission recommended approval of the Ordinance reducing the front yard setbacks on certain street classifications in the Medium Density Residential District by amending Section 17.12.050 of the Rapid City Municipal Code.

20. No. 11OA008 - Ordinance Amendment

A request by the City of Rapid City to consider an application for an **Ordinance reducing front yard setbacks on certain street classifications in the General Agricultural District by amending Section 17.34.040 of the Rapid City Municipal Code.**

Planning Commission recommended approval of the Ordinance reducing the front yard setbacks on certain street classifications in the General Agricultural District by amending Section 17.34.040 of the Rapid City Municipal Code.

21. No. 11OA009 - Ordinance Amendment

A request by the City of Rapid City to consider an application for an **Ordinance reducing front yard setbacks on certain street classifications in the Mobile Home Residential District by amending Section 17.38.040 of the Rapid City Municipal Code.**

Planning Commission recommended approval of the Ordinance reducing the front yard setbacks on certain street classifications in the Mobile Home Residential District by amending Section 17.38.040 of the Rapid City Municipal Code.

22. No. 11OA010 - Ordinance Amendment

A request by the City of Rapid City to consider an application for an **Ordinance reducing front yard setbacks on certain street classifications in the Low Density Residential District-2 by amending Section 17.44.050 of the Rapid City Municipal Code.**

Planning Commission recommended approval of the Ordinance reducing the front yard setbacks on certain street classifications in the Low Density Residential District-2 by amending Section 17.44.050 of the Rapid City Municipal Code.

23. No. 11VR003 - Feigels Addition

A request by Renner & Associates, LLC for Deluxe, LLC to consider an application for a **Vacation of Right-of-Way** for a portion of N. Cherry Street right-of-way lying adjacent to Lot 1 of Block 16, a portion of Pine Street right-of-way lying adjacent to Lot 3 of Block 16, a portion of E. New York Street right-of-way and a portion of E. Chicago Street right-of-way lying adjacent to Lots 1-3 of Block 16 of Feigels Addition located in the SW1/4 of the SE1/4 of Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 815 East New York Street.

Planning Commission continued the Vacation of Right-of-Way to the September 8, 2011 Planning Commission meeting.

*24. No. 11PD030 - Feigels Addition

A request by Renner & Associates, LLC for Deluxe, LLC to consider an application for an **Initial Residential Development Plan** for Lots 1 through 3 of Block 16 of Feigels Addition located in Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 815 East New York Street.

Planning Commission continued the Initial Residential Development Plan to the September 8, 2011 Planning Commission meeting.

25. No. 11PL035 - Signal Heights Subdivision

A request by Renner & Associates, LLC for Bob Akers to consider an application for a **Preliminary Plat** for proposed Lots 1 and 2 of Tract 5 Revised of Signal Heights Subdivision, legally described as Tract 5 Revised of Signal Heights Subdivision and a portion of vacated South Street located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of the intersection of East Boulevard and Kellogg Place.

Planning Commission continued the Preliminary Plat to the September 8, 2011 Planning Commission meeting.

26. No. 11PL041 - Canyon Springs Preserve

A request by Bryan Vulcan for Ian and Amanda Vidinha to consider an application for a **Preliminary Plat** for proposed Lot 89 and Lot 4A of Block 1 of Canyon Springs Preserve, legally described as a portion of Common Area 1 of

Block 1 of Canyon Springs Preserve and Lot 4 of Block 1 of Canyon Springs Preserve located in the NE1/4 SW1/4 of Section 23, T2N, R6E, BHM, Pennington County, South Dakota, more generally described as being located northwest of the intersection of Nemo Road and North Emerald Ridge Road.

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

- 1. Prior to Preliminary Plat approval by the City Council, 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;**
 - 2. Prior to Preliminary Plat approval by the City Council, road construction plans for Ivory Birch Place shall be submitted for review and approval. In particular, the road construction plans shall show the street construction of sewer, including dry sewer, sidewalk and street light conduit or a Variance to the Subdivision Regulations shall be obtained;**
 - 3. Prior to Preliminary Plat approval by the City Council, 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. In addition, dry sewer mains shall be provided in accordance with Section 16.16.050 of the Rapid City Municipal Code;**
 - 4. Prior to Preliminary Plat approval by the City Council, 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.**
 - 5. Prior to Preliminary Plat approval by the City Council, a cost estimate of the subdivision improvements shall 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 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.**
27. No. 11SV013 - Canyon Springs Preserve
A request by Bryan Vulcan for Ian and Amanda Vidinha to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer, including dry sewer, and to reduce the pavement width along Nemo**

Road from 36 feet to 24 feet and to waive the requirement to install sewer, including dry sewer, sidewalk and street light conduit along Ivory Birch Place as per Chapter 16.16 of the Rapid City Municipal Code for proposed Lot 89 and Lot 4A of Block 1 of Canyon Springs Preserve, legally described as a portion of Common Area 1 of Block 1 of Canyon Springs Preserve and Lot 4 of Block 1 of Canyon Springs Preserve located in the NE1/4 SW1/4 of Section 23, T2N, R6E, BHM, Pennington County, South Dakota, more generally described as being located northwest of the intersection of Nemo Road and North Emerald Ridge Road.

Planning Commission recommended approval of the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer, including dry sewer, and to reduce the pavement width along Nemo Road from 36 feet to 24 feet and to waive the requirement to install sewer, including dry sewer, sidewalk and street light conduit along Ivory Birch Place as per Chapter 16.16 of the Rapid City Municipal Code.

28. No. 11RZ013 - Red Rock Meadows Subdivision

A request by Dream Design International, Inc. to consider an application for a **Rezoning from General Agriculture District to Low Density Residential District** for a portion of the NE1/4 of the NE1/4, Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at the northwesterly corner of Lot 1, Block 12 of Red Rock Meadows Subdivision, and the point of beginning; Thence, first course: N00°19'29"W, a distance of 99.01 feet; Thence, second course: N00°18'28"W, a distance of 90.00 feet; Thence, third course: N89°41'32"E, a distance of 165.00 feet, to a point on the section line common to Sections 28 & 29, T1N, R7E, BHM; Thence, fourth course: S00°18'28"E, along the section line common to said Sections 28 & 29, a distance of 189.93 feet; Thence, fifth course: N89°58'06"W, a distance of 26.00 feet, to the northeasterly corner of said Lot 1, Block 12; Thence, sixth course: N89°58'06"W, along the northerly boundary of said Lot 1, Block 12, a distance of 138.97 feet, to the said point of beginning, more generally described as being located at the current northern terminus of Dunsmore Road.

Planning Commission recommended approval of the Rezoning from General Agriculture District to Low Density Residential District.

*29. No. 11UR019 - D.B. Western Subdivision

A request by Davis Engineering for Kugler Company to consider an application for a **Conditional Use Permit to allow a Fertilizer Plant** for Lot 1 of D.B. Western Subdivision located in NW1/4 of the SW1/4 of Section 17, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1650 Culvert Street.

Planning Commission approved the Conditional Use Permit to allow a fertilizer plant with the following stipulations:

1. **Prior to issuance of a Building Permit, signed and stamped site plans including a landscaping plan showing a minimum of 96,760 points of landscaping, as well as an erosion control plan, shall be submitted for**

- review and approval;
2. A Building Permit shall be obtained prior to any construction;
 3. A Certificate of Occupancy shall be obtained prior to the site being used as proposed;
 4. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow a fertilizer manufacturer in a Heavy Industrial District. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. 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. This Conditional Use Permit shall allow the construction and use of a fertilizer and fertilizer by-products plant in a Heavy Industrial District. Any other permitted uses in a Heavy Industrial District shall be allowed. Conditional uses in a Heavy Industrial District shall review and approval a Major Amendment to the Conditional Use Permit; and,
 6. This Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by City Council 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---

---BEGINNING OF REGULAR AGENDA ITEMS---

4. No. 11CA005 – Rapid City Area Future Land Use Plan
A request by City of Rapid City to consider an application for an **Amendment to the Comprehensive Plan to adopt the Rapid City Area Future Land Use Plan** for Sections 1 through 3, inclusive, Sections 10 through 15, inclusive, and Sections 22 through 27, inclusive, located in T1S, R6E, Sections 1 through 30, inclusive, located in T1S, R7E, Sections 1 through 19, inclusive, Section 30, and portions of Sections 20 and 29, located in T1S, R8E, Sections 1 through 18, inclusive, located in T1S, R9E, Sections 1 through 3, inclusive, Sections 10 through 15, inclusive, Sections 22 through 27, inclusive, and Sections 34 through 36, inclusive, located in T1N, R6E, all of T1N, R7E, all of T1N, R8E, all of T1N, R9E, Sections 1 through 15, inclusive, Sections 22 through 27, inclusive, and Sections 34 through 36, inclusive, located in T2N, R6E, all of T2N, R7E, all of T2N, R8E, Sections 4 through 36, inclusive, located in T2N, R9E, portions of Sections 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, and 12, and Sections 13 through 36, inclusive, located in T3N, R6E, portions of Sections 1, 7, 8, 9, 10, 11, and 12, and Sections 13 through 36, inclusive, located in T3N, R7E, portions of Sections 3, 4, 5, 6, 9, 10, 11, and 12, and Sections 7, 8, and 13 through 36, inclusive, located in T3N, R8E, Sections 16 through 21, inclusive, and Sections 28 through 33,

inclusive, located in T3N, R9E, a portion of Section 31, located in T4N, R8E, all located in BHM, South Dakota.

Harrington advised that the proposed Rapid City Area Future Land Use Plan was prepared at the recommendation of the Second Floor Review Committee in an effort to simplify the existing Future Land Use Plan. He stated that the proposed plan consolidates all of the existing land use classifications into four general classifications consisting of Residential, Commercial, Industrial and Public. Harrington stated that the proposed Plan is intended to reduce the number of amendments that are considered by the Planning Commission and City Council noting that the Second Floor Review Committee recommends approval of the Plan.

In response to a question from Brewer, Harrington clarified that the number of applications appearing before the Planning Commission and City Council will be reduced if the proposed Plan is adopted as classification changes that fall within each of the four general land use classifications will no longer require formal comprehensive plan amendments.

Brewer requested clarification concerning whether the public will continue to have the opportunity to comment on changes to land use classifications in the comprehensive plan. Harrington indicated that public hearings will occur at the time of zoning amendment.

In response to a question from Brewer, Fisher provided a brief review of the formation of the Second Floor Review Committee at the request of former Mayor Alan Hanks. Fisher stated that the Second Floor Review Committee has prepared a number of recommendations to streamline processes in the Growth Management Department and reduce Planning Commission and City Council case load based on information contained in the Lehe Study. Discussion followed.

In response to a question from Brewer, Fisher indicated that currently, in almost all cases, rezone applications accompany comprehensive plan amendment applications. Fisher indicated that the public hearing for a change in zoning will continue to be required. Discussion followed.

In response to a question from Brewer, Janelle Finck advised that she is a member of the Second Floor Review Committee. She identified the other committee members as Jim Mirehouse, Pat Tlustos, Jerry Shoener, Jeff Lage and Bill Freytag. Discussion followed.

In response to a question from Weimer, Fisher provided a brief review of the Lehe Study. Discussion followed.

Rolinger moved, Marchand seconded and unanimously carried to recommend approval of the Amendment to the Comprehensive Plan to adopt the Rapid City Area Future Land Use Plan. (9 to 0 with Braun, Brewer, Landguth, Marchand, Popp, Rolinger, Scull, Swank and Weimer voting yes and none voting no)

11. No. 11RZ014 - Stoney Creek South Subdivision

A request by Dream Design International, Inc. to consider an application for a **Rezoning from General Commercial District to Low Density Residential District** for a portion of Lots 1-6 of Block 2 of Stoney Creek South Subdivision located in the W1/2 of the SW1/4 of Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at the northwesterly corner of Lot 6, Block 2 of Stoney Creek South Subdivision, common to the southwesterly corner of Lot 7, Block 2 of Stoney Creek South Subdivision, common to a point on the easterly boundary of Lot 1, Block 1 of Stoney Creek South Subdivision, and the point of beginning; Thence, first course: N89°21'43"E, along the northerly boundary of said Lot 6, common to the southerly boundary of said Lot 7, a distance of 69.46 feet; Thence, second course: S01°22'01"W, a distance of 436.45 feet; Thence, third course: S88°37'59"E, a distance of 50.14 feet; Thence, fourth course: S01°22'01"W, a distance of 272.12 feet, to a point on the southerly boundary of Lot 1, Block 2, Stoney Creek South Subdivision, common to a point on the northerly boundary of Outlot D of Stoney Creek South Subdivision; Thence, fifth course: N71°39'46"W, along the southerly boundary of said Lot 1, Block 2, common to the northerly boundary of said Outlot D, a distance of 83.66 feet, to the southwesterly corner of said Lot 1, Block 2; Thence, sixth course: N16°14'30"E, along the westerly boundary of said Lot 1, Block 2, common to the northerly boundary of said Outlot D, a distance of 101.85 feet, to the northwesterly corner of said Lot 1, Block 2, common to the southwesterly corner of Lot 2, Block 2 of Stoney Creek South Subdivision; Thence, seventh course: N02°05'29"W, along the westerly boundary of said Lot 2, Block 2, common to the northerly boundary of said Outlot D, a distance of 105.39 feet, to the northwesterly corner of said Lot 2, Block 2, common to a point on the southerly boundary of Lot 3, Block 2 of Stoney Creek South Subdivision; Thence, eighth course: S87°54'31"W, along the southerly boundary of said Lot 3, Block 2, common to the northerly boundary of said Outlot D, a distance of 42.58 feet, to the southwesterly corner of said Lot 3, Block 2; Thence, ninth course: N00°38'17"W, along the westerly boundary of Block 2 of Stoney Creek South Subdivision, common to the easterly boundary of Block 1 of Stoney Creek South Subdivision, a distance of 480.95 feet, to the point of beginning, more generally described as being located on the west side of Bendt Drive, south of Catron Boulevard and east of Sheridan Lake Road.

In response to a question from Brewer, Fisher stated that the major drainage easement must be maintained whether the property is zoned commercial or residential. She indicated that the construction of townhomes or single family homes will not impact or change the major drainage easement. She noted that the change in zoning will decrease the amount of impervious area allowed on the property.

Fisher stated that the drainage area is identified on the plat and must be kept clear of any development.

Brewer expressed concern that this area has experienced drainage issues during storm events.

Fisher provided a brief history of how the property was originally zoned, the requested rezoning for the platted residential lots, and the reduced lot coverage for residential uses. Discussion followed.

Rolinger moved, Marchand seconded and unanimously carried to recommend approval of the Rezoning from General Commercial District to Low Density Residential District in conjunction with the associated Comprehensive Plan Amendment. (9 to 0 with Braun, Brewer, Landguth, Marchand, Popp, Rolinger, Scull, Swank and Weimer voting yes and none voting no)

17. No. 11OA005 - Ordinance Amendment

A request by the City of Rapid City to consider an application for **an Ordinance reducing front yard setbacks on certain street classifications in the Park Forest District by amending Section 17.08.040 of the Rapid City Municipal Code.**

Brewer expressed concern that large trucks parked in a 20 foot driveway can encroach into the sidewalk and public right-of-way and obstruct pedestrian traffic.

In response to a question from Brewer, Horton advised that the Second Floor Review Committee recommended the adoption of the 20 foot setback based on previous actions by the Planning Commission approving reduced setbacks. Horton displayed a photograph of a property with a 20 foot setback to the garage and discussed Code Enforcement statistics for complaints related to sidewalk and traffic violations. Horton discussed national trends creating a shorter distance to the right of way for homes when parking is situated at the rear of the property and/or structure. Discussion followed.

Brewer stated that research of vehicle specifications indicates that extra-long vehicles are approximately 240 inches in length. He noted that if the vehicle has a hitch, or is not parked immediately adjacent to the garage door, it will encroach into the pedestrian right of way.

Finck explained that the Second Floor Review Committee found that the majority of the Planned Development applications submitted to the Planning Commission contained a request for a reduction in setback to either 18 feet or 20 feet. Finck indicated that a large majority of those requests were approved. Finck stated that the Second Floor Review Committee recommended that the street classification be used to determine where the reduced setback would be appropriate. Finck noted that the 20 foot setback is an increase from a normal 18 foot parking stall. Discussion followed.

Scull moved and Weimer seconded to recommend approval of the Ordinance reducing the front yard setbacks on certain street classifications in the Park Forest District by amending Section 17.08.040 of the Rapid City Municipal Code.

Rolinger thanked the Second Floor Review Committee for their work on the setback issue.

In response to a question from Rolinger, Horton indicated that she would research the maximum lot coverage allowed in other communities in cases where parking is situated at the rear of single family structures. Discussion followed.

The motion unanimously carried to recommend approval of the Ordinance reducing the front yard setbacks on certain street classifications in the Park Forest District by amending Section 17.08.040 of the Rapid City Municipal Code. (9 to 0 with Braun, Brewer, Landguth, Marchand, Popp, Rolinger, Scull, Swank and Weimer voting yes and none voting no)

19. No. 11OA007 - Ordinance Amendment

A request by the City of Rapid City to consider an application for **an Ordinance reducing front yard setbacks on certain street classifications in the High Density Residential District by amending Section 17.14.040 of the Rapid City Municipal Code.**

Horton stated that staff recommends that Section 17.14.040(A3a) be modified to include a separate definition and clarify that the minimum front yard setback for multiple-family and assisted living centers not exceeding 5 stories or 45 feet in height will remain at 25 feet regardless of the street classification.

Braun moved and Marchand seconded to recommend approval of the Ordinance reducing the front yard setbacks on certain street classifications in the High Density Residential District by amending Section 17.14.040 of the Rapid City Municipal Code including the revision to proposed Section 17.14.040(A3a) to require a minimum front yard setback of not less than 25 feet from the front property line for multiple-family and assisted living centers not exceeding 5 stories or 45 feet in height. (8 to 1 with Braun, Brewer, Landguth, Marchand, Popp, Scull, Swank and Weimer voting yes and with Rolinger voting no)

*30. No. 11PD031 - Black Hills Center

A request by FourFront Design, Inc. for Eagle Ridge II, LLP to consider an application for a **Major Amendment to a Planned Residential Development** for Lot 2A of Block 1 of Black Hills Center located in Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 121 Stumer Drive.

Fisher advised that the applicant revised the site plan relocating the basketball court to the interior of the development noting that the court will be enclosed with an 8 foot high chain link fence. She stated that the privacy fence, landscaping and retaining wall bordering the residences located on the western boundary of the development were installed as required. She indicated that staff recommends approval of the Major Amendment to a Planned Residential Development with the stipulations outlined in the staff report.

In response to a question from Brewer, Fisher clarified that the applicant has worked to address the erosion issues on the northwest corner of the property noting that the area would be reclaimed with landscaping when the project is

completed.

In response to a question from Braun, Bob Drew stated that no lighting is proposed for the basketball court.

Rolinger moved, Marchand seconded and unanimously carried to approve the Major Amendment to a Planned Residential Development with the following stipulations:

- 1. The proposed basketball court shall be located east of proposed Building #10 as shown on the applicant's site plan and shall be constructed in compliance with the design plans;**
- 2. Prior to issuance of a building permit for the proposed 8 foot high fence around the basketball court, a Fence Height Exception shall be obtained to allow an 8 foot high fence in lieu of a maximum 6 foot high fence in a residential district or the fence height shall be adjusted accordingly. In addition, the fence shall conform architecturally to the proposed elevations, design plans and color palette submitted as part of this Major Amendment to the Residential Development Plan;**
- 3. The landscaping shall be planted in compliance with the approved landscape plan and shall comply with all approved requirements of the Zoning Ordinance. In addition, all landscaping shall be continually maintained in a live vegetative state and replaced as necessary. Revisions to the landscape plan that do not result in a reduction in the required number of landscape points shall be allowed as a Minimal Amendment to the Planned Residential Development. Any reduction in the required number of landscape points shall require a Major Amendment to the Planned Residential Development;**
- 4. The six foot high privacy fence and retaining wall located along the west lot line shall continually be maintained;**
- 5. 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 motorist or constitute a nuisance of any kind;**
- 6. Sediment and erosion control measures shall be continually maintained to preclude sediment from depositing onto the adjacent properties and/or rights-of-way. In addition, sediment and erosion control measures shall be maintained along the berm located along Catron Boulevard;**
- 7. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 8. Prior to issuance of a Certificate of Occupancy for Phase Two of the development, the "pork chop" traffic island shall be constructed in the northern approach along Stumer Road;**
- 9. The proposed apartment buildings shall not exceed 38 feet, 9 3/8 inches in height as per the previously approved Exception request;**
- 10. All provisions of the Zoning Ordinance shall be met unless otherwise specifically authorized as a stipulation of this Major Amendment or a subsequent Major Amendment;**
- 11. The dumpster(s) shall be screened on all four sides with an opaque screening fence;**

12. A minimum of 231 parking spaces shall be provided with seven of the spaces being handicap accessible. In addition, one of the handicap spaces shall be "Van" accessible. A minimum of six planter islands shall be provided within the parking lot. Each planter island shall contain a minimum of 100 square feet, and provide a minimum of one tree with shrubs, groundcover and/or mulch covering at the base. All provisions of the Off-Street Parking Ordinance shall be continually met;
13. The International Fire Code shall be continually met. In particular, fire hydrants shall be installed and operational prior to the issuance of a building permit and/or any construction on the site using combustible material(s). In addition, all weather access roads shall be constructed in compliance with the Street Design Criteria Manual in order to accommodate Fire Department apparatus. All of the residential dwelling units or structures shall be sprinklered;
14. A storm water discharge permit shall be obtained as needed;
15. A Permit to Work in the Right-of-way shall be obtained from the South Dakota Department of Transportation as needed;
16. The proposed structures shall conform architecturally to the proposed elevations, design plans and color palette submitted as part of this Major Amendment to the Planned Residential Development; and,
17. The Planned Residential Development shall allow for the construction of a 154 unit apartment complex with a leasing/administration office, tot lots, a basketball court and accessory garages on the property. The time to complete the Planned Residential Development shall be extended two years from the date of approval by the Planning Commission. However, the Planned Residential Development shall expire if the use is not undertaken and completed within the two years or if the use as approved has ceased for two years. (9 to 0 with Braun, Brewer, Landguth, Marchand, Popp, Rolinger, Scull, Swank and Weimer voting yes and none voting no)

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

Fisher requested that Items 31-33 be considered concurrently.

31. No. 11PL036 - Race Track Subdivision
A request by Dream Design International, Inc. to consider an application for a **Preliminary Plat** for proposed Lot K of Race Track Subdivision, legally described as a portion of the NW1/4 of the SW1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at the northeast corner of Jolly Lane and East Highway 44.
32. No. 11SV011 - Race Track Subdivision
A request by Dream Design International, Inc. to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install**

curb, gutter, sidewalk and sewer along Jolly Lane as per Chapter 16.16 of the Rapid City Municipal Code for proposed Lot K of Race Track Subdivision, legally described as a portion of the NW1/4 of the SW1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at the northeast corner of Jolly Lane and East Highway 44.

33. No. 11SV012 - Race Track Subdivision

A request by Dream Design International to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to provide additional pavement on Jolly Lane as per Chapter 16.16 of the Rapid City Municipal Code** for proposed Lot K of Race Track Subdivision, legally described as a portion of the NW1/4 of the SW1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at the northeast corner of Jolly Lane and East Highway 44.

Fisher advised that the preliminary race day traffic count information prepared by the applicant was distributed on the dais. She indicated that the applicant requested that stipulation one be modified to require that the revised traffic study be provided prior to City Council approval. She stated that staff recommends approval of the Preliminary Plat with the revised stipulation requiring that the revised traffic study stamped by a professional engineer be provided prior to Council approval.

Fisher reviewed the two requested Subdivision Variances noting staff's recommendation for approval of both applications with the stipulations outlined in the staff report.

In response to a question from Braun, Fisher discussed issues associated with the drainage plan for the property.

In response to a question from Brewer, Fisher stated that the portion of the property comprising proposed Lot K will be annexed into Rapid City limits prior to Preliminary Plat approval by the City Council.

Rolinger moved, Braun seconded and unanimously carried to recommend that the Preliminary Plat (11PL036) be approved with the following stipulations:

- 1. Prior to Preliminary Plat approval by the City Council, the traffic information shall be revised to include race day car counts. In addition, the document shall be stamped by a Professional Engineer;**
- 2. Prior to Preliminary Plat approval by the City Council, all necessary changes shall be made to the site plan as identified on the red lined drawings. In addition, the red lined drawings shall be returned to the Growth Management Department;**
- 3. Prior to Preliminary Plat approval by the City Council, additional drainage information shall be submitted for review and approval as applicable;**
- 4. Prior to submittal of Final Plat application, the proposed drainage and water main easement(s) shall be recorded at the Register of Deeds' Office. In addition, a copy of the recorded documents shall be**

- submitted to the Growth Management Department;
5. Prior to Preliminary Plat approval by the City Council, an Exception to reduce the minimum corner clearance from 230 feet to 140 feet for the proposed driveway along Jolly Lane shall be obtained or the plat document shall be revised to meet the minimum requirement;
 6. Prior to Preliminary Plat approval by the City Council, an Exception to waive the requirement to provide a sidewalk along the south side of S.D. Highway 44 shall be obtained or the construction plans shall be revised to show the improvement;
 7. Prior to Preliminary Plat approval by the City Council, an Exception to allow an asphalt driveway in lieu of the required reinforced concrete driveway in a Commercial District shall be obtained or the construction plans shall be revised accordingly;
 8. Prior to Preliminary Plat approval by the City Council, an Exception to allow a 46 foot wide driveway in lieu of a maximum 28 foot wide driveway shall be obtained or the plat document shall be revised accordingly;
 9. Prior to Preliminary Plat approval by the City Council, Annexation Petition (File #11AN001) for proposed Lot K shall be approved by the City Council;
 10. Prior to Preliminary Plat approval by the City Council, construction plans showing curb, gutter, sidewalk, sewer and a minimum 36 foot wide paved surface along Jolly Lane shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained;
 11. 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,
 12. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and,
 13. 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; and,

To recommend approval of the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and sewer along Jolly Lane as per Chapter 16.16 of the Rapid City Municipal Code (11SV011) with the following stipulations:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements; and,
2. That sidewalk be provided along the east side of Jolly Lane as proposed, and,

To recommend approval of the Variance to the Subdivision Regulations to waive the requirement to provide additional pavement on Jolly Lane as per Chapter 16.16 of the Rapid City Municipal Code (11SV012) 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 improvement. (9 to 0 with

Braun, Brewer, Landguth, Marchand, Popp, Rolinger, Scull, Swank and Weimer voting yes and none voting no)

*34. No. 11UR020 - Original Town of Rapid City

A request by MHL, LLC for Dakota Soda Co, LLC to consider an application for a **Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a Restaurant** for Lots 24 through 27 and the eastern 15 feet of the south half of Lot 23 of Block 75 of the Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 512 Main Street, Suites 120 and 130 and private courtyard.

Lacock presented the staff report for Item 34 and reviewed the slides noting that one telephone call was received in opposition to the request. He advised that staff recommends approval of the application with the stipulations outlined in the staff report.

Scull advised that a member of the audience would like to address comments to Items 34 through 38.

Fisher provided a brief explanation of the application process required to allow multiple individually-owned liquor licenses to be obtained for the commercial structure. Discussion followed.

Eva Syverson stated that the new Main Street Square, Summer Nights and associated events promote the revitalization of downtown and encourage families to come to the central part of the City. She expressed concern that if alcohol is available at all of these activities children will assume that alcohol is a natural part of family entertainment. Syverson suggested that a cap be placed on the availability of alcohol at the Main Street Square and at these kinds of events. Discussion followed.

Marchand left the meeting at this time.

Rolinger moved, Weimer seconded and unanimously carried to approve the Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a Restaurant (11UR020) with the following stipulations:

- 1. The on-sale liquor establishment shall operate in conjunction with a full-service restaurant. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Other permitted uses within the Central Business District shall be allowed, with the exception of conditional uses which shall require the review and approval of a Major Amendment to the Conditional Use Permit;**
- 2. All applicable provisions of the currently adopted International Fire Code shall continually be met;**
- 3. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 4. All provisions of the Central Business Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment;**

5. The private courtyard shall be enclosed by a barrier when alcohol is being served;
6. All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;
7. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an On-Sale Liquor Establishment. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. 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. The approval of the Historic Sign Review Committee shall be obtained prior to obtaining the Sign Permit;
8. 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 motorist or constitute a nuisance of any kind; and,
9. 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. (8 to 0 with Braun, Brewer, Landguth, Popp, Rolinger, Scull, Swank and Weimer 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.

*35. No. 11UR021 - Original Town of Rapid City

A request by MHL, LLC for Dirk and Ethan, Inc. to consider an application for a **Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a Restaurant** for Lots 29, 30, 31 and 32 and vacated alley adjacent to said lots all of Block 75 of the Original Town of Rapid City located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 502 Main Street, Suite 100 and private courtyard.

Rolinger moved, Popp seconded and unanimously carried to approve the **Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a Restaurant (11UR021)** with the following stipulations:

1. The on-sale liquor establishment shall operate in conjunction with a full-service restaurant. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Other permitted uses within the Central Business District shall be allowed, with the exception of conditional uses which shall require the review and approval of a Major Amendment to the Conditional Use Permit;
2. All applicable provisions of the currently adopted International Fire Code shall continually be met;

3. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
4. All provisions of the Central Business Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment;
5. The private courtyard and outdoor roof deck shall be enclosed by a barrier;
6. All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;
7. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an On-Sale Liquor Establishment. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. 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. The approval of the Historic Sign Review Committee shall be obtained prior to obtaining the Sign Permit;
8. 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 motorist or constitute a nuisance of any kind; and,
9. 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. (8 to 0 with Braun, Brewer, Landguth, Popp, Rolinger, Scull, Swank and Weimer 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.

*36. No. 11UR022 - Original Town of Rapid City

A request by MHL, LLC for Dakota Thyme, LLC to consider an application for a **Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a Restaurant** for Lots 29, 30, 31 and 32 and vacated alley adjacent to said lots all of Block 75 of the Original Town of Rapid City located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 502 Main Street, Suite 200 and private courtyard.

Rolinger moved, Scull seconded and unanimously carried to approve the Conditional Use Permit to allow an On-Sale Liquor Establishment (11UR022) in conjunction with a Restaurant with the following stipulations:

1. The on-sale liquor establishment shall operate in conjunction with a full-service restaurant. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Other

permitted uses within the Central Business District shall be allowed, with the exception of conditional uses which shall require the review and approval of a Major Amendment to the Conditional Use Permit;

2. All applicable provisions of the currently adopted International Fire Code shall continually be met;
3. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
4. All provisions of the Central Business Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment;
5. The private courtyard shall be enclosed by a barrier;
6. All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;
7. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an On-Sale Liquor Establishment. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. 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. The approval of the Historic Sign Review Committee shall be obtained prior to obtaining the Sign Permit;
8. 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 motorist or constitute a nuisance of any kind; and,
9. 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. (8 to 0 with Braun, Brewer, Landguth, Popp, Rolinger, Scull, Swank and Weimer 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.

*37. No. 11UR023 - Original Town of Rapid City

A request by MHL, LLC for Fat Boy, Inc. to consider an application for a **Conditional Use Permit to allow an On-Sale Liquor Establishment in conjunction with a Restaurant** for Lots 28 and 29 and vacated alley adjacent to said lots all of Block 75 of the Original Town of Rapid City located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 510 Main Street, Suite 200 and private courtyard.

Rolinger moved and Braun seconded to approve the Conditional Use Permit to allow an On-Sale Liquor Establishment (11UR023) in conjunction with a Restaurant with the following stipulations:

1. **The on-sale liquor establishment shall operate in conjunction with a full-service restaurant. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Other permitted uses within the Central Business District shall be allowed, with the exception of conditional uses which shall require the review and approval of a Major Amendment to the Conditional Use Permit;**
2. **All applicable provisions of the currently adopted International Fire Code shall continually be met;**
3. **A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;**
4. **All provisions of the Central Business Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment;**
5. **The private courtyard shall be enclosed by a barrier;**
6. **All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;**
7. **All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an On-Sale Liquor Establishment. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. 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. The approval of the Historic Sign Review Committee shall be obtained prior to obtaining the Sign Permit;**
8. **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 motorist or constitute a nuisance of any kind; and,**
9. **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.**

In response to a question from Braun, Bob Fuchs advised that a small kitchen will be located off of the bar in an office area. Fuchs stated that due to space limitations the prep-work will occur at the Firehouse Brewing Company and will be transported to the site.

Swank stated that he would abstain from voting on Item 37 due to a conflict of interest.

The motion carried to approve the Conditional Use Permit to allow an On-Sale Liquor Establishment (11UR023) in conjunction with a Restaurant with the following stipulations:

1. **The on-sale liquor establishment shall operate in conjunction with a full-service restaurant. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Other permitted uses within the Central Business District shall be allowed,**

- with the exception of conditional uses which shall require the review and approval of a Major Amendment to the Conditional Use Permit;
2. All applicable provisions of the currently adopted International Fire Code shall continually be met;
 3. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
 4. All provisions of the Central Business Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment;
 5. The private courtyard shall be enclosed by a barrier;
 6. All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;
 7. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an On-Sale Liquor Establishment. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. 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. The approval of the Historic Sign Review Committee shall be obtained prior to obtaining the Sign Permit;
 8. 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 motorist or constitute a nuisance of any kind; and,
 9. 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 Braun, Brewer, Landguth, Popp, Rolinger, Scull and Weimer voting yes, with none voting no and with Swank 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.

*38. No. 11UR024 - Original Town of Rapid City

A request by Destination Rapid City to consider an application for a **Conditional Use Permit to allow an On-Sale Liquor Establishment** for Lots 17 through 23, the vacated portions of Main Street and Sixth Street rights-of-way adjacent to Lot 17, and the vacated portion of Main Street right-of-way adjacent to Lots 18 through 22 all located in Block 75 of the Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 526 Main Street.

Rolinger moved and Scull seconded to approve the Conditional Use Permit to allow an On-Sale Liquor Establishment (11UR024) with the following

stipulations:

- 1. The on-sale liquor establishment shall operate in conjunction with events hosted by Destination Rapid City on the Main Street Square. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Other permitted uses within the Central Business District shall be allowed, with the exception of conditional uses which shall require the review and approval of a Major Amendment to the Conditional Use Permit;**
- 2. All applicable provisions of the currently adopted International Fire Code shall continually be met;**
- 3. A Certificate of Occupancy shall be obtained prior to occupancy;**
- 4. The areas used for the sale and consumption of alcohol shall be enclosed by a fence. Proper exits shall be maintained within fenced areas at all times. When the fenced area is utilized, the maximum occupancy load shall be posted in three inch letters and the proper occupancy load shall be maintained within the fenced area when utilized at all times;**
- 5. All provisions of the Central Business Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment;**
- 6. Prior to construction a building permit shall be obtained and is subject to Historic review;**
- 7. All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;**
- 8. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an On-Sale Liquor Establishment. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. 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. The approval of the Historic Sign Review Committee shall be obtained prior to obtaining the Sign Permit;**
- 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 motorist or constitute a nuisance of any kind; and,**
- 10. 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.**

James Peake stated that it is his understanding that existing downtown businesses are paying a \$400 monthly special assessment tax. He expressed concern that approving a liquor license for the City-owned property will create competition with existing downtown businesses that are paying the special assessment tax.

Discussion followed concerning how the taxes are calculated for the downtown Business Improvement District.

In response to a question from Peake, Brewer indicated that Destination Rapid City is the applicant for the liquor license and not the City of Rapid City.

In response to a question from Peake, Dan Senftner advised that Main Street Square is located on City-owned property noting that no assessment tax is charged on City-owned property.

Senftner stated that Destination Rapid City has a lease with the City to manage and operate the Main Street square for special events. Senftner added that it is anticipated that approximately 20 to 25 beer and wine license events will be held at Main Street Square annually. Discussion followed.

Discussion followed concerning the varying amounts that are assessed to businesses located within the Business Improvement District and entities that are exempt from contributing to the District.

In response to a question from Scull, Senftner stated that the funds raised at the events occurring at Main Street Square are used to support Main Street Square and for the future development of property in downtown Rapid City.

In response to a question from Scull, Senftner stated that the funds generated by Main Street Square will be used for downtown revitalization. He added that the bookkeeping records for the Main Street Square facility are provided to the City.

The motion unanimously carried to approve the Conditional Use Permit to allow an On-Sale Liquor Establishment (11UR024) with the following stipulations:

- 1. The on-sale liquor establishment shall operate in conjunction with events hosted by Destination Rapid City on the Main Street Square. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Other permitted uses within the Central Business District shall be allowed, with the exception of conditional uses which shall require the review and approval of a Major Amendment to the Conditional Use Permit;**
- 2. All applicable provisions of the currently adopted International Fire Code shall continually be met;**
- 3. A Certificate of Occupancy shall be obtained prior to occupancy;**
- 4. The areas used for the sale and consumption of alcohol shall be enclosed by a fence. Proper exits shall be maintained within fenced areas at all times. When the fenced area is utilized, the maximum occupancy load shall be posted in three inch letters and the proper occupancy load shall be maintained within the fenced area when utilized at all times;**
- 5. All provisions of the Central Business Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment;**
- 6. Prior to construction a building permit shall be obtained and is**

- subject to Historic review;
7. All plans submitted for a Building Permit shall be stamped by a licensed architect or professional engineer as per SDCL 36-18A;
 8. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Conditional Use Permit to allow an On-Sale Liquor Establishment. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. 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. The approval of the Historic Sign Review Committee shall be obtained prior to obtaining the Sign Permit;
 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 motorist or constitute a nuisance of any kind; and,
 10. 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. (8 to 0 with Braun, Brewer, Landguth, Popp, Rolinger, Scull, Swank and Weimer 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.

Horton requested that Item 14 be removed from the Consent Agenda for separate consideration.

Rolinger moved, Braun seconded and unanimously carried to reconsider the Consent Agenda as previously approved (Items 1 thru 29 in accordance with Planning Commission recommendations with the exception of Items 4, 11, 17 and 19) and to remove Item 14 from the Consent Agenda for separate consideration. (8 to 0 with Braun, Brewer, Landguth, Popp, Rolinger, Scull, Swank and Weimer voting yes and none voting no)

14. No. 11OA002 - Ordinance Amendment
A request by the City of Rapid City to consider an application for an **Ordinance modifying the procedure for certain amendments to the City's Comprehensive Plan by amending Section 2.60.160 of the Rapid City Municipal Code.**

Horton advised that a revised staff report and Ordinance Amendment were distributed on the dais. Horton requested approval of the Ordinance Amendment as revised.

Rolinger moved, Scull seconded and unanimously carried to approve the Ordinance Amendment to consider amendments to Section 2.60.160 of the Rapid City Municipal Code pertaining to the Comprehensive Plan be approved by adding the following language to Section 2.60.160 and Section 2.60.160(G) as follows:

- 1. Requests for amendments to the comprehensive plan shall follow the procedure set forth below or, in the instance of rezoning, such request(s) shall comply with the procedures set forth in Chapter 17.54.040. Requests for rezoning that comply with Chapter 17.54.040 shall be deemed to have met the requirements for amendment to the Comprehensive Plan. The Major Street Plan shall take into consideration the practicality and feasibility of the proposed street extensions. The Major Street Plan shall permit modifications, without amendments to the Comprehensive Plan, of proposed street extensions and alignments in instances where the general intent of the Plan is still fulfilled and where such modifications do not create a discontinuous street alignment with existing development. Proposed street extension(s) or alignment modifications that do not meet the general extensions identified in the Major Street Plan shall comply with the procedures set forth below.**
 - 2. If the legal description of a rezoning application is coterminous with a legal description for a concurrent comprehensive plan amendment application, there shall be only one \$250 application fee. (8 to 0 with Braun, Brewer, Landguth, Popp, Rolinger, Scull, Swank and Weimer voting yes and none voting no)**
39. Discussion Items
Horton advised that upon final approval of the Ordinance Amendments, staff will bring forward a discussion item proposing annual reporting to identify any inconsistencies in the plan and evaluate the effect of the rezoning applications approved each year on the Comprehensive Plan and the Planning Commission's goals and objectives.

Brewer requested that the staff reports include additional detailed information and abbreviated presentations in the future as the efforts to streamline development application processes will result in fewer items on the Planning Commission agenda.

Brewer advised that a presentation for lighting the bike path was considered at the Capital Improvement Committee last week. Brewer advised that he is chairing a committee to explore options for public/private fundraising efforts to pay for the lighting. Brewer requested volunteers to serve on the committee. Discussion followed.

There being no further business, Rolinger moved, Braun seconded and unanimously carried to adjourn the meeting at 8:10 a.m. (8 to 0 with Braun, Brewer, Landguth, Popp, Rolinger, Scull, Swank and Weimer voting yes and none voting no)