

STAFF REPORT  
December 6, 2012

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**No. 12UR022 - Conditional Use Permit to Allow a Daycare Center in an Office Commercial Zoning District**      **ITEM 10**

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GENERAL INFORMATION:

APPLICANT	Kent Kennedy - Kennedy Design Group, Inc.
AGENT	Tonia and Kolton Kissinger - Fertile Ground LLC
PROPERTY OWNER	GWH Properties LLC
REQUEST	<b>No. 12UR022 - Conditional Use Permit to Allow a Daycare Center in an Office Commercial Zoning District</b>
EXISTING LEGAL DESCRIPTION	A portion of Lot 2 of Block 2 of Minnesota Park Subdivision, located in Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at the southeast corner of said Lot 2 of Block 2 of Minnesota Park Subdivision as the point of beginning, Thence, first course; in a westerly direction along a curve to the right with a radius of 536.00 feet, a delta angle of 3°8'22", a length of 29.37 feet, a chord bearing of S24°54'8"W, and a chord distance of 29.36 feet, thence, second course; continuing long a curve to the right with a radius of 303.62 feet, a delta angle of 48°53'39", a length of 259.10 feet, a chord bearing of S47°46'47"W, and a chord distance of 251.31 feet to the southwesterly corner of said Lot 2, thence, third course; N29°42'11"W along the westerly boundary of said Lot 2, a distance of 136.0 feet to the northwesterly corner of said Lot, thence, fourth course; N50°33'00"E, a distance of 213.77 feet to the northeasterly corner of said Lot, thence, fifth course; in a southeasterly direction on the westerly edge of Wisconsin Avenue along a curve to the left with a radius of 350.0 feet, a delta angle of 19°9'47", a length of 117.06 feet, a chord bearing of S59°53'24"E, and a chord distance of 116.52 feet to the point of beginning
PARCEL ACREAGE	Approximately 0.818 acres
LOCATION	South of the current southern terminus of Wisconsin Avenue
EXISTING ZONING	Office Commercial District
FUTURE LAND USE DESIGNATION	Commercial

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SURROUNDING ZONING

North: Office Commercial District  
South: Medium Density Residential District - Planned Development District  
East: Medium Density Residential District - Office Commercial District  
West: Office Commercial District

PUBLIC UTILITIES      Rapid City water and sewer

DATE OF APPLICATION      November 9, 2012

REVIEWED BY      Robert Laroco / Nicole Lecy

RECOMMENDATION:

Staff recommends that the Conditional Use Permit to Allow a daycare center in an Office Commercial Zoning District be approved with the following stipulations:

1. Prior to approval by Planning Commission, a revised letter of intent shall be submitted which includes the maximum number of proposed children as well as the proposed hours of operation for the Center;
2. Prior to approval by Planning Commission, revised plans shall be submitted showing the interior layout of the proposed structure, including a calculation of interior play space. In addition, revised plans shall include elevations of the required fence and a calculation of the square footage of exterior play area;
3. A building permit shall be obtained prior to any construction. A Certificate of Occupancy shall be obtained prior to occupancy;
4. An Air Quality Construction Permit shall be obtained prior to any surface disturbance of one acre or more;
5. Prior to issuance of a building permit, all redlined comments shall be addressed and all redlined plans shall be returned to Community Planning and Development Services;
6. Prior to issuance of a building permit, revised plans shall be submitted showing building elevations and building height;
7. Prior to issuance of a building permit, revised plans shall be submitted showing the required fire sprinkler protection system is being provided. All applicable provisions of the adopted International Fire Code shall continually be met;
8. Prior to issuance of a sign permit, revised plans shall be submitted showing that the proposed sign is located a minimum of 10 feet from all property lines or is a minimum of 10 feet above grade. All signage shall comply with Chapter 15.28 the Rapid City Municipal Code. No electronic signage is being approved as a part of this Conditional Use Permit. Changes to the sign package which the Director of Community Planning and Development Services determines to be consistent with the original approved sign package may be approved as a Minimal Amendment to the Conditional Use Permit. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or electronic reader boards shall require the review and approval of a Major Amendment to the Conditional Use Permit. Lighting for all signage shall be designed to preclude shining on adjacent properties and/or street(s). A sign permit must be obtained for each sign.

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9. All outdoor lighting on the property shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-ways and not be a hazard to the passing motorist or constitute a nuisance of any kind;
10. Upon submittal of a building permit, plans shall be prepared and stamped by a licensed Architect or Professional Engineer as per SDCL 36-18A;
11. Temporary or permanent site stabilization shall be achieved prior to issuance of a Certificate of Occupancy;
12. A minimum of 16 parking spaces, including 1 van accessible handicap space and 1 loading/unloading space shall be provided as shown in the approved plans. All parking shall comply with Chapter 17.50.270 of the Rapid City Municipal Code;
13. A minimum of 32,020 points of landscaping shall be provided as shown on the approved site plan. All landscaping shall be installed and maintained per Chapter 17.50.300 of the Rapid City Municipal Code;
14. All provisions of the Office Commercial District shall be continually met, unless otherwise specifically authorized as a stipulation of this Conditional Use Permit or a subsequent Major Amendment, and;
15. This Conditional Use Permit shall allow the construction and operation of a day care center. Any changes in the operation of the day care center shall be in compliance with Chapter 17.50.150 of the Rapid City Municipal Code. Any change in use that is a permitted use in the Office Commercial District shall require the review and approval of a Minimal Amendment. Any change in use that is a Conditional Use in the Office Commercial District shall require the review and approval of a Major Amendment to the Conditional Use Permit.

**GENERAL COMMENTS:** The applicant has submitted a request for a Conditional Use Permit to allow construction of a day care center on property zoned Office Commercial District. In particular, the applicant is proposing to construct the day care and outdoor play space with parking and landscaping to accommodate a maximum of 90 children aged 0 to 12. A child care center/day care is a conditional use in the Office Commercial District and as such, the applicant has submitted this Conditional Use Permit request.

The proposed day care center is on a portion of an existing parcel located at the southern terminus of Wisconsin Avenue. The applicant has indicated the intention to plat the existing parcel into two lots in the future. Currently, the property is void of structural development.

**STAFF REVIEW:** Staff has reviewed the application for a Conditional Use Permit to allow a day care center in the Office Commercial District and has noted the following considerations:

**Existing Development:** Rapid City Municipal Code 17.54.030 states that during the review of a Conditional Use Permit, one consideration for approval is the location, character, and design of adjacent buildings. The proposed day care center is located in a neighborhood comprised of a mix of residential and office commercial uses. Property to the south is zoned Public District and is developed as a part of the Rapid City Public School District. Property to the north, west, and east is comprised of property zoned Office Commercial District and Medium Density Residential District. It appears the proposed day care center is an appropriate use for the location and existing development in the area.

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Design: Submitted plans show the proposed building footprint and site layout for a single story structure; however, elevations of the proposed building have not been submitted. As a result, building height cannot be determined. As such, prior to issuance of a building permit, revised plans must be submitted showing building elevations.

Use: The submitted application proposes that the day care center will enroll a maximum of 99 children and 7 staff members and will include food service. During review of the application, the applicant revised the maximum number of children to 90. The required amount of interior and exterior play area, as well as the required amount of off-street parking, is contingent upon the number of children proposed for the center. In addition, submitted materials do not include the hours of operation for the proposed day care center. As such, prior to approval by Planning Commission, a revised letter of intent must be submitted which includes the maximum number of proposed children as well as the proposed hours of operation for the center. The property is zoned Office Commercial District. A child care center/day care is a conditional use in the Office Commercial District and as such, the applicant has submitted this request. Rapid City Municipal Code Chapter 17.50.150 sets forth the factors for consideration when reviewing a request for a child care center/day care center as follows:

Play Area: Section 17.50.150 of the Rapid City Municipal Code requires that a minimum indoor play area of not less than 35 square feet per child shall be provided within the structure and that a minimum outdoor play area of 50 square feet per child shall also be provided. All outdoor play spaces must be fenced with a minimum 52 inch high fence. The fence must be located a minimum of 25 feet from any property line that abuts a public right-of-way or public street. Based on previous discussions with the applicant, a maximum enrollment of 90 children are proposed for the day care center, requiring a minimum of 3,150 square feet of interior open space be provided. Submitted plans show that the proposed structure is 4,000 square feet total, however, an interior layout of the structure has not been provided. As such, a determination of the available amount of interior play space cannot be determined. Prior to approval by Planning Commission, revised plans must be submitted showing the interior layout of the proposed structure, including a calculation of interior play space. The applicant should note that pursuant to Rapid City Municipal Code Chapter 17.50.150.C(1), play space may not include floor space used for permanent and stationary equipment, storage, halls, bathrooms, offices, and kitchens. No more than half of the space occupied by cribs may be used in determining total square feet of play space.

Based on a maximum of 90 children, a minimum of 4,500 square feet of exterior play area must be provided. The submitted plans show that a fenced outdoor play area is being proposed located adjacent to the proposed structure within the rear yard of the property. The play area is more than 25 feet from any public right-of-way or street. Submitted elevations of the proposed fence and a calculation of the square footage of enclosed exterior play area have not been provided. As such, prior to Planning Commission approval, revised plans must be submitted including elevations of the proposed fencing, as well as a calculation of square footage of exterior play area in compliance with chapter 17.50.150 of the Rapid City Municipal Code.

Parking: Pursuant to the Rapid City Municipal Code Chapter 17.50.150.D, appropriate parking

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and unloading areas shall be provided for all day care centers. Criteria for parking must include:

1. Schedule of center operation;
2. Number of children served by the center;
3. Location of parking and unloading facilities relative to the structure and its entrances; and,
4. Proximity of the center to major streets.

The Rapid City Parking Ordinance requires that a minimum of 0.1 parking space per child and 1.0 parking space per staff member must be provided, requiring a minimum of 16 parking spaces be provided for the day care center as proposed. Submitted plans show that a total of 17 parking spaces and 1 loading/unloading space are being proposed for the site. The proposed loading/unloading space does not interfere with on-site parking spaces and is located adjacent to the front sidewalk accessing the front entrance. Wisconsin Avenue is designated as a local street on the City's Major Street Plan. East Minnesota Street to the north is classified as a minor arterial street on the City's Major Street Plan. Staff recommends that a minimum of 16 off-street parking spaces be provided. All parking must comply with Chapter 17.50.270 of the Rapid City Municipal Code.

Signage and Lighting: Submitted plans show the location of a proposed ground sign is closer than 10 feet from the front property line. Plans do not include the design or proposed square footage of the sign. The Rapid City Sign Code requires all signs must be set back a minimum of 10 feet from the property line or a minimum of 10 feet above grade. As such, prior to issuance of a sign permit, revised plans must be submitted showing that the proposed sign is located a minimum of 10 feet from all property lines or is a minimum of 10 feet above grade. All signage must comply with Chapter 15.28 the Rapid City Municipal Code. No electronic signage is being approved as a part of this Conditional Use Permit. Changes to the sign package which the Director of Community Planning and Development Services determines to be consistent with the original approved sign package may be approved as a Minimal Amendment to the Conditional Use Permit. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or electronic reader boards shall require the review and approval of a Major Amendment to the Conditional Use Permit. Lighting for all signage must be designed to preclude shining on adjacent properties and/or street(s). A sign permit must be obtained for each sign.

The proposed day care center is located adjacent to undeveloped property zoned Medium Density Residential District. As development in the area continues, the adjacent property may be developed with residential uses. All outdoor lighting on the property must be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-ways and not be a hazard to the passing motorist or constitute a nuisance of any kind.

Landscaping: Submitted plans show that a total of 32,020 points of landscaping are being proposed. Based on the submitted plans, a minimum of 31,634 points of landscaping must be provided. It appears that the proposed landscaping meets the minimum requirements of the Rapid City Landscaping Ordinance. The applicant should be aware that some of the

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existing landscaping on the site is located in a major drainage easement. While the landscaping may be considered as part of the point calculation for required landscaping, the landscaping may die or be removed at any time and may not be replaced within the easement. Landscaping located within the easement will need to be replaced as needed at a location on the property that is suitable for its continued growth and maintenance and outside the major drainage easement. Staff recommends that the landscaping be installed and maintained as shown the approved plans. All landscaping shall continually comply with Chapter 17.50.300 of the Rapid City Municipal Code.

Fire Department: The Rapid City Fire Department has noted that the proposed structure will require installation of an approved fire sprinkler protection system. Submitted plans do not show the required fire sprinkler protection is being provided. As such, prior to issuance of a building permit, plans must be revised to show the fire sprinkler protection system is being provided. All applicable provisions of the adopted International Fire Code must continually be met.

Public Works Comments: Public Works staff has noted several comments redlined on the submitted plans. Prior to issuance of a building permit, all redlined comments must be addressed by the applicant and all redlined plans must be returned to Community Planning and Development Services.

Building Permit: A building permit must be obtained prior to any construction and a Certificate of Occupancy must be obtained prior to occupancy. Upon submittal of a building permit, plans must be prepared and stamped by a licensed Architect or Professional Engineer as per SDCL 36-18A. Temporary or permanent site stabilization must be achieved prior to issuance of a Certificate of Occupancy.

Notification Requirements: As of this writing, the required green cards and white receipts from the certified mailing have not been returned to Community Planning and Development Services. The sign has not been posted on the property. At this time, there have been no inquiries into this Conditional Use Permit request.