

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
May 26, 2011

MEMBERS PRESENT: Erik Braun, Eric Christianson, Julie Gregg, Doug Kinniburgh, Dennis Landguth, Dennis Popp, Kay Rippentrop, Steve Rolinger, and Pat Wyss. Dave Davis, Council Liaison was also present.

MEMBERS ABSENT: Linda Marchand, John Brewer, and Andrew Scull.

STAFF PRESENT: Brett Limbaugh, Vicki Fisher, Brad Solon, Patsy Horton, Tim Behlings, Dale Tech, Joel Landeen and Andrea Wolff.

Gregg called the meeting to order at 7:00 a.m. Gregg welcomed Brett Limbaugh on behalf of the Planning Commission.

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

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

A member of the audience requested that Item 10 be removed from the Consent Agenda for separate consideration.

Motion by Rolinger Seconded by Kinniburgh and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 20 in accordance with the staff recommendations with the exception of Items 10 and 19. (9 to 0 with Braun, Christianson, Gregg, Kinniburgh, Landguth, Popp, Rippentrop, Rolinger and Wyss voting yes and none voting no)

---CONSENT CALENDAR---

1. Planning Commission approved the May 5, 2011 Planning Commission Meeting Minutes.

2. No. 10OA015 - Ordinance Amendment

A request by City of Rapid City to consider an application for an **Ordinance Amendment to require the construction of a sidewalk from a structure to the right-of-way by adding Section 17.50.305 to the Rapid City Municipal Code.**

Planning Commission continued the Ordinance Amendment to require the construction of a sidewalk from a structure to the right-of-way by adding Section 17.50.305 to the Rapid City Municipal Code to the July 7, 2011 Planning Commission meeting.

3. No. 10OA016 - Ordinance Amendment

A request by City of Rapid City to consider an application for an **Ordinance Amendment to revise the requirements of sidewalk construction within 2**

years of the final plat approval by amending Section 16.16.090 of the Rapid City Municipal Code.

Planning Commission continued the Ordinance Amendment to revise the requirements of sidewalk construction within 2 years of the Final Plat approval, to include requiring a sidewalk connecting the corner ramps and all sidewalks with the City's Extraterritorial jurisdiction, by amending Section 16.16.090 of the Rapid City Municipal Code to the July 7, 2011 Planning Commission meeting.

4. 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 July 21, 2011 Planning Commission meeting.

5. No. 11CA003 - Section 9, T1N, R8E

Summary of Adoption Action for a Comprehensive Plan Amendment to change the land use designation from Low Density Residential to Medium Density Residential for Lot A of Lot 2-3 of the SW1/4 NW1/4, the south 175 feet of Lot B of Lot 2 of the SW1/4 NW1/4, and Lot 1 of the SW1/4 NW1/4 all located in Section 9, T1N, R8E, Rapid City, Pennington County, South Dakota, more generally described as being located at 2825, 2909 and 2917 Garden Lane.

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

6. No. 11CA004 - Section 35, T2N, R7E

A request by Centerline for Flump & Lump, LLC to consider an application for a **Amendment to the Comprehensive Plan to revise the Major Street Plan** for SW1/4 NE1/4 less right-of-way and NW1/4 NE1/4 all located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of the intersection of Founders Park Drive and Philadelphia Street.

Planning Commission recommended that the Amendment to the Comprehensive Plan to revise the Major Street Plan be approved.

7. No. 11PL025 - Founders Park North

A request by Centerline for Flump & Lump, LLC to consider an application for a **Layout Plat** for proposed Lot 1 of Founders Park North, legally described as SW1/4 NE1/4 less right-of-way located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of the intersection of Founders Park Drive and Philadelphia Street.

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

- 1. Upon submittal of a Preliminary Plat application, the plat document shall be revised to show a collector street extending through the property in compliance with the Major Street Plan. In addition, construction plans for the collector street shall be submitted for review and approval showing the street located within a minimum 76 foot wide right-of-way and constructed with a minimum 40 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or a Variance to the Subdivision Regulations shall be obtained or a Comprehensive Plan Amendment to the Major Street Plan shall be obtained to relocate and/or eliminate the collector street;**
- 2. Upon submittal of a Preliminary Plat application, the red line comments shall be addressed. In addition, signed and sealed final construction plans shall be submitted to the Growth Management Department;**
- 3. Upon submittal of a Preliminary Plat application, a Utility Master Plan including private and public utilities shall be submitted for review and approval;**
- 4. Upon submittal of a Preliminary Plat application, sewer plans prepared by a Registered Professional Engineer showing the extension of sanitary sewer mains and service lines, including flow and capacity, shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. In addition, the plat document shall be revised to provide utility easements as needed;**
- 5. Upon submittal of a Preliminary Plat application, water plans prepared by a Registered Professional Engineer showing the extension of water mains and a water system analysis verifying source and adequate quantity for domestic and fire flows shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. In addition, the plat document shall be revised to provide utility easements as needed;**
- 6. Upon submittal of a Preliminary Plat application, an Erosion and Sediment Control Plan in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval. In addition, an Erosion and Sediment Control Permit shall be obtained prior to any construction;**
- 7. Upon submittal of a Preliminary Plat application, a grading plan showing any proposed grading, including cut and fill quantities, shall be submitted for review and approval;**
- 8. Upon submittal of a Preliminary Plat application, a drainage plan in compliance with the Drainage Criteria Manual shall be submitted for review and approval if subdivision improvements are required. In particular, the drainage plan shall include calculations demonstrating that discharge from any improvements will not exceed pre-development flow rates or local detention facilities shall be provided. In addition, the plat document shall also be revised to provide drainage easements as necessary;**
- 9. Upon submittal of a Preliminary Plat application, a geotechnical report including pavement design shall be submitted for review and**

approval. In addition, the geotechnical report shall include soils resistivity test results. If the results indicate severe potential towards corrosion of buried metal, then information shall be provided identifying that corrosion protection per Rapid City Standard Specifications is adequate protection or additional corrosion protections shall be provided as needed for buried water system metal fixtures;

10. Upon submittal of a Preliminary Plat application, a cost estimate of the required subdivision improvements shall be submitted for review and approval;
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. Upon submittal of a Final Plat application, inspection fees shall be paid in compliance with Chapter 16.20.080 of the Rapid City Municipal Code;
13. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and,
14. The approved Layout Plat for which no grading, construction or other improvements have been initiated within two years of the date of approval of the plat shall be deemed as expired. However, the owner or applicant of the plat may, prior to the termination of the two year period, request a one year extension subject to approval by the City Council.

8. No. 11RZ007 - Section 35, T2N, R7E

A request by Centerline for Flump & Lump, LLC to consider an application for a **Rezoning from Park Forest District to Medium Density Residential District** for SW1/4 NE1/4 less right-of-way located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of the intersection of Founders Park Drive and Philadelphia Street.

Planning Commission recommended that the Rezoning from Park Forest District to Medium Density Residential District be approved in conjunction with the Planned Development Designation.

9. No. 11PL026 - Commerce Park Subdivision

A request by Mark Avkamp for SBC Archway VII LLC to consider an application for a **Preliminary Plat** for proposed Lot 1R and Lot 4R of Block 2 of Commerce Park Subdivision, legally described as Lots 1, 2, 3 and 4 of Block 2 of Commerce Park Subdivision located in Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2320, 2340 and 2350 Sophia Court.

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

1. **Prior to Preliminary Plat approval by the City Council, construction plans showing the extension of a sewer main along Fountain Plaza Drive shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained;**

2. Prior to Preliminary Plat approval by the City Council, the construction plans shall show a property line sidewalk in lieu of a curb side sidewalk along Sophia Court or an Exception shall be obtained;
3. Prior to Preliminary Plat approval by the City Council, an Erosion and Sediment Control Plan in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval if subdivision improvements are required. In addition, an Erosion and Sediment Control Permit shall be obtained prior to any construction;
4. Prior to Preliminary Plat approval by the City Council, construction plans shall be submitted for review and approval showing the abandonment of the culvert under Sophia Court as shown on the applicant's plans or the applicant shall demonstrate a need for the culvert;
5. Prior to Preliminary Plat approval by the City Council, a cost estimate of the required subdivision improvements shall be submitted for review and approval;
6. Prior to submittal of a Final Plat application, all of the affected utility companies shall indicate concurrence with the proposed vacation of minor drainage and utility easement(s) or the plat document shall be revised to show the existing easement(s);
7. 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;
8. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and,
9. 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.

*11. No. 11PD017 - MacArthur Subdivision

A request by Dale Salway for HeSapa New Life to consider an application for a **Initial and Final Residential Development Plan** for Lots A, C, E, F and G, Lots 6 thru 7, Lot 8 less Lot H1, Lot 9 less Lot H1, and Lots 10 thru 13 all located in Block 2 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 415 MacArthur Street.

Planning Commission approved the Initial and Final Residential Development Plan with the following stipulations:

1. The Planned Residential Development shall allow for a storage garage to be located on the property as an accessory use to the church. Other uses permitted within the Medium and Low Density Residential Zoning Districts shall be allowed as a Minimal Amendment to the Planned Commercial Development requiring the review and approval of the Growth Management Director. Conditional Uses allowed within the Low and Medium Density Residential Districts shall require a Major Amendment to the Planned Residential Development;
2. Two parking spaces shall be required including one "van" handicap

- accessible parking space. In addition, the parking lot and all loading and turnaround areas shall be paved. All requirements of Chapter 17.50.270 shall be continually met;
3. Prior to initiation of construction, a Building Permit shall be obtained and a Certificate of Occupancy shall be obtained prior to occupancy;
 4. Prior to issuance of a building permit, a Developmental Lot Agreement shall be secured for Lots A, C, E, F and G, Lots 6 thru 7, Lot 8 less Lot H1, Lot 9 less Lot H1, and Lots 10 thru 13 all located in Block 2 of Mac Arthur Subdivision, Section 25, T2N, R7E;
 5. Prior to issuance of a building permit, an Erosion and Sediment Control Plan shall be submitted for review and approval;
 6. Prior to issuance of a building permit, a grading plan and a drainage report shall be submitted for review and approval;
 7. Prior to issuance of a building permit, a drainage report for the proposed garage and parking lot shall be submitted for review and approval;
 8. The currently adopted International Fire Code shall be continually met;
 9. All provisions of the Low and Medium Density Residential Districts shall be met unless otherwise specifically authorized as a stipulation of this Major Amendment to a Planned Residential Development or a subsequent Major Amendment; 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.

*12. No. 11PD019 - DDE Subdivision

A request by Todd C. Hollan for Patricia L. Sorensen Trust to consider an application for a **Major Amendment to a Planned Commercial Development** for 1 of Lot A of DDE Subdivision located in Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 110 N. Cambell Street.

Planning Commission approved the Major Amendment to a Planned Commercial Development with the following stipulations:

1. The Major Amendment to a Planned Commercial Development shall allow a retail computer and gaming center establishment to be located on the property. Other permitted uses within the General Commercial District meeting all other requirements of the Rapid City Municipal Code shall be allowed. Any conditional uses shall require a Major Amendment to a Planned Commercial Development;
2. A Sign Permit shall be obtained for any additional signage. The addition of any electronic signage will require a Major Amendment to the Planned Commercial Development. In addition, the Growth

Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. Any signs not meeting the Sign Code requirements or any electronic signage will require a Major Amendment to a Planned Commercial Development;

3. Prior to initiation of any construction, a Building Permit shall be obtained, and a Certificate of Occupancy shall be obtained prior to occupancy;
4. The currently adopted International Fire Code shall be continually met;
5. The parking plan shall continually comply with all requirements of Chapter 17.50.270 of the Rapid City Municipal Code;
6. The landscape plan shall continually comply with all requirements of Chapter 17.50.300 of the Rapid City Municipal Code;
7. All provisions of the General Commercial District shall be met unless otherwise specifically authorized as a stipulation of this Major Amendment to a Planned Commercial Development or a subsequent Major Amendment; and,
8. The Major Amendment to a Planned Commercial Development shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years.

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

13. No. 11PL027 - Whispering Pines Subdivision

A request by CETEC Engineering Services, Inc. for Colonial Pine Hills Sanitary District to consider an application for a **Preliminary Plat** for proposed Lot 1A and Lot 1B of Block 1 of Whispering Pines Subdivision, legally described as Lot 1 of Block 1 of Whispering Pines Subdivision located in Section 32, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 7804 Croyle Avenue.

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

1. Prior to Preliminary Plat approval by the City Council, construction plans for Croyle Avenue shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with a minimum 27 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, construction plans for the Section Line Highway shall be submitted for review and approval. In particular, the construction plans shall show the street constructed with a minimum 24 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer and the dedication of 49 foot wide right-of-way or a Variance to the Subdivision Regulations shall be obtained or the Section Line Highway shall be vacated;

3. **Prior to Preliminary Plat approval by the City Council, water plans prepared by a Registered Professional Engineer showing the extension of water mains along Croyle Avenue and the Section Line Highway shall be submitted for review and approval or a Variance to the Subdivision Regulations shall be obtained. In addition, the plat document shall be revised to provide utility easements as needed;**
4. **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, the plat document shall be revised to provide utility easements as needed;**
5. **Prior to Preliminary Plat approval by the City Council, an Erosion and Sediment Control Plan in compliance with the adopted Stormwater Quality Manual shall be submitted for review and approval if subdivision improvements are required. In addition, an Erosion and Sediment Control Permit shall be obtained prior to any construction;**
6. **Prior to Preliminary Plat approval by the City Council, a grading plan and a drainage plan in compliance with the Drainage Criteria Manual shall be submitted for review and approval if subdivision improvements are required. In particular, the drainage plan shall include calculations demonstrating that discharge from any improvements will not exceed pre-development flow rates or local detention facilities shall be provided. In addition, the plat document shall also be revised to provide drainage easements as necessary;**
7. **Prior to Preliminary Plat approval by the City Council, a cost estimate of the required subdivision improvements shall be submitted for review and approval if any subdivision improvements are required;**
8. **Prior to Preliminary Plat approval by the City Council, a reserve drainfield area for the proposed on-site wastewater system to be located on Lot 1B shall be shown on the plat or a note shall be placed on the plat indicating that at the time a Building Permit application is submitted, a reserve drainfield area for on-site wastewater treatment will be identified and held in reserve unless a public sewer system is provided;**
9. **Prior to submittal of a Final Plat application, the plat document shall be revised to show non-access easements along Croyle Avenue in compliance with the Street Design Criteria Manual;**
10. **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;**
11. **Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required; and,**
12. **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.**

14. No. 11SV009 - Whispering Pines Subdivision

A request by CETEC Engineering Services, Inc. for Colonial Pine Hills Sanitary District to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Croyle Avenue and the Section Line Highway and to dedicate additional right-of-way along the Section Line Highway** for proposed Lot 1A and Lot 1B of Block 1 of Whispering Pines Subdivision, legally described as Lot 1 of Block 1 of Whispering Pines Subdivision located in Section 32, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 7804 Croyle Avenue.

Planning Commission recommended that the Variance to the Subdivision Regulations to waive the requirement to install pavement, curb, gutter, sidewalk, street light conduit, water and sewer along Croyle Avenue and the Section Line Highway and to dedicate additional right-of-way along the Section Line Highway be approved with the following stipulation:

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

15. No. 11RD001 - Section 17 and Section 20, T1N, R9E

A request by City of Rapid City to consider an application for a **Resolution naming an unnamed service road within Rapid City Airport as Kitty Hawk Road** for the service road lying between Airport Road and Terminal Road, located in Section 17 and Section 20, T1N, R9E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the Rapid City Regional Airport.

Planning Commission recommended that the Road Name Change be approved.

16. No. 11SC001 - Original Town of Rapid City

A request by Orris Enterprises, Inc. to consider an application for a **Sidewalk Café Permit** for 7th Street right-of-way adjacent to Lots 17 and 18 and the north 55 feet of Lots 19 thru 21 of Block 84 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 518 and 520 7th Street.

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

1. **A minimum 5 foot wide clear pedestrian path shall be maintained at all times as per the applicant's site plan;**
2. **Physical barricades shall be provided around the sidewalk café since alcoholic beverages will be served. In particular, the barricades shall consist of stanchions with retractable-type ribbon posts in compliance with the submitted design details. The barricades shall not be attached permanently to the sidewalk and shall not exceed four feet in height;**
3. **No logos or other forms of advertisement shall be allowed on the proposed umbrellas;**
4. **All lighting within the sidewalk café area shall be designed so as not to**

cause a glare to passing motorists or pedestrians. Table top lighting may include candles and battery-operated fixtures;

5. Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall continually be provided. The coverage shall be in place prior to initiation of use. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In addition, the insurance shall be renewed yearly and a copy of the insurance document submitted to the City for review and approval. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked;
 6. The proposed sidewalk café shall conform to the plans and design criteria submitted as part of this Sidewalk Café Permit and shall be operated in compliance with Chapter 12.20.020(E) of the Rapid City Municipal Code;
 7. The City reserves the right to require revisions to the approved sidewalk café in the right-of-way as needed to accommodate public infrastructure improvements, including and not limited to sewer, water, storm drainage, private and public utilities, and pedestrian and vehicle access; and,
 8. The Sidewalk Café Permit may be revoked for cause, consisting of failure to maintain the standards required for this permit as per Chapter 12.20.020(E).12.
17. No. 11SC002 - Original Town of Rapid City
A request by Pam Lang for Zoom Soda & Candy to consider an application for a **Sidewalk Café Permit** for the west 14.4 feet of Lot 7 and all of Lots 8-10 of Block 85 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 515 Main Street.

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

1. A minimum 5 foot wide clear pedestrian path shall be maintained at all times as per the applicant's site plan;
2. The bistro tables and chairs shall be constructed of metal and be red in color as proposed;
3. Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall continually be provided. The coverage shall be in place prior to initiation of use. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked;
4. The proposed sidewalk café shall conform to the plans and design criteria submitted as part of this Sidewalk Café Permit and shall be operated in compliance with Chapter 12.20.020(E) of the Rapid City Municipal Code;

5. The City reserves the right to require revisions to the approved sidewalk café in the right-of-way as needed to accommodate public infrastructure improvements, including and not limited to sewer, water, storm drainage, private and public utilities, and pedestrian and vehicle access; and,
6. The Sidewalk Café Permit may be revoked for cause, consisting of failure to maintain the standards required for this permit as per Chapter 12.20.020(E).12.

18. No. 11SW005 - Original Town of Rapid City

A request by John Ashley to consider an application for a **Sidewalk Vendor Permit** for Sidewalk Vendor Location No. 9 located in the right-of-way east of Lots 27 thru 32 of Block 91 of the Original Town of Rapid City located in Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located in the Ninth Street right-of-way located east of 625 9th Street.

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

1. A minimum 5 foot wide clear pedestrian path shall be maintained at all times;
2. A maximum of 60 square feet of space can be occupied by vendor and no permanent hardware shall be affixed to the sidewalk or adjacent buildings;
3. The vendor shall have an approved 2A10BC minimum rated fire extinguisher maintained in an accessible location at all times;
4. A valid sidewalk vendor license approved by the Rapid City Council per Chapter 5.56 of the Rapid City Municipal Code shall be provided and renewed yearly. The Sidewalk Vendor Permit shall automatically expire if the Sidewalk Vendor License is suspended, revoked or expired;
5. Prior to the initiation of the use, a copy of the permit(s) issued by the State Department of Health for food related establishments shall be obtained and copies submitted to the Growth Management Department. The permit(s) shall be renewed annually, or as required;
6. Commercial insurance coverage of at least \$2,000,000 for bodily injury, death, disability, and property damage liability shall continually be provided. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk vendor. In addition, the insurance shall be renewed yearly and a copy of the insurance document submitted to the City for review and approval. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked;
7. All wastewater shall be disposed of into the sanitary sewer system;
8. The proposed sidewalk vendor shall conform to the plans and design criteria submitted as part of this Sidewalk Vendor Permit and shall be operated in compliance with Chapter 12.20.020(F) of the Rapid City Municipal Code at all times; and,
9. The Sidewalk Vendor Permit may be revoked for cause, consisting of

failure to maintain the standards required for this permit as per Chapter 12.20.020(F).11.

20. No. 11TP013 – 2011-2015 Transportation Improvement Program Amendment #11-006R

Planning Commission recommended approval of the 2011-2015 Transportation Improvement Program Amendment #11-006R.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

- *10. No. 11UR012 - Commerce Park Subdivision

A request by Mark Avkamp for SBC Archway VII LLC to consider an application for a **Conditional Use Permit to allow a Community Corrections Facility in the Light Industrial Zoning District** for all of Lot 1, Lot 2, and a portion of Lot 3 of Block 2 of Commerce Park Subdivision located in the E1/2 of the SW1/4 of the SE1/4 of Section 27, T2N, R7E, B.H.M. Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the northwesterly corner of Lot 1 of Block 2 of Commerce Park Subdivision, common to the southwesterly corner of Lot 5 of Tract 1 of S.G. Interstate Plaza Subdivision, and common to a point on the easterly edge of the right-of-way of Fountain Plaza Drive, and the Point of Beginning; Thence, first course: N89°59'59"E, along the northerly boundary of said Lot 1 of Block 2 of Commerce Park Subdivision, common to the southerly boundary of Lot 5 of Tract 1 of S.G. Interstate Plaza Subdivision, a distance of 143.56 feet, to the northeasterly corner of said Lot 1 of Block 2 of Commerce Park Subdivision, common to the northwesterly corner of Lot 2 of Block 2 of Commerce Park Subdivision, and common to a point on the southerly boundary of said Lot 5 of Tract 1 of S.G. Interstate Plaza Subdivision; Thence, second course: N89°56'39"E, along the northerly boundary of said Lot 2 of Block 2 of Commerce Park Subdivision, common with the southerly boundary of said Lot 5 of Tract 1 of S.G. Interstate Plaza Subdivision, a distance of 28.17 feet, to the southeasterly corner of said Lot 5 of Tract 1 of S.G. Interstate Plaza Subdivision, common to the southwesterly corner of Lot 4 of Tract 1 of S.G. Interstate Plaza Subdivision, and common to a point on the northerly boundary of said Lot 2 of Block 2 of Commerce Park Subdivision; Thence, third course: N89°59'28"E, along the northerly boundary of said Lot 2 of Block 2 of Commerce Park Subdivision, common with the southerly boundary of said Lot 4 of Tract 1 of S.G. Interstate Plaza Subdivision, a distance of 115.08 feet, to the northeasterly corner of said Lot 2 of Block 2 of Commerce Park Subdivision, common to the northwesterly corner of Lot 3 of Block 2 of Commerce Park Subdivision, and common to a point on the southerly boundary of said Lot 4 of Tract 1 of S.G. Interstate Plaza Subdivision; Thence, fourth course: S89°52'34"E, along the northerly boundary of said Lot 3 of Block 2 of Commerce Park Subdivision, common to the southerly boundary of said Lot 4 of Tract 1 of S.G. Interstate Plaza Subdivision, a distance of 23.44 feet, to the southeasterly corner of said Lot 4 of Tract 1 of S.G. Interstate Plaza Subdivision, common to the southwesterly corner of Lot 3 of Tract 1 of S.G. Interstate Plaza Subdivision, and common to a point on the northerly boundary of said Lot 3 of Block 2 of Commerce Park Subdivision; Thence, fifth course: N89°56'28"E, along the northerly boundary of said Lot 3 of

Block 2 of Commerce Park Subdivision, common to the southerly boundary of said Lot 3 of Tract 1 of S.G. Interstate Plaza Subdivision, a distance of 88.40 feet, to a point on the northerly boundary of said Lot 3 of Block 2 of Commerce Park Subdivision, common to a point on the southerly boundary of said Lot 3 of Tract 1 of S.G. Interstate Plaza Subdivision; Thence, sixth course: $S00^{\circ}12'57''W$, a distance of 305.19, feet to a point on the southerly boundary of said Lot 3 of Block 2 of Commerce Park Subdivision, common to a point on the northerly edge if the right-of-way of Sophia Court; Thence, seventh course: $N89^{\circ}46'34''W$, along the southerly boundary of said Lot 3 of Block 2 of Commerce Park Subdivision, common to the northerly edge if the right-of-way of said Sophia Court, a distance of 111.91 feet, to the southwesterly corner of said Lot 3 of Block 2 of Commerce Park Subdivision, common to the southeasterly corner of said Lot 2 of Block 2 of Commerce Park Subdivision, and common to a point on the northerly edge if the right-of-way of said Sophia Court; Thence, eighth course: $N89^{\circ}47'07''W$, along the southerly boundary of said Lot 2 of Block 2 of Commerce Park Subdivision, common to the northerly edge if the right-of-way of said Sophia Court, a distance of 143.30 feet, to the southwesterly corner of said Lot 2 of Block 2 of Commerce Park Subdivision, common to the southeasterly corner of said Lot 1 of Block 2 of Commerce Park Subdivision, and common to a point on the northerly edge if the right-of-way of said Sophia Court; Thence, ninth course: $N89^{\circ}44'27''W$, along the southerly boundary of said Lot 1 of Block 2 of Commerce Park Subdivision, common to the northerly edge if the right-of-way of said Sophia Court, a distance of 143.47 feet, to the southwesterly corner of said Lot 1 of Block 2 of Commerce Park Subdivision, common to a point on the northerly edge if the right-of-way of said Sophia Court, and common to a point on the easterly edge of the right-of-way of Fountain Plaza Drive; Thence, tenth course: $N00^{\circ}13'16''E$, along the westerly boundary of said Lot 1 of Block 2 of Commerce Park Subdivision, common to the easterly edge of the right-of-way of Fountain Plaza Drive, a distance of 303.48 feet, to the northwesterly corner of said Lot 1 of Block 2 of Commerce Park Subdivision, common to the southwesterly corner of said Lot 5 of Tract 1 of S.G. Interstate Plaza Subdivision, and common to a point on the easterly edge of the right-of-way of said Fountain Plaza Drive, and the Point of Beginning, more generally described as being located at 2320, 2340 and 2350 Sophia Court.

Dean Aurand, 8024 Countryside Boulevard, President of Mid Continent Testing labs Inc, spoke regarding his concerns including employee's safety and possible incremental changes from the current operational plan that might include overnight usage and asked that this be clearly addressed to prevent issues in the future.

Fisher presented the application at this time noting that the operational plan states the facility is to house immigration and customs detainees, and that no more than 12 detainees are to be held on the property at one time, with none being held overnight. Fisher stated that any changes to the operational plan would constitute an amendment to the conditional use and would require a Major Amendment triggering notification of neighbors and the review and approval by Planning Commission.

In response to questions on how to manage future changes to the operational

plan, Fisher suggested adding stipulations to clearly define that no more than 12 detainees be held in the facility and that no overnight stays be allowed.

Rolinger moved to approve with the revised stipulation.

In response to a question from Braun, Fisher suggested an additional modification to the stipulations to read, "In addition any changes to the operational plan will require a Major Amendment to the Conditional Use Permit."

Terry Bosma, Pressure Services, addressed his concern of the location of this type of facility within an existing business area. He stated he had spoken with Growth Management staff regarding the facility and that he had been informed of the 12 custom related detainees. In addition, Bosma noted an article in the Rapid City Journal which indicated additional criminals could be included and asked which was accurate.

David Miller, Operations Manager Youth and Family Services, addressed his concerns since they have a child care facility that operates in the area and spoke of the various types of businesses that are in the area.

Gregg asked Fisher about the Journal article. Fisher indicated that she had not read the article, but was not aware of any other types of detainees being housed at the facility. Fisher offered that an additional stipulation be added that this Conditional Use Permit may not be transferred and that way no other owner or lessee could use the facility without submitting a new Conditional Use Permit. Wyss asked if the applicant was available. Fisher responded that he was not

Rolinger stated he would like to have more discussion on this issue and asked Council members present to share their thoughts on this issue. Fisher suggested that the item be continued to the June 9, 2011 Planning Commission meeting to allow additional discussion. Both Davis and Brown concurred.

Discussion followed regarding the Appeal Process and options.

Pope offered a substitute motion, seconded by Kinniburgh and carried unanimously to continue the Conditional Use Permit to allow a Community Corrections Facility in the Light Industrial Zoning District to the June 9, 2011 Planning Commission meeting. (9 to 0 with Braun, Christianson, Gregg, Kinniburgh, Landguth, Popp, Rippentrop, Rolinger and Wyss voting yes and none voting no)

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

- *19. No. 11UR011 - Owen Hibbard Subdivision
A request by General Dynamics to consider an application for a **Major Amendment to a Conditional Use Permit** for Lot 2 of Owen Hibbard

Subdivision located in Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1930 Promise Road.

Fisher presented staff's recommendation that this item be continued to the June 9, 2011 Planning Commission as the sign had not been posted and the white receipts and green cards have not been received.

Rolinger moved, Christianson seconded and carried unanimously to continue the Major Amendment to a Conditional Use Permit to the June 9, 2011 Planning Commission meeting.

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

*21. No. 11PD020 - McMahon Subdivision

A request by Mick Nagel to consider an application for a **Initial and Final Commercial Development Plan** for Lot A of Tract E-3R of McMahon Subdivision located in Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southwest of the intersection of Haines Avenue and Kathryn Avenue.

Fisher requested that the application be continued as the stipulations of approval have not been met

Kinniburgh moved, Rolinger seconded and unanimously carried to continue the Initial and Final Commercial Development Plan to the June 9, 2011 Planning Commission Meeting. (9 to 0 with Braun, Christianson, Gregg, Kinniburgh, Landguth, Popp, Rippentrop, Rolinger and Wyss voting yes and none voting no)

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

*22. No. 11PD022 - Rushmore Mall Subdivision

A request by Frank Boyle to consider an application for a **Major Amendment to a Planned Commercial Development to expand an on-sale liquor establishment** for Lot 1 and Tract A and B of Lot 2, Rushmore Mall Subdivision located in Section 25, T2N, R7E (also located in Section 30, T2N, R8E), BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2200 North Maple Avenue.

Fisher presented the application and staff's recommendation to approve. Fisher noted that the approval of the Major Amendment to the Planned Commercial

Development to expand an on-sale liquor establishment must be in conjunction with a full service restaurant.

In response to a question from Davis regarding this applicant being on the Council agenda recently, Rolinger said that he believes the applicant had sold their full liquor license and only have a beer and wine license, which would have recently been renewed.

Rolinger moved, Kinniburgh seconded and carried unanimously that the Major Amendment to a Planned Commercial Development to expand an on-sale liquor establishment with the following stipulations:

- 1. The on-sale liquor establishment shall operate in conjunction with a full-service restaurant with hours of operation to be in conjunction with the hours of the Rushmore Mall. Any expansion to the on-sale liquor use shall require a Major Amendment to the Planned Commercial Development;**
- 2. Prior to Planning Commission approval, a revised landscaping plan shall be submitted for review and approval, showing the relocation of existing landscaping;**
- 3. Prior to initiation of construction, a building permit shall be obtained and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 4. Prior to issuance of a building permit, a storm drainage plan shall be submitted for review and approval;**
- 5. Any changes to the approved sign package for the Rushmore Mall, which the Growth Management Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Planned Commercial Development. The addition of any electronic signage will require a Major Amendment to the Planned Commercial Development. In addition, the Growth Management Director may approve temporary signs in accordance with Chapter 15.28.080 of the Rapid City Municipal Code. A sign permit shall also be obtained for any additional signage;**
- 6. All applicable provisions of the currently adopted International Fire Code shall continually be met;**
- 7. All provisions of the Shopping Center Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Major Amendment to a Planned Commercial Development or a subsequent Major Amendment; and**
- 8. The Major Amendment to a Planned Commercial Development shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years. (9 to 0 with Braun, Christianson, Gregg, Kinniburgh, Landguth, Popp, Rippentrop, Rolinger and Wyss voting yes and none voting no)**

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

*23. No. 11PD023 - Marlin Industrial Park

A request by CAPE Investments Limited Partnership to consider an application for a **Initial and Final Planned Industrial Development** for Lots 5 and 6 of Marlin Industrial Park located in Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1717 Marlin Drive.

Fisher presented the application noting that staff had errored in advertizing this application as an Initial and Final Planned Development and, therefore, staff was recommending that the Final Planned Development be denied and that the Initial Planned Industrial Development be approved with stipulations.

Rolinger moved, Kinniburgh seconded and carried unanimously that the Final Planned Industrial Development be denied and that the Initial Planned Industrial Development be approved with the following stipulations:

- 1. The proposed building will be constructed of concrete with stone and metal accents in earth tone colors;**
- 2. An illuminated sign will be located at the north entrance to the building. All other signage shall be submitted for review and approval with the Final Planned Industrial Development. A sign permit shall be obtained prior to installation of any signs;**
- 3. The Parking Ordinance in Section 17.50.270 of the Rapid City Municipal Code shall be met at all times;**
- 4. The Landscaping Ordinance in Section 17.50.300 of the Rapid City Municipal Code shall be met at all times;**
- 5. All redline comments shall be addressed prior to submittal of a Final Planned Industrial Development and all plans returned to the Growth Management Department;**
- 6. Prior to initiation of construction, a building permit shall be obtained and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 7. Prior to initiation of construction, an air quality permit shall be obtained ;**
- 8. All applicable provisions of the currently adopted International Fire Code shall continually be met;**
- 9. A stormwater design report, signed and stamped by a professional engineer, shall be provided prior to submittal of a Final Planned Industrial Development;**
- 10. An exception request for a driveway greater than 28 feet in width shall be submitted for review and approval prior to submittal of a Final Planned Industrial Development;**
- 11. Prior to occupancy, a sand/oil separator for sanitary sewer shall be installed for industrial pre-treatment;**
- 12. Prior to obtaining a building permit, an erosion and sediment control plan shall be submitted and an erosion and sediment control permit shall be obtained;**
- 13. Prior to obtaining a building permit, a developmental lot agreement shall be recorded at the Register of Deeds Office;**
- 14. All provisions of the Heavy Industrial Zoning District shall be met unless an exception is specifically authorized as a stipulation of the**

Initial Planned Industrial Development or a subsequent Major Amendment; and

- 15. The Initial Planned Industrial 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. (9 to 0 with Braun, Christianson, Gregg, Kinniburgh, Landguth, Popp, Rippentrop, Rolinger and Wyss voting yes and none voting no)**

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

24. Discussion Items

25. Staff Items

26. Planning Commission Items

27. Committee Reports

- A. City Council Report (May 2, 2011)
The City Council concurred with the recommendations of the Planning Commission.
- B. Sign Code Board of Appeals
- C. Zoning Board of Adjustment
- D. Capital Improvements Subcommittee
- E. Tax Increment Financing Committee

There being no further business, Rolinger moved, Christianson seconded and unanimously carried to adjourn the meeting at 7:36 a.m. (10 to 0 with Braun, Brewer, Christianson, Gregg, Kinniburgh, Landguth, Popp, Rippentrop, Rolinger and Wyss voting yes and none voting no)