

MINUTES OF THE  
RAPID CITY PLANNING COMMISSION  
June 9, 2011

MEMBERS PRESENT: Erik Braun, John Brewer, Eric Christianson, Doug Kinniburgh, Kay Rippentrop, Steve Rolinger and Andrew Scull. Dave Davis, Council Liaison was also present.

MEMBERS ABSENT: Julie Gregg, Dennis Landguth, Linda Marchand, Dennis Popp and Patrick Wyss.

STAFF PRESENT: Brett Limbaugh, Vicki Fisher, Karen Bulman, Tim Behlings, Ted Johnson, Dale Tech, Joel Landeen and Risë Ficken.

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

**Kinniburgh 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.**

**Brewer requested that Item 9 be removed from the Consent Agenda for separate consideration.**

**Motion by Rolinger, Seconded by Christianson and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 9 in accordance with the staff recommendations with the exception of Item 9. (7 to 0 with Braun, Brewer, Christianson, Kinniburgh, Rippentrop, Rolinger and Scull voting yes and none voting no)**

**---CONSENT CALENDAR---**

1. Planning Commission approved the May 26, 2011 Planning Commission Meeting Minutes.
2. No. 11SW006 - Original Town of Rapid City  
A request by John Ashley to consider an application for a **Sidewalk Vendor Permit** for Sidewalk Vendor Location No. 4 located in the right-of-way east of Lots 1 through 7 of Block 96 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 in the Fourth Street right-of-way located east of 405 Saint Joseph 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. **The vending cart may not exceed 4 foot in width by 6.5 feet in height by 6 feet in length;**
3. **Umbrellas and canopies shall be a minimum of 7 feet above the sidewalk when open;**

4. A maximum 60 square feet of space may be occupied by the vendor. No permanent hardware shall be affixed to the sidewalk or adjacent buildings. The permittee is responsible for the restoration of the sidewalk or public right-of-way if any damage is caused by the vending unit;
  5. The vendor shall have an approved 2A10BC minimum rated fire extinguisher maintained in an accessible location at all times;
  6. Litter shall be removed at the end of the day and may not be disposed of in City trash receptacles. All areas within and surrounding the sidewalk vending unit shall be maintained in a clean, neat and sanitary condition. All cleaning shall be performed in accordance with City Regulations;
  7. 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;
  8. 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 office. The permit(s) shall be renewed annually, or as required;
  9. 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;
  10. All wastewater shall be disposed of into the sanitary sewer system. Dumping into the storm water system or allowing wastewater from the vending unit to flow onto the sidewalk and into the gutter is not permitted;
  11. 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,
  12. The Sidewalk Vendor Permit may be revoked for cause as per Chapter 12.20.020(F).11 of the Rapid City Municipal Code.
3. No. 11SW007 - Original Town of Rapid City  
A request by John Ashley to consider an application for a **Sidewalk Vendor Permit** for Sidewalk Vendor Location No. 7 located in the right-of-way east of Lots 1 through 10 of Block 93 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 in the Seventh Street right-of-way located east of 701 Saint Joseph 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. The vending cart may not exceed 4 foot in width by 6.5 feet in height by 6 feet in length;**
- 3. Umbrellas and canopies shall be a minimum of 7 feet above the sidewalk when open;**
- 4. A maximum 60 square feet of space may be occupied by the vendor. No permanent hardware shall be affixed to the sidewalk or adjacent buildings. The permittee is responsible for the restoration of the sidewalk or public right-of-way if any damage is caused by the vending unit;**
- 5. The vendor shall have an approved 2A10BC minimum rated fire extinguisher maintained in an accessible location at all times;**
- 6. Litter shall be removed at the end of the day and may not be disposed of in City trash receptacles. All areas within and surrounding the sidewalk vending unit shall be maintained in a clean, neat and sanitary condition. All cleaning shall be performed in accordance with City Regulations;**
- 7. 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;**
- 8. 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 office. The permit(s) shall be renewed annually, or as required;**
- 9. 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;**
- 10. All wastewater shall be disposed of into the sanitary sewer system. Dumping into the storm water system or allowing wastewater from the vending unit to flow onto the sidewalk and into the gutter is not permitted;**
- 11. 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,**
- 12. The Sidewalk Vendor Permit may be revoked for cause as per Chapter**

**12.20.020(F).11 of the Rapid City Municipal Code.**

4. No. 11SW008 - Original Town of Rapid City

A request by John Ashley to consider an application for a **Sidewalk Vendor Permit** for Sidewalk Vendor Location No. 8 located in the right-of-way south of Lots 1 through 8 and Lots 23 through 32 of Block 81 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 Saint Joseph Street right-of-way located south of 515 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. **The vending cart may not exceed 4 foot in width by 6.5 feet in height by 6 feet in length;**
3. **Umbrellas and canopies shall be a minimum of 7 feet above the sidewalk when open;**
4. **A maximum 60 square feet of space may be occupied by the vendor. No permanent hardware shall be affixed to the sidewalk or adjacent buildings. The permittee is responsible for the restoration of the sidewalk or public right-of-way if any damage is caused by the vending unit;**
5. **The vendor shall have an approved 2A10BC minimum rated fire extinguisher maintained in an accessible location at all times;**
6. **Litter shall be removed at the end of the day and may not be disposed of in City trash receptacles. All areas within and surrounding the sidewalk vending unit shall be maintained in a clean, neat and sanitary condition. All cleaning shall be performed in accordance with City Regulations;**
7. **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;**
8. **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 office. The permit(s) shall be renewed annually, or as required;**
9. **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;**

10. All wastewater shall be disposed of into the sanitary sewer system. Dumping into the storm water system or allowing wastewater from the vending unit to flow onto the sidewalk and into the gutter is not permitted;
  11. 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,
  12. The Sidewalk Vendor Permit may be revoked for cause as per Chapter 12.20.020(F).11 of the Rapid City Municipal Code.
5. No. 11SW009 - Original Town of Rapid City

A request by John Ashley to consider an application for a **Sidewalk Vendor Permit** for Sidewalk Vendor Location No. 10 located in the right-of-way south of the west 20 feet of Lot 10, Lots 11 through 32 (also located in Section 1, T1N, R7E) of Block 92 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 Kansas City Street right-of-way located south of 825 Saint Joseph 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. The vending cart may not exceed 4 foot in width by 6.5 feet in height by 6 feet in length;
3. Umbrellas and canopies shall be a minimum of 7 feet above the sidewalk when open;
4. A maximum 60 square feet of space may be occupied by the vendor. No permanent hardware shall be affixed to the sidewalk or adjacent buildings. The permittee is responsible for the restoration of the sidewalk or public right-of-way if any damage is caused by the vending unit;
5. The vendor shall have an approved 2A10BC minimum rated fire extinguisher maintained in an accessible location at all times;
6. Litter shall be removed at the end of the day and may not be disposed of in City trash receptacles. All areas within and surrounding the sidewalk vending unit shall be maintained in a clean, neat and sanitary condition. All cleaning shall be performed in accordance with City Regulations;
7. 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;
8. 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 office.

- The permit(s) shall be renewed annually, or as required;
9. **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;**
  10. **All wastewater shall be disposed of into the sanitary sewer system. Dumping into the storm water system or allowing wastewater from the vending unit to flow onto the sidewalk and into the gutter is not permitted;**
  11. **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,**
  12. **The Sidewalk Vendor Permit may be revoked for cause as per Chapter 12.20.020(F).11 of the Rapid City Municipal Code.**
6. No. 11SW010 - Original Town of Rapid City  
A request by John Ashley to consider an application for a **Sidewalk Vendor Permit** for Sidewalk Vendor Location No. 12 located in the right-of-way south of Lots 17 through 23 of Block 104 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 in the Quincy Street right-of-way located south of 310 Quincy 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. **The vending cart may not exceed 4 foot in width by 6.5 feet in height by 6 feet in length;**
3. **Umbrellas and canopies shall be a minimum of 7 feet above the sidewalk when open;**
4. **A maximum 60 square feet of space may be occupied by the vendor. No permanent hardware shall be affixed to the sidewalk or adjacent buildings. The permittee is responsible for the restoration of the sidewalk or public right-of-way if any damage is caused by the vending unit;**
5. **The vendor shall have an approved 2A10BC minimum rated fire extinguisher maintained in an accessible location at all times;**
6. **Litter shall be removed at the end of the day and may not be disposed of in City trash receptacles. All areas within and surrounding the sidewalk vending unit shall be maintained in a clean, neat and sanitary condition. All cleaning shall be performed in accordance**

with City Regulations;

7. 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;
  8. 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 office. The permit(s) shall be renewed annually, or as required;
  9. 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;
  10. All wastewater shall be disposed of into the sanitary sewer system. Dumping into the storm water system or allowing wastewater from the vending unit to flow onto the sidewalk and into the gutter is not permitted;
  11. 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,
  12. The Sidewalk Vendor Permit may be revoked for cause as per Chapter 12.20.020(F).11 of the Rapid City Municipal Code.
- \*7. 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.

**Planning Commission approved the Major Amendment to a Conditional Use Permit with the following stipulations:**

1. The Major Amendment to a Conditional Use Permit shall allow six antennas to be replaced on the existing tower and the relocation of the equipment shelter. In addition, expansions to facilities and other changes on the existing tower shall be allowed as a Minimal Amendment to the Conditional Use Permit;
2. The tower shall have a maximum height of 180 feet;
3. The tower shall not be illuminated by artificial means or strobe lights unless such lighting is specifically required by the Federal Aviation Administration;

4. All provisions of the Parking and Landscaping Ordinances shall be continually met;
5. A Building Permit shall be obtained prior to construction or installation of any equipment; and,
6. Prior to obtaining a building permit, all plans shall be signed and stamped by a professional engineer licensed in the State of South Dakota.

*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.*

8. No. 11SV010 - Commerce Park Subdivision

A request by Sperlich Consulting, Inc. for SBC Archway VII LLC to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to construct sewer in Fountain Plaza Drive as per Chapter 16.16 of the Rapid City Municipal Code** 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 Variance to the Subdivision Regulations to waive the requirement to construct sewer in Fountain Plaza Drive as per Chapter 16.16 of the Rapid City Municipal Code be approved.**

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

\*9. No. 11PD020 - McMahon Subdivision

A request by Mick Nagel to consider an application for an **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.

Brewer stated that he would abstain from voting on this item due to a conflict of interest.

**Rolinger moved and Braun seconded to recommend that the Initial and Final Commercial Development Plan be approved.**

Scull clarified that staff's recommendation is to continue the Initial and Final Commercial Development Plan to the June 23, 2011 Planning Commission meeting.



**Substitute motion by Rolinger, seconded by Scull and carried to continue the Initial and Final Commercial Development Plan to the June 23, 2011 Planning Commission meeting. (6 to 0 to 1 with Braun, Christianson, Kinniburgh, Rippentrop, Rolinger and Scull voting yes, none voting no and with Brewer abstaining)**

\*10. No. 11PD024 - Gemstone Subdivision

A request by Centerline for Lazy P-6 Land Co., Inc. to consider an application for an **Initial and Final Residential Development Plan** for Lot 1, Lots 3 through 7 and Lots 9 through 19 of Block 1, Lots 1, 6, 7 and 13 of Block 2, Lots 1, 9, 10 and 18 of Block 3 all in Gemstone Subdivision located in Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Parkview Drive and north of Sandra Lane.

Fisher presented the request and reviewed the slides. Fisher discussed the Second Floor Review Committee's proposal for reduced setbacks based on street classification. Discussion followed.

Fisher advised that a revised recommendation was distributed on the dais. Fisher indicated that staff recommends approval of the application with stipulations as an experimental development. Fisher reviewed the revisions to staff's recommendation allowing 20 foot front yard setbacks to the garage along subcollector streets and maintaining a 25 foot front yard setback to the garage along collector streets. Fisher added that a minimum 15 foot front yard setback would be allowed to the residence provided a portion of the structure in the reduced setback area includes an open deck or porch. Fisher stated that public comment was received and distributed on the dais. Fisher indicated that a reduction in setbacks was previously approved through planned developments on other lots in this subdivision, noting that that the existing construction maintained the 25 foot front yard setback. Discussion followed.

In response to a question from Braun, Fisher indicated that the Major Street Plan classifies any future extension of Topaz Lane and Sandra Lane as subcollector streets.

Kinniburgh noted that the original 25 foot front yard setback was intended to preclude vehicles parked in a driveway from blocking pedestrian access to the sidewalk.

In response to a question from Kinniburgh, Fisher advised that complaints have been received concerning vehicles blocking sidewalks in areas where a 25 foot setback is maintained. Fisher noted that an 18 foot parking apron is adequate to park a vehicle assuming the vehicle is parked immediately adjacent to the structure. Discussion followed concerning the proposed 20 foot parking apron to the garage and a related ordinance amendment anticipated to be brought forward by the Second Floor Review Committee.

In response to a question from Kinniburgh, Fisher stated that the Rapid City

Municipal Code prohibits vehicles from encroaching into the sidewalk. Discussion followed concerning enforcement options for sidewalk encroachment violations.

**Rolinger moved, seconded by Scull and carried to approve 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. A minimum 20 foot front yard setback to the garage shall be provided along the sub-collector streets, Topaz Lane and Sapphire Lane. A minimum 25 foot front yard setback to the garage shall be provided along the collector streets, Parkview Drive and E. Enchanted Pines Drive. A minimum 15 foot front yard setback shall be allowed to the residence provided a portion of the structure within this area includes and open deck or porch. In addition, a minimum eight foot side yard setback for one story structures and a minimum 12 foot side yard setback for two story structures shall be provided. A minimum 25 foot rear yard setback shall also be provided;**
- 3. All provisions of the Low Density Residential II District shall be met unless otherwise specifically authorized as a stipulation of this Initial and Final Planned Residential Development or a subsequent Major Amendment;**
- 4. The proposed structures shall conform architecturally to the proposed elevations, design plans and color palette submitted as part of this Initial and Final Planned Residential Development. Changes to the elevations may be authorized by the Growth Management Director when they are consistent with the architectural style of the development as approved herein; and,**
- 5. The Planned Residential Development shall allow for the construction of single family residence(s) and/or townhome units. However, 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 two years. (6 to 1 with Braun, Brewer, Christianson, Rippentrop, Rolinger and Scull voting yes and with Kinniburgh 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.***

\*11. 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°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°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°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 of the right-of-way of said Sophia Court; Thence, ninth course: N89°44'27"W, along the southerly boundary of said Lot 1 of Block 2 of Commerce Park Subdivision, common to the northerly edge of 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 of 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°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.

Fisher advised that this request was continued from the May 26, 2011 Planning Commission meeting to allow staff to address concerns expressed by area residents and to obtain additional clarification from the applicant. Fisher reviewed the slides. Fisher advised that staff met with the applicant and the neighbors noting that it appears that the concerns identified have been addressed. Fisher stated that staff recommends approval of the request with revised stipulations. Fisher reviewed revised stipulations 14 and 15. Discussion followed.

**Rolinger moved, Scull seconded and carried to approve the Conditional Use Permit to allow a Community Corrections Facility to be operated by the United States Department of Homeland Security as an Immigration and Customs Enforcement facility in the Light Industrial Zoning District 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, all necessary changes shall be made to the construction plans as identified on the red lined drawings. In addition, the red lined drawings shall be returned and signed and sealed final construction plans shall be submitted to the Growth Management Department;**
- 3. Prior to issuance of a building permit, a Developmental Lot Agreement shall be secured and the existing 8 foot wide minor drainage and utility easements located along the common lot lines shall be vacated or a Final Plat shall be recorded;**
- 4. Prior to issuance of a building permit, the site plan shall be revised to show all fencing in compliance with Chapter 15.40 of the Rapid City Municipal Code or a Fence Height Exception shall be obtained;**
- 5. Prior to issuance of a building permit, an Erosion and Sediment**

- Control Permit shall be obtained;**
- 6. Prior to issuance of a building permit, an Air Quality Construction Permit shall be obtained for construction activities disturbing one acre or more of surface area;**
  - 7. Prior to issuance of a building permit, the landscape plan shall be revised to show the landscaping extending a distance of 75 feet into the property at the southeast corner of the property along Sophia Court and at the northwest corner of the property along Fountain Plaza Drive in order to meet the requirements of a non-irrigated lateral landscape design. In addition, all landscaping must be continually maintained in a live vegetative state and replaced in compliance with the City's adopted Landscape Ordinance;**
  - 8. A Permit to Work in the Right-of-way shall be obtained prior to any construction within the right-of-way;**
  - 9. The proposed structure shall conform architecturally to the plans and elevations and color palette reviewed and approved as part of this Conditional Use Permit. Revisions to the design of the structure that the Growth Management Director determines to be consistent with the original approved elevations, shall be allowed as a Minimal Amendment to the Conditional Use Permit;**
  - 10. 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. 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;**
  - 11. A minimum of 35 parking spaces with two of the spaces being handicap accessible shall be provided. In addition, one of the handicap spaces shall be "van" accessible;**
  - 12. 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;**
  - 13. The currently adopted International Fire Code shall be continually met. In addition, the applicant shall coordinate any expansion or alterations of the project with the Fire Department;**
  - 14. The Conditional Use Permit shall allow for a United States Department of Homeland Security-Immigration and Customs Enforcement facility to be located on the property. The facility shall allow for the detainment of undocumented foreign nationals as well as accessory office and support space. A sally port shall be used to load and unload the detainees. In addition, no detainees shall be held overnight. Immigration and Customs Enforcement and/or the property owner may not change the function or operation of the facility or transfer occupancy without the review and approval of a**

**Major Amendment to the Conditional Use Permit. Any other use of the property shall also require a Major Amendment to the Conditional Use Permit;**

15. **The Conditional Use Permit may be reviewed upon a valid complaint;**
16. **All provisions of the Light Industrial District shall be met unless otherwise specifically authorized as a stipulation of this Conditional Use Permit or a subsequent Major Amendment to the Conditional Use Permit; and,**
17. **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. (6 to 1 with Braun, Brewer, Kinniburgh, Rippentrop, Rolinger and Scull voting yes and with Christianson 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.***

12. Discussion Items  
None.
13. Staff Items  
None.
14. Planning Commission Items  
None.
15. Committee Reports  
None.

**There being no further business, Rolinger moved, Scull seconded and unanimously carried to adjourn the meeting at 7:22 a.m. (7 to 0 with Braun, Brewer, Christianson, Kinniburgh, Rippentrop, Rolinger and Scull voting yes and none voting no)**