

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
July 7, 2011

MEMBERS PRESENT: Erik Braun, John Brewer, Eric Christianson, Dennis Landguth, Linda Marchand, Dennis Popp and Kay Rippentrop.

MEMBERS ABSENT: Andy Scull and Steve Rolinger

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

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

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

Motion by Marchand, seconded by Braun and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 10 in accordance with the staff recommendations. (7 to 0 with Braun, Brewer, Christianson, Landguth, Marchand, Popp and Rippentrop voting yes and none voting no)

---CONSENT CALENDAR---

1. Planning Commission approved the June 23, 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 August 4, 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 August 4, 2011

Planning Commission meeting.

4. No. 11CA006 - Section 16, T1N, R8E

A request by Dream Design International, Inc. to consider an application for a **Comprehensive Plan Amendment to change the land use designation from General Commercial with a Planned Commercial Development to Medium Density Residential with a Planned Residential Development** for a portion of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at the southwesterly corner of Section 16, T1N, R8E, thence, N69°10'45"E, a distance of 1416.06 feet, to a point on the northerly edge of East Minnesota Street right-of-way, and the point of beginning; Thence, first course: N45°27'18"W, along the northerly edge of said East Minnesota Street right-of-way, a distance of 522.14 feet; Thence, second course: northwesterly, along the northerly edge of said East Minnesota Street right-of-way, curving to the left, on a curve with a radius of 3050.00 feet, a delta angle of 07°24'33", a length of 394.41 feet, a chord bearing of N49°09'35"W, and chord distance of 394.14 feet; Thence, third course: N52°51'51"W, along the northerly edge of said East Minnesota Street right-of-way, a distance of 72.61 feet; Thence, fourth course: N07°51'51"W, along the northerly edge of said East Minnesota Street right-of-way, a distance of 35.36 feet, to the easterly edge of Marlin Drive right-of-way; Thence, fifth course: N37°08'09"E, along the easterly edge of said Marlin Drive right-of-way, a distance of 143.34 feet, to a point on the east-west section 1/16th line; Thence, sixth course: S89°56'57"E, along the east-west section 1/16th line, a distance of 647.74 feet, to the SW 1/16th corner of said Section 16; Thence, seventh course: S00°05'15"W, along the north-south section 1/16th line, a distance of 816.57 feet, to the point of beginning, more generally described as being located east of the intersection of East Minnesota Street and Marlin Drive.

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

*5. No. 11PD026 - Robbinsdale Park Addition

A request by City of Rapid City to consider an application for an **Initial and Final Residential Development Plan to expand a public fire station** for Lot 1 of Robbinsdale Park Addition to the City of Rapid City located in the SE1/4 of SW1/4 of Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at the northeast corner of the intersection of Robbinsdale Park Road and East Fairmont Boulevard.

Planning Commission approved the Initial and Final Residential Development Plan to expand a public fire station 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. The front yard setback along Robbinsdale Park Road is hereby reduced from 35 feet to 33.7 feet for the existing structure. The rear yard setback is hereby reduced from 25 feet to 14 feet for the proposed

addition. The side yard setback to the east lot line is hereby reduced from 35 feet to 20 feet for the proposed addition. All other provisions of the Low Density Residential District shall be met unless otherwise specifically authorized as a stipulation of this Initial and Final Residential Development Plan or a subsequent Major Amendment;

3. The minimum parking requirement is hereby reduced from 12 parking spaces to nine parking spaces with one of the spaces being “van” handicap accessible;
4. Upon submittal of a building permit application, a landscape plan shall be submitted for review and approval showing the relocation of the landscaping as needed in order to construct the proposed addition. In addition, the landscape plan shall demonstrate compliance with the City’s adopted Landscape Ordinance;
5. The proposed structure shall conform architecturally to the plans and elevations and color palette reviewed and approved as part of this Residential Development Plan. 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 Residential Development Plan;
6. 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;
7. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Initial and Final Planned Industrial Development. 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;
8. The Planned Residential Development shall allow for a public fire station to be located on the property. Other uses permitted within the Low Density Residential District shall be allowed as a Minimal Amendment to the Planned Residential Development requiring the review and approval of the Growth Management Director. Conditional Uses allowed within the Low Density Residential District shall require a Major Amendment to the Planned Residential Development; and,
9. 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.

*6. No. 11PD027 - Marlin Industrial Park

A request by Renner & Associates, LLC for CAPE Investments Limited Partnership to consider an application for a **Final Industrial Development Plan** 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 1825 Marlin Drive.

Planning Commission approved the Final Planned Industrial Development 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. **An Air Quality Permit shall be obtained for construction activities disturbing one acre or more of surface area;**
4. **Prior to issuance of a building permit, a Developmental Lot Agreement and a Vacation of Easement for the easement located between Lot 5 and Lot 6 shall be recorded with the Register of Deeds;**
5. **The proposed structure shall conform architecturally to the plans and elevations and color palette reviewed and approved as part of this Planned Industrial Development. 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 Planned Industrial Development;**
6. **Prior to issuance of a building permit, the east entrance point to the property shall be aligned with the driveway across Marlin Drive, or a minimum of 75 feet of spacing shall be provided between driveways as required by Section 8.2.4 of the Street Design Criteria Manual, or an Exception shall be obtained for an irregularly spaced driveway;**
7. **All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of this Final Planned Industrial Development. 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 Planned Industrial Development. Lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall be obtained for each sign;**
8. **A minimum of 397,669 landscape points shall be planted in accordance with the approved plans. All landscaping shall be continually maintained in a live vegetative state and replaced in compliance with the City's adopted Landscape Ordinance;**
9. **A minimum of 70 parking spaces, to include a minimum of 3 ADA compliant parking spaces, with one of those ADA compliant spaces being "van" handicap accessible, shall be provided;**
10. **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;
11. 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;
 12. The Planned Industrial Development shall allow for the creation of a beverage distribution warehouse and office. Other uses permitted within the Heavy Industrial Development shall be allowed as a Minimal Amendment to the Planned Industrial Development requiring the review and approval of the Growth Management Director. Conditional Uses allowed within the Heavy Industrial District shall require a Major Amendment to the Planned Industrial Development;
 13. All provisions of the Heavy Industrial Zoning District shall be met unless otherwise specifically authorized as a stipulation of this Final Industrial Development Plan application or a subsequent Major Amendment; and,
 14. The 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.

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.

*7. No. 11UR016 - Springbrook Acres

A request by Wayne L. Ripple for Springbrook Acres Water Users Association to consider an application for a **Conditional Use Permit to allow a neighborhood building for storage** for Lot 12 of Block 5 of Spring Brook Acres located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of the intersection of Horse Creek Road and Buffalo Berry Road.

Planning Commission approved the Conditional Use Permit to allow a neighborhood building for storage 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, the applicant shall demonstrate compliance with the International Fire Code;
3. 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;
4. 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;

5. **The Conditional Use Permit shall allow for a neighborhood building to be constructed for the storage of equipment and vehicles for street and common grounds maintenance within the Spring Brook Acres development. Any other use of the building shall require a Major Amendment to the Conditional Use Permit;**
6. **All provisions of the Mobile Home Residential 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,**
7. **The Conditional Use Permit shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years.**

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

8. No. 11VR002 - Original Townsite of the City of Rapid City
A request by Chamberlin Architects for MHL, LLC to consider an application for a **Vacation of Right-of-Way** for a portion of the alley right-of-way adjacent to Lots 24 thru 32 of Block 75 of the Original Townsite of the City of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as the alley adjacent to 502, 508, 510 and 512 Main Street.

Planning Commission recommended that the Vacation of Right-of-Way be approved with the following stipulation:

1. **Prior to City Council approval, the applicant shall secure a utility easement for the proposed area to be vacated and shall enter into an agreement which holds the private and public utilities harmless for any damages due to the construction or maintenance of utilities within this area.**
9. 11TP016 – 2011-2015 Transportation Improvement Program Amendment #11-007

Planning Commission recommended approval of the 2011-2015 Transportation Improvement Program Amendment #11-007.

10. 11TP017 – 2012-2016 Rapid City Area Transportation Improvement Program – Draft Report

Planning Commission recommended approval of the 2012-2016 Rapid City Area Transportation Improvement Program - Draft Report.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

*11. No. 11UR014 - South Boulevard Addition

A request by Kennedy Design Group, Inc. for Steve Wynia and Damon Reel to consider an application for a **Conditional Use Permit to allow an On-Sale Liquor Establishment** for Lots 1, 2, 3 and 4 of Block 26 of South Boulevard Addition located in Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 703 and 705 Indiana Street.

Fisher presented the request and reviewed the staff report. Fisher stated that similar applications for this property submitted in 2006 and 2010 were denied. Fisher reviewed the site plan and identified parking and the proposed access to the property from Indiana Street and the adjacent alley. Fisher advised that the site plan identifies trees along the east lot line of the property to serve as a buffer between the residential properties along Seventh Street and the proposed commercial use. Fisher stated that the street separation and the vegetative buffer as proposed will not adequately screen the residential properties from the additional traffic, noise and headlight glare anticipated to be generated by the proposed commercial use. Fisher added that there does not appear to be any changing conditions in the neighborhood since the last review noting staff's recommendation to deny the Conditional Use Permit to allow an On-Sale Liquor Establishment. Fisher stated that three letters in opposition to the request were received and distributed on dais. Fisher indicated that while two neighbors stated that they did not receive the hearing notice letters, white receipts showing proof of mailing have been returned by the applicant.

Steve Wynia advised that he is proposing to move two existing video lottery licenses from other locations to the subject property. Wynia provided a brief history on the purchase of the property in 2005 and the subsequent demolition of three older residential rental properties that were in poor condition. Wynia advised that the property has been vacant since that time noting that he maintains the property several times a year. Wynia indicated that he has proposed a six foot vegetation buffer on the east edge of the property and requested clarification concerning the definition of "sufficient buffer" as contained in the Rapid City Municipal code.

Landeen stated that the term "sufficiently buffered" is subjective criteria intended to address different conditions on different properties. Landeen suggested that the Planning Commission provide specific reasons why the proposal does or does not meet the criteria.

Wynia offered to install a solid wood fence in conjunction with six foot solid vegetation along the east side of the property in order to address the screening requirement. Wynia displayed photographs showing the number of vehicles parked at various casino operations at 11:00 a.m., 3:00 p.m., and 5:30 p.m. to illustrate that there are not more than three vehicles parked at the businesses. Wynia distributed documentation obtained from monthly sales tax reports showing the average daily alcohol sales from his casino operations noting that

there is low traffic volume and low alcohol consumption associated with the proposed use. Discussion followed.

Wynia stated that there are at least 30 on-sale liquor licenses that border residential areas in Rapid City. Wynia displayed photographs of existing properties with on-sale liquor establishments along Mt. Rushmore Road that abut residential properties. Discussion followed.

Wynia offered to screen the property in any way staff sees fit. Wynia indicated that there will be increased traffic with any commercial use constructed on this property. Wynia stated that there is no basis for staff's comments that additional noise and lighting will be generated by the proposed casino use. Wynia suggested that information be obtained from the Police Department relating to the low number of casino-related calls received annually. Wynia stated that he believes the proposed use is compatible with the surrounding properties.

In response to a question from Landguth, Wynia stated that with the exception of blocking the sight triangle, he is willing to install a six foot cedar fence and six foot solid vegetation to prevent headlight glare and traffic noise from reaching the adjacent residential properties. Wynia emphasized that there are no outdoor activities associated with the proposed use.

In response to a question from Landguth, Landeen indicated that the Police Department could be requested to provide a report outlining the annual number of complaints and crime related issues associated with casino operations. Discussion followed.

In response to a question from Brewer, Fisher stated that the Police Department did not provide any comments on the application routing.

Landguth indicated that a number of the on-sale liquor uses Wynia displayed in the photographs are located along major collector streets as opposed to residential streets.

In response to a question from Landguth, Fisher stated that Seventh Street is classified as a residential street.

Fisher indicated that the front yards of the adjacent residential properties look directly onto the commercial property. Discussion followed.

Fisher stated that a fence height exception must be obtained prior to the installation of a six foot high fence on the east property line of the subject property as described by the applicant. Discussion followed.

Twylah Luedtke, 633 Indiana Street, advised that she lives directly east of the proposed commercial use. Luedtke indicated that this is the third time she has appeared before the Planning Commission for an on-sale liquor request for this property since 2005. Luedtke stated that she had gathered petitions from area residents in opposition to a previous application. Luedtke noted that any other commercial business can be constructed on the property without input from the

neighborhood. Luedtke objected to the type of use to include gambling and alcohol at the proposed business noting that Toby's Casino with 20 terminals is already located immediately south of the property. Luedtke expressed concern that two casinos with a total of 40 terminals will be located directly across the street from her home if this application is approved. Luedtke expressed her opinion that the number of similar businesses located in the area is excessive and requested denial of the application. Discussion followed.

Wynia stated that the Planning Commission has the obligation to vote on the criteria set forth in the ordinance. Wynia added that opinions and non-factual statements from neighbors because they don't like the business should have no bearing on the issue. Wynia requested that the Planning Commission approve the application.

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

Christianson moved and Landguth seconded to deny the Conditional Use Permit to allow an On-Sale Liquor Establishment due to insufficient buffering between the proposed use and the residential neighborhood.

Braun stated that he feels that there is an undue concentration of similar uses in this area.

The motion carried to deny the Conditional Use Permit to allow an On-Sale Liquor Establishment due to insufficient buffering between the proposed use and the residential neighborhood. (6 to 0 to 1 with Braun, Christianson, Landguth, Marchand, Popp and Rippentrop voting yes, with none voting no and with Brewer abstaining)

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

*12. No. 11UR015 - Merchants First Addition

A request by Doug Tennyson to consider an application for a **Major Amendment to a Conditional Use Permit to expand an existing On-Sale Liquor Establishment to include an outdoor patio area** for Outlot A and Lots 1 and 2 of Outlot C of Merchants First Addition located in Section 7, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 803 East Saint Patrick Street.

Lacock presented the request and reviewed the staff report noting staff's recommendation for approval of the application with stipulations.

In response to a question from Brewer, Lacock reviewed the fence elevations for the patio enclosure.

Fisher stated that the railing will be similar to the sidewalk cafes permitted downtown.

Discussion followed concerning the proximity of an off-sale liquor establishment in the area.

Landguth moved, Christianson seconded and unanimously carried to approve the Major Amendment to a Conditional Use Permit to expand an existing On-Sale Liquor Establishment to include an outdoor patio area with the following stipulations:

- 1. The applicant shall initiate a covenant agreement in cooperation with the Rapid City Fire Department to provide fire sprinkler protection and an associated fire alarm system throughout the structure within an acceptable timeframe prior to obtaining a building permit;**
- 2. All applicable provisions of the currently adopted International Fire Code shall continually be met;**
- 3. The applicant shall obtain a building permit prior to construction;**
- 4. A minimum of 154 parking spaces shall continually be provided including a minimum of 6 handicap accessible spaces with one being “van” accessible;**
- 5. All provisions of the General Commercial Zoning District shall be met unless an exception is specifically authorized as a stipulation of the Conditional Use Permit or a subsequent Major Amendment;**
- 6. Revisions to the patio design that the Growth Management Director determines to be consistent with the original approved elevations shall be allowed as a Minimal Amendment;**
- 7. All signage shall conform to Chapter 15.28 of the Rapid City Municipal Code. No electronic signs are being approved as a part of the Conditional Use Permit;**
- 8. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind; and,**
- 9. The Conditional Use Permit shall expire if the use is not undertaken and completed within two years of approval by the Planning Commission, or if the use should cease for a period of two years. (7 to 0 with Braun, Brewer, Christianson, Landguth, Marchand, Popp and Rippentrop 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.

*13. No. 11PD028 - Highland Park Subdivision

A request by William Beshara to consider an application for an **Initial and Final Commercial Development Plan to expand an existing On-Sale Liquor Establishment to include an outdoor patio** for Lot 1 of Block 1 of Highland Park Subdivision located in the S1/2 NE1/4 of Section 11, T1N, R7E, BHM,

Rapid City, Pennington County, South Dakota, more generally described as being located at 2501 Mount Rushmore Road.

Lacock presented the request and reviewed the staff report noting staff's recommendation for approval with stipulations.

In response to a question from Brewer, Lacock indicated that the parking requirement is met as the applicant has a lease agreement for additional parking with Best Western.

In response to a question from Braun, Lacock stated that sidewalk access along the outdoor seating will be preserved and a barricade will separate the outdoor seating from the sidewalk.

In response to a question from Landguth, Fisher explained that the exception allows the parking on the south side of the building to back into the right-of-way.

In response to a question from Landguth, Fisher indicated that additional traffic from future development of the property to the west is unlikely as the property is built-out due to existing topographic constraints. Discussion followed.

In response to a question from Landguth, Fisher stated that there is sufficient right-of-way to develop the street in this area. She indicated that the parking spots are located on the property noting that only the vehicle movements backing out of the parking spots into the right-of-way will be granted through the exception. Discussion followed.

Popp moved, Marchand seconded and carried unanimously to approve the Initial and Final Commercial Development Plan to expand an existing On-Sale Liquor Establishment to include an outdoor patio with the following stipulations:

- 1. An Exception is hereby granted to allow backing into the right-of-way;**
- 2. An Exception is hereby granted to allow a Planned Commercial Development with a 0.776 acre lot in lieu of the required minimum one acre lot size;**
- 3. A building permit shall be obtained prior to any construction and a Certificate of Occupancy issued prior to occupying the proposed patio;**
- 4. A minimum of 47 off-street parking spaces shall continually be provided including a minimum of two handicap spaces with one being "van accessible." The applicant shall maintain the existing lease agreement for additional parking. If the lease is ended the applicant shall provide two additional parking spaces on the property or obtain a Major Amendment to the Planned Commercial Development to reduce the parking requirement;**
- 5. All provisions of the General Commercial District shall be met unless an exception is specifically authorized as a stipulation of the Initial and Final Commercial Development Plan or a subsequent Major Amendment;**
- 6. The currently adopted International Fire Code shall be continually met.**

- In addition, the applicant shall contact the Fire Department to discuss the fire sprinkler protection needs of the building;
7. The proposed expansion shall conform to the dimensions and designs as reviewed and approved as part of this Planned Commercial Development. Revisions to the design of the outdoor patio that the Growth Management Director determines to be consistent with the original approved design, shall be allowed as a Minimal Amendment to the Planned Commercial Development;
 8. The Initial and Final Planned Commercial Development shall allow for the expansion of the on-sale liquor establishment to include an outdoor patio. The on-sale liquor use shall be allowed in conjunction with a full service restaurant; and,
 9. The 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. (7 to 0 with Braun, Brewer, Christianson, Landguth, Marchand, Popp and Rippentrop 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.

14. No. 11RZ008 - Section 16, T1N, R8E
A request by Dream Design International, Inc. to consider an application for a **Rezoning from General Commercial District to Medium Density Residential District** for a portion of the SW¼ of the SW¼ of Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at the southwesterly corner of Section 16, T1N, R8E, thence, N69°10'45"E, a distance of 1416.06 feet, to a point on the northerly edge of East Minnesota Street right-of-way, and the point of beginning; Thence, first course: N45°27'18"W, along the northerly edge of said East Minnesota Street right-of-way, a distance of 522.14 feet; Thence, second course: northwesterly, along the northerly edge of said East Minnesota Street right-of-way, curving to the left, on a curve with a radius of 3050.00 feet, a delta angle of 07°24'33", a length of 394.41 feet, a chord bearing of N49°09'35"W, and chord distance of 394.14 feet; Thence, third course: N52°51'51"W, along the northerly edge of said East Minnesota Street right-of-way, a distance of 72.61 feet; Thence, fourth course: N07°51'51"W, along the northerly edge of said East Minnesota Street right-of-way, a distance of 35.36 feet, to the easterly edge of Marlin Drive right-of-way; Thence, fifth course: N37°08'09"E, along the easterly edge of said Marlin Drive right-of-way, a distance of 143.34 feet, to a point on the east-west section 1/16th line; Thence, sixth course: S89°56'57"E, along the east-west section 1/16th line, a distance of 647.74 feet, to the SW 1/16th corner of said Section 16; Thence, seventh course: S00°05'15"W, along the north-south section 1/16th line, a distance of 816.57 feet, to the point of beginning, more generally described as being located east of the intersection of East Minnesota Street and Marlin Drive.

Laroco presented the request and reviewed the staff report noting staff's recommendation for approval of the Rezoning request.

Marchand moved, Braun seconded and unanimously carried to recommend approval of the Rezoning from General Commercial District to Medium Density Residential District. (7 to 0 with Braun, Brewer, Christianson, Landguth, Marchand, Popp and Rippentrop voting yes and none voting no)

15. No. 11RZ009 - Section 16, T1N, R8E

A request by Dream Design International, Inc. to consider an application for a **Rezoning from Low Density Residential II District to Medium Density Residential District** for a portion of the NW¼ of the SW¼ of Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at the southwesterly corner of Drainage Lot 1 of Elks Crossing, common to a point on Marlin Drive right-of-way, and the point of beginning; Thence, first course: northeasterly, along the easterly edge of said Marlin Drive right-of-way, curving to the left, on a curve with a radius of 784.00 feet, a delta angle of 00°49'14", a length of 11.23 feet, a chord bearing of N28°48'25"E, and chord distance of 11.23 feet; Thence, second course: S69°57'51"E, a distance of 209.85 feet; Thence, third course: S56°10'10"W, a distance of 222.24 feet; Thence, fourth course: N60°47'57"W, a distance of 120.15 feet to a point on the easterly edge of said Marlin Drive right-of-way; Thence, fifth course: N37°08'09"E, along the easterly edge of said Marlin Drive right-of-way, a distance of 45.85 feet; Thence, sixth course: northeasterly, along the easterly edge of said Marlin Drive right-of-way, curving to the left, on a curve with a radius of 784.00 feet, a delta angle of 07°55'07", a length of 108.35 feet, a chord bearing of N33°10'35"E, and chord distance of 108.27 feet, to the point of beginning, more generally described as being located east of the intersection of East Minnesota Street and Marlin Drive.

Laroco presented the request and reviewed the staff report. Laroco indicated that the drainage area provides a natural buffer between the uses. Laroco advised that staff recommends approval of the Rezoning request.

Landguth requested clarification concerning the number of stories anticipated for any multi-family structures proposed for the second phase of the development noting concerns with the proximity of the proposed multi-family structures to the existing single family development.

Fisher discussed the existing zoning on the property in relationship to the natural drainage area. Fisher indicated that the Planned Residential Development will help to mitigate the impacts of the multi-family uses on the existing neighboring uses. Discussion followed.

Hani Shafai explained that efforts were made to preserve the trees and vegetation within the drainage area at the time the property was graded. Shafai stated that they envision that the second phase of the development will be consistent with the first phase. Shafai noted that approximately five to ten feet of additional landscaping will be provided between the natural drainage area and garages for the second phase. Shafai added that the driving lane and parking

spaces to be located between the garages and the apartment structures will provide further buffering between the uses. Shafai stated that the apartment structures for the second phase will likely consist of quality three-story construction. Discussion followed.

Christianson moved, Popp seconded and unanimously carried to recommend approval of the Rezoning from Low Density Residential II District to Medium Density Residential District. (7 to 0 with Braun, Brewer, Christianson, Landguth, Marchand, Popp and Rippentrop voting yes and none voting no)

16. No. 11RZ010 - Section 16, T1N, R8E

A request by Dream Design International, Inc. to consider an application for a **Rezoning from Low Density Residential II District to Medium Density Residential District** for a portion of the E½ of the SW¼ of Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at the center 1/4 of Section 16, T1N, R8E, thence, S49°21'21"W, a distance of 1495.20 feet, and the point of beginning; Thence, first course: S78°26'29"E, a distance of 133.79 feet; Thence, second course: S46°11'30"E, a distance of 27.93 feet; Thence, third course: S11°14'26"W, a distance of 54.54 feet; Thence, fourth course: S07°44'12"E, a distance of 61.80 feet; Thence, fifth course: S40°25'59"E, a distance of 28.90 feet; Thence, sixth course: S00°31'57"E, a distance of 130.69 feet; Thence, seventh course: S16°15'44"W, a distance of 42.87 feet; Thence, eighth course: S38°24'09"W, a distance of 40.33 feet; Thence, ninth course: S29°27'22"W, a distance of 85.27 feet; Thence, tenth course: S24°54'42"W, a distance of 88.70 feet; Thence, eleventh course: S09°48'26"W, a distance of 88.39 feet; Thence, twelfth course: S36°11'45"W, a distance of 52.87 feet; Thence, thirteenth course: N01°00'22"E, a distance of 143.84 feet; Thence, fourteenth course: N11°27'13"E, a distance of 200.28 feet; Thence, fifteenth course: N05°40'23"E, a distance of 40.49 feet; Thence, sixteenth course: N00°06'26"W, a distance of 263.59 feet; Thence, seventeenth course: S89°53'34"W, a distance of 52.00 feet; Thence, eighteenth course: N00°06'26"W, a distance of 26.88 feet, to the point of beginning, more generally described as being located east of the intersection of East Minnesota Street and Marlin Drive.

Laroco presented the request and reviewed the staff report noting staff's recommendation for approval of the Rezoning request.

Braun moved, Marchand seconded and unanimously carried to recommend approval of the Rezoning from Low Density Residential II District to Medium Density Residential District. (7 to 0 with Braun, Brewer, Christianson, Landguth, Marchand, Popp and Rippentrop voting yes and none voting no)

17. Discussion Items

A. Animal Daycare as a Conditional Use in the General Commercial District – Katherine Andrews and Kandi Shape

Fisher advised that the Kennels are currently allowed as a conditional use

in the Light Industrial and General Agriculture Zoning Districts. Fisher indicated that Ms. Andrews has located a commercially zoned property that she feels is suitable for an animal daycare facility. Fisher stated that the proposed use is not allowed in a commercial district noting that staff has concerns with the proposed use, even as a conditional use, in a commercial zoning district. Fisher indicated that staff directed Ms. Andrews to discuss the proposal with the Planning Commission.

Rippentrop left the meeting at this time.

Sande Runde requested that the Planning Commission consider amending the ordinance to allow a doggie daycare as a conditional use in a General Commercial Zoning District. Runde added that additional restrictions addressing setbacks and other potential impacts could be included in the ordinance.

Katherine Andrews stated that she was available to answer any questions concerning a doggie daycare facility.

In response to a question from Brewer, Runde advised that they have a commercially zoned site that they are considering, if the ordinance was amended as suggested, located adjacent to the old BES Lighting store on West Main Street. Runde described how the property could be modified to accommodate the proposed use.

In response to a question from Brewer, Landeen stated that the Planning Commission could direct staff to bring forward an ordinance amendment for consideration by the Planning Commission and City Council. Discussion followed.

In response to a question from Brewer, Fisher advised that kennels and pet stores are licensed by the City.

In response to a question from Landguth, Fisher indicated that staff was unable to identify other communities that allow this type of use in a commercial zoning district. Discussion followed.

Runde stated that she feels the impact of the use on other commercial uses can be mitigated with the inclusion of additional restrictions in the ordinance. Discussion followed.

Braun stated that he would have a hard time supporting the proposed amendment noting concerns with the impact on the existing residential and commercial development in the area.

Runde requested clarification concerning whether the Planning Commission would support such an ordinance amendment.

Marchand indicated that she feels these types of facilities are needed although she would have difficulty supporting this type of use in a General

Commercial District.

Popp expressed concern with the proposed amendment citing the proximity of the proposed use to existing residential properties in the area.

Discussion followed concerning the potential to find a property located in the Light Industrial District that would be appropriate for a doggie daycare.

Andrews described the unique features of the property located on West Main Street noting that one adjacent commercial property owner has indicated that they would have no objection to the proposed use.

In response to a question from Braun, Fisher stated that exceptions to uses are not permitted. Discussion followed.

Fisher advised that Ms. Andrews has the option to submit an ordinance amendment application that is not sponsored by the Planning Commission. Discussion followed.

Brewer stated that it does not appear that there would be support for an ordinance amendment to allow doggie daycares as a conditional use in the General Commercial Zoning District. Brewer indicated that additional discussion on the merit of such an amendment will take place at such time as an ordinance amendment request is submitted as an application.

18. Staff Items

- A. Report on Variances obtained to allow a Recreational Vehicle to park in a front yard

Fisher reported that no variance applications have been submitted to allow a recreational vehicle to park in a front yard in the last six months. Fisher advised that that Code Enforcement has received approximately 30 to 40 complaints on this issue within the last six months noting that these individuals were advised of the option to submit a variance to allow parking in the front yard. Fisher indicated that as the current ordinance contains a mechanism that allows a variance to be obtained, staff recommends that no further action be taken at this time.

Brewer thanked staff for all their work on the items before the Planning Commission.

There being no further business, Popp moved, Marchand seconded and unanimously carried to adjourn the meeting at 8:39 a.m. (6 to 0 with Braun, Brewer, Christianson, Landguth, Marchand, Popp, voting yes and none voting no)