

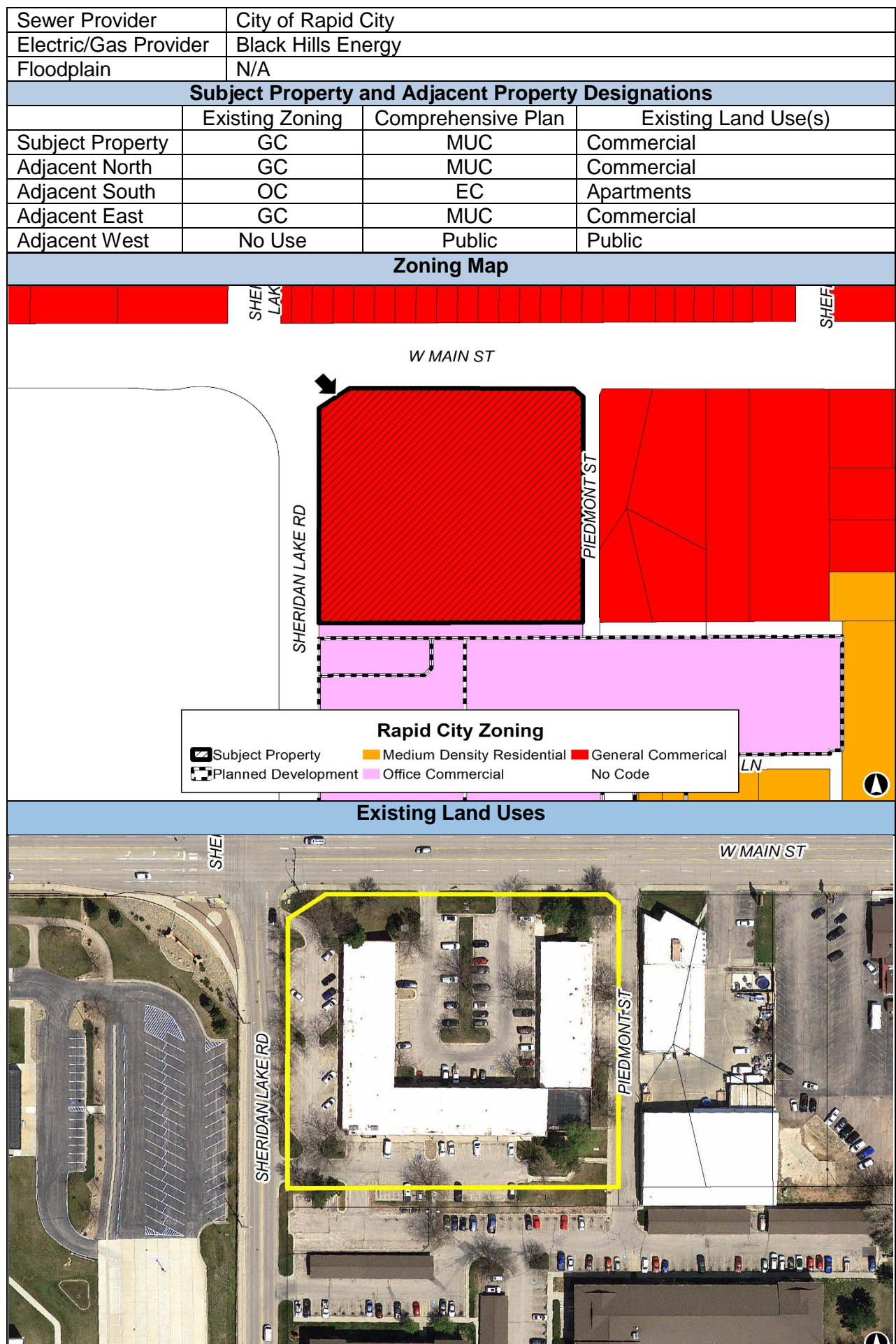


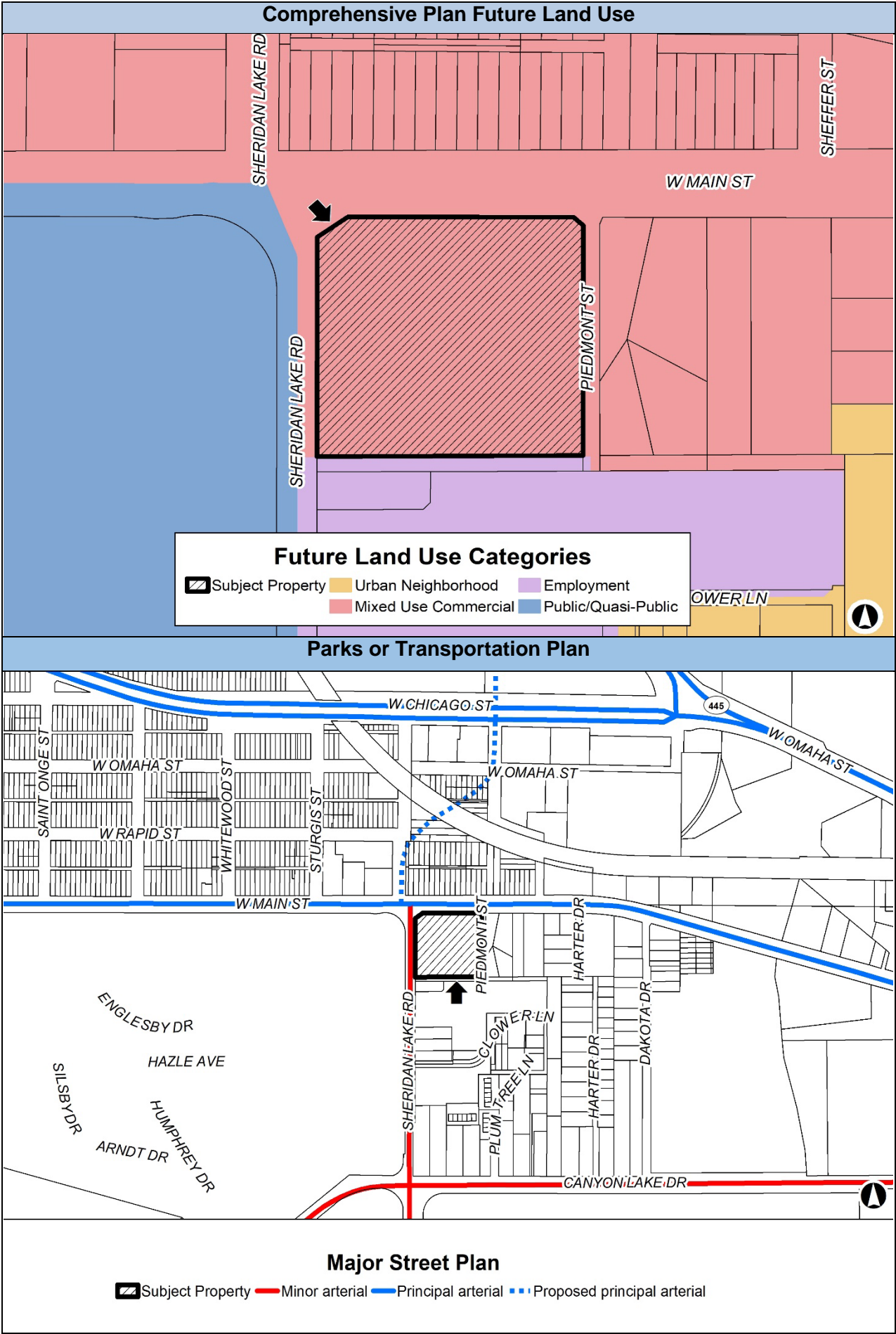
Rapid City Planning Commission

Conditional Use Permit Project Report

December 9, 2021

		Item #22
Applicant Request(s)		
Case #21UR047 – Conditional Use Permit to allow a Medical Cannabis Dispensary		
Companion Case(s): N/A		
Development Review Team Recommendation(s)		
Staff recommends the Conditional Use Permit be approved with stipulations noted below.		
Project Summary Brief		
<p>The applicant has submitted a Conditional Use Permit application to allow a medical cannabis dispensary at 2525 West Main Street Suite 104 and 105. There is currently a 27,793 square-foot building located on the property. The applicant is proposing to operate a medical cannabis dispensary in two suites with a combined square footage of 1,148. The applicant has indicated that the medical cannabis dispensary, to be known as Tree House Cannabis, will be open Monday through Friday from 9:00 am to 9:00 pm and on Saturdays and Sundays from 10:00 am to 6:00 pm.</p> <p>Pursuant to SDCL 34-20G, the City of Rapid City adopted Ordinances to regulate the time, place, manner and number of medical cannabis establishments within the City. The adopted Ordinances are intended to balance the varied interests and lessen any potentially deleterious effects on neighboring properties for what will be a new use of property within the City of Rapid City. The City also adopted an Ordinance limiting the number of licenses to be issued for medical cannabis dispensaries to 15 licenses to ensure that there is not a saturation of use within our community. The proposed State regulations require that all medical cannabis establishments be a minimum distance of 1,000 feet from public or private schools. The adopted City Ordinance includes language to promote separation between other specific uses to minimize the impact and preserve the character of the neighborhood. More specifically, a medical cannabis dispensary is a permitted use within the General Commercial District unless it is located within 500 feet of a childcare center, church, public park, or property zoned as a residential district. In these instances, a Conditional Use Permit is required.</p> <p>The subject property is zoned General Commercial District but is located approximately 310 feet from a residential zoning district. In addition, property to the south, zoned Office Commercial District, is developed with apartments. As such, the applicant has submitted this Conditional Use Permit application for the review and approval by the Planning Commission. In reviewing this location, the Planning Commission must determine if the proposed use is adequately buffered from the residential use and ensure that the use at this location does not create a saturation of similar uses within this area of our community.</p>		
Applicant Information		Development Review Team Contacts
Applicant: Tree House Cannabis, LLC		Planner: Kelly Brennan
Property Owner: Clock Tower		Engineer: Emily Fisher
Architect: N/A		Fire District: Tim Behlings
Engineer: N/A		School District: Kumar Veluswamy
Surveyor: N/A		Water/Sewer: N/A
Other: N/A		DOT: Stacy Bartlett
Subject Property Information		
Address/Location	2525 West Main Street Suites 104, 105	
Neighborhood	West Rapid Neighborhood Area	
Subdivision	Harter Subdivision	
Land Area	1.5 acres	
Existing Buildings	Commercial	
Topography	Flat	
Access	West Main Street/Piedmont Street	
Water Provider	City of Rapid City	





Relevant Case History			
Case/File#	Date	Request	Action
Relevant Zoning District Regulations			
General Commercial District		Required	Proposed
Lot Area		N/A	1.5 acres
Lot Frontage		N/A	N/A
Maximum Building Heights		4 stories or 45 feet	13 feet
Maximum Density		75%	43%
Minimum Building Setback:			
• Front		25 feet	50 feet
• Rear		0 feet	54 feet
• Side		0 feet	26 east/45 west
• Street Side		25 feet	Legal Non-conforming
Minimum Landscape Requirements:			
• # of landscape points		37,547	Legal Non-conforming
• # of landscape islands		N/A	N/A
Minimum Parking Requirements:			
• # of parking spaces		6	6
• # of ADA spaces		1	1
Signage		As per Sign Code	As per Sign Code
Fencing		As per RCMC Chapter 17.50.150	Chain link on rear lot line

Planning Commission Criteria and Findings for Approval or Denial	
Pursuant to Section 17.50.105 of the Rapid City Municipal Code the Planning Commission shall consider the following criteria for a request to allow a medical cannabis dispensary:	
Criteria	Findings
1. The property shall not be located within 1,000 feet of a public or private school:	Pursuant to South Dakota Codified Law (SDCL) 34-20G, the use shall not be allowed within 1,000 feet of a public or private school. The City does not have the authority to waive this requirement. Upon review of this location, it has been determined that the use is not located within 1,000 feet of a public or private school.
2. The dispensary shall be operated completely within an enclosed structure:	The applicant has submitted an operational plan identifying that the dispensary will be operated completely within an enclosed structure.
3. The applicant shall submit the following plans demonstrating compliance with all applicable laws, regulations, administrative rules, and ordinances, including but not limited to § 17.50.105: a) an operating plan; b) a waste management plan; c) a security plan and d) an odor control plan:	<p>Operational Plan - The applicant has indicated that the dispensary will be open daily from 9:00 a.m. to 9:00 p.m. Monday through Friday and from 10:00 a.m. to 6:00 p.m. Saturday and Sunday. Each prospective employee will be required to pass a criminal history background check.</p> <p>Security Plan - The plan identifies that the establishment will use a professional business surveillance and security company to provide 24/7 monitoring and security of its facility. The establishment will have cameras recording key areas inside and outside the facility, as well as a secured door to the inventory rooms, to which authorized entrants must be "buzzed in" before being allowed entry. Doors will always be locked with commercial-grade locks, and applicant's vaulted safe will be UL-certified, burglary tested, and fire-safe for up to 60 minutes.</p>

	<p>Waste Management Plan - The applicant will ensure that all cannabis remnants or by-products will be securely stored, rendered unusable, and disposed of in a manner that ensures that it cannot be reconstituted for any kind of use.</p> <p>Odor Control Plan - The plan identifies that the facility will be properly ventilated with all exhaust air monitored and/or filtered and treated to neutralize any possible cannabis odor. No operable windows or exhaust vents will be located on the building façade that abuts a residential use or zone.</p>
4. The dispensary shall comply with all requirements of the Fire Code adopted as Chapter 8.24 of the Rapid City Municipal Code:	The Fire Department has noted that the applicant must contact the Rapid City Fire Department, Fire and Life Safety Division for guidance and assistance to determine the specific needs for this building. If the building is not currently equipped with the required protective features, a corrective plan of action must be developed in coordination with the Fire Department. All corrective actions and timeframes will be secured with a covenant agreement prepared by the Rapid City Attorney's Office. Such covenant must be established prior to issuance of a certificate of occupancy.
5. The property shall not be located within 500 feet of a childcare center, church, public park, or property zoned as a residential district. If this separation cannot be met, then a Conditional Use Permit shall be required:	It is the purpose of this section to regulate medical cannabis establishments to promote the health, safety, and general welfare of the citizens of Rapid City, and to establish reasonable and uniform regulations to allow medical cannabis land uses in appropriate areas without harm to the city's residential, commercial, and industrial neighborhoods. As previously noted, the subject property is located approximately 310 feet from a residential zoning district. Commercial development and a large surface parking lot buffers the use from the residential zoning district. Access to the dispensary will be located on Piedmont Street, and will not increase traffic to the residential area. The dispensary location will not be visible from the residences.
6. The proposed use has been reviewed under Chapter 17.54.030(E) Conditional Use Permit Criteria for Review:	See below
Planning Commission Criteria and Findings for Approval or Denial	
Pursuant to Section 17.54.030(E) of the Rapid City Municipal Code the Planning Commission shall consider the following criteria:	
1. The location, character and natural features of the property:	The property is approximately 1.5 acres in size and is located at 2525 West Main Street. The property is zoned General Commercial District and is currently developed with a two story multi-suite commercial building measuring 27,793 square feet in size.
2. The location, character and design of adjacent buildings:	Properties to the north and east are also zoned General Commercial District. The property to the south is zoned Office Commercial District and is developed with an apartment complex. The property to the west is zoned No Use District and is developed with the Camp Rapid National Guard Camp.

3. Proposed fencing, screening and landscaping:	The applicant is not proposing any new fencing or screening. The property does not require landscaping as the use is Legal Non-conforming.
4. Proposed vegetation, topography and natural drainage:	The property is primarily flat. Utilizing an existing structure for the location of the proposed dispensary does not alter the existing topography or drainage on the property.
5. Proposed pedestrian and vehicular access, circulation and parking, including that related to bicycles and other unpowered vehicles and provisions for handicapped persons:	Vehicular access to the proposed medical cannabis dispensary is from Piedmont Street off of West Main Street, a Principal Arterial street on the City's Major Street Plan. The applicant's parking plan has identified that 6 parking spaces with 1 "van" accessible ADA space is required and provided for the proposed dispensary. No additional parking is required. Any change in use which increases the minimum required parking will require review of an amendment to the Conditional Use Permit.
6. Existing traffic and traffic to be generated by the proposed use:	The subject property is located along a commercial corridor with an existing street design to accommodate the commercial traffic. A 1,148 square-foot medical cannabis dispensary will have a minimal impact on traffic at this location.
7. Proposed signs and lighting:	No electronic signage is being approved as a part of the Conditional Use Permit application. Wall signage is proposed in compliance with the Rapid City Municipal Code.
8. The availability of public utilities and services:	The property is currently served by public utilities including Rapid City sewer and water.
9. The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein:	The property is zoned General Commercial District. A dispensary within 500 feet of a childcare center, church, public park, or property zoned as a residential district is identified as a conditional use in the district. As previously noted, the subject property is located approximately 310 feet from a residential zoning district. Commercial development and a large surface parking lot buffers the use from the residential zoning district. Access to the dispensary will be located on Piedmont Street, and will not increase traffic to the residential area. The dispensary location will not be visible from the residences.
10. The overall density, yard, height and other requirements of the zone in which it is located:	No additional structural development is being proposed. The existing development located on the property is in compliance with the overall density, yard and height requirements of the Zoning Ordinance.
11. The effects of noise, odor, smoke, dust, air, and water pollution and the degree of control through the use of clarifiers, screening, setbacks and orientation:	Pursuant to the City's Medical Cannabis Establishment Ordinance, the applicant has submitted a waste management plan and an odor control plan. The waste management plan must be continually monitored to ensure the security of waste handling. In addition, The odor control plan must be continually monitored to ensure that all ventilation, odor abatement, and any other measures are taken to prevent nuisances. The premises must be properly ventilated and the exhaust air filtered or treated to neutralize the odor from cannabis so that the odor cannot be detected by a person with a normal sense of smell at the property line of the premises or on any adjoining property. No operable windows or exhaust vents shall be located on the building façade that abuts a residential use or zone. Exhaust vents on rooftops must direct exhaust away from residential uses or zones.

12. The degree to which conditions imposed will mitigate any probable adverse impacts of the proposed use on existing adjacent uses:	The stipulations of approval will ensure that the proposed medical cannabis dispensary is operated in compliance with the submitted operational plan and that any expansion of use will require a Major Amendment to the Conditional Use Permit.
--	--

Planning Commission Comprehensive Plan Policy Guidance for Approval or Denial	
In considering an application for approval or denial the Planning Commission finds that the application either complies or does not comply with the following values, principles, goals, and policies within the Rapid City Comprehensive Plan:	
Comprehensive Plan Conformance – Core Values Chapters	
 A Balanced Pattern of Growth	
BPG*1.2B	Priority Activity Centers for Reinvestment: This goal encourages reinvestment in underutilized and/or aging activity centers and supports redevelopment when existing uses and or structures are no longer economically viable. Placing a medical cannabis dispensary within an existing commercial building located in an older area of our community meets this goal.
 A Vibrant, Livable Community	
LC-3.1C	Compatible Infill and Redevelopment – This goal encourages compatible infill development to take advantage of existing infrastructure and to encourage additional upkeep and reinvestment. A medical cannabis dispensary at this location in an existing commercial building will meet this goal.
 A Safe, Healthy, Inclusive, and Skilled Community	
N/A	N/A
 Efficient Transportation and Infrastructure Systems	
TI-2.1A	Major Street Plan Integration: The subject property abuts West Main Street, which is identified as a Principal Arterial street on the City's Major Street Plan. This section of West Main Street is a developed commercial corridor with the potential for reinvestment of properties along the corridor.
 Economic Stability and Growth	
N/A	N/A
 Outstanding Recreational and Cultural Opportunities	
N/A	N/A
 Responsive, Accessible, and Effective Governance	
GOV-2.1A	Public Input Opportunities: The proposed Conditional Use Permit requires that public notice be advertised in the newspaper and that mailings are sent to property owners within 250 feet of the proposed development. The requested Conditional Use Permit is before the Planning Commission for review and approval. The public has an opportunity to provide input at this meeting.

Comprehensive Plan Conformance – Growth and Reinvestment Chapter	
Future Land Use Plan Designation(s):	Mixed-Use Commercial

Design Standards:	
GDP-MU9	Adaptive Reuse: The proposed Conditional Use Permit to allow a medical cannabis dispensary at an existing building supports the Comprehensive Plan goal of adaptive reuse.
Comprehensive Plan Conformance – Neighborhood Area Policies Chapter	
Neighborhood:	West Rapid Neighborhood Area
Neighborhood Goal/Policy:	
N/A	N/A

Findings
<p>Staff has reviewed the Conditional Use Permit to allow a medical cannabis dispensary pursuant to Chapter 17.18, Chapter 17.50.105 and Chapter 17.54.030 of the Rapid City Municipal Code and the goals, policies, and objectives of the adopted Comprehensive Plan. The proposed medical cannabis dispensary appears to be sufficiently buffered from the residential zoning district. Commercial development and a large surface parking lot buffers the use from the residential zoning district located approximately 310 feet to the southeast. Access to the dispensary will be located on Piedmont Street, and will not increase traffic to the residential area. The dispensary location will not be visible from the residences. The apartment development located south of the subject property is zones Office Commercial District. Since this is not a residential zoning district, the Ordinance does not require the 500-foot separation. However, the entrance, signage from the proposed dispensary is not visible from the apartment development. On November 24, 2021, Planning Commission approved a Conditional Use Permit to allow a medical cannabis dispensary at 2604 West Main Street (21UR027), which is located approximately 500 feet from the subject property. The previously approved Conditional Use Permit location is not visible from the subject property.</p>

Planning Commission Recommendation and Stipulations of Approval	
Staff recommends that the Conditional Use Permit be approved with the following stipulation(s):	
1.	Prior to issuance of a building permit, a medical cannabis dispensary license shall be secured from the South Dakota Department of Health;
2.	Prior to issuance of a building permit, the applicant shall coordinate with the Rapid City Fire Department Fire and Life Safety Division to establish a plan with acceptable time frames to provide an approved fire sprinkler protection and associated fire alarm systems designed and installed as per NFPA 13 and NFPA 72, respectively, and shall be provided throughout the building containing the cannabis related activity. Where applicable, a covenant agreement addressing the fire protection system installation, shall be entered into prior to issuance of a certificate of occupancy;
3.	The waste management plan shall be continually monitored to ensure the security of waste handling;
4.	The security plan shall be continually monitored to ensure that all areas and operation of the medical cannabis dispensary are provided 24/7 surveillance and recovery of video shall be provided as needed;
5.	The odor control plan shall be continually monitored to ensure that all ventilation, odor abatement, and any other measures are taken to prevent nuisances. The premises shall be properly ventilated and the exhaust air filtered or treated to neutralize the odor from cannabis so that the odor cannot be detected by a person with a normal sense of smell at the property line of the premises or on any adjoining property. No operable windows or exhaust vents shall be located on the building façade that abuts a residential use or zone. Exhaust vents on rooftops shall direct exhaust away from residential uses or zones;
6.	All signage shall meet the requirements of the Rapid City Sign Code. A sign permit shall be obtained for each sign. No Light Emitting Diode (LED) message centers are being approved as a part of this request. The inclusion or addition of any LED message centers shall require a Major Amendment to the Conditional Use Permit; and,
7.	The Conditional Use Permit shall allow a medical cannabis dispensary at the location proposed. The medical cannabis dispensary shall be operated in compliance with the

	approved operational plan and in compliance with all City and State regulations. Any expansion of the medical cannabis establishment shall require a Major Amendment to the Conditional Use Permit. Permitted uses within the General Commercial District in compliance with the Parking Ordinance shall be allowed with a building permit. Any conditional use shall require the review and approval of a Major Amendment to the Conditional Use Permit.
--	---



Rapid City Department of Community Development

Development Review Advisories

*Disclosure: The Development Review Team has created this list of Advisories as a courtesy for your specific application. **This is not a complete list.** All City, District, State, and Federal requirements must be continually met.*

Applicant Request(s)	
Case # 21UR047	Conditional Use Permit to allow a medical cannabis dispensary
Companion Case(s) #	N/A
ADVISORIES: Please read carefully!	
1.	A building permit shall be obtained prior to any construction. A Certificate of Occupancy shall be obtained prior to use;
2.	All requirements of the currently adopted Building Code, Mechanical and Electric Codes and the International Fire Code shall be met;
3.	All requirements of the Rapid City Infrastructure Design Criteria Manual and Rapid City Standard Specifications shall be met;
4.	ADA accessibility shall be maintained throughout the site as necessary;
5.	All parking shall be installed and maintained in compliance with the requirements of the Rapid City Parking Ordinance; and,
6.	All lighting shall be designed to preclude shining on adjacent properties and rights-of-ways, so as not to create a nuisance to neighboring properties and traffic.