



Rapid City Planning Commission

Conditional Use Permit Project Report

November 24, 2021

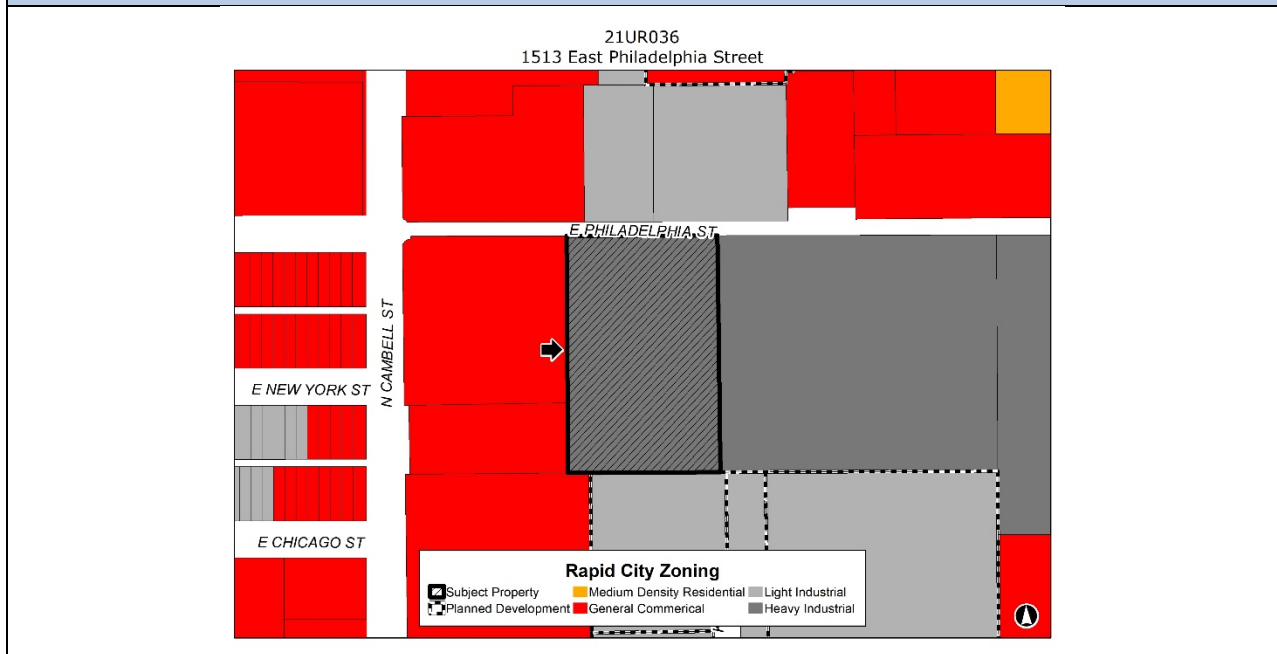
Item #24	
Applicant Request(s)	
Case #21UR036 – Conditional Use Permit to allow a Medical Cannabis Dispensary	
Companion Case(s): N/A	
Development Review Team Recommendation(s)	
Staff recommends the Conditional Use Permit be approved with the stipulations noted at the end of the report.	
Project Summary Brief	
<p>(Update: 11/23/21. All changed text is shown in bold.) The applicant has submitted a Conditional Use Permit application to allow a medical cannabis dispensary at 1513 East Philadelphia Street There is currently a 30,614 square foot industrial building located on the property. The applicant is proposing to utilize the front portion of the building (990 square feet) for the medical cannabis dispensary. The balance of the structure will continue to be used for industrial services and warehouse storage. The applicant has indicated that the medical cannabis dispensary, to be known as Puffy's Dispensary, will be open daily from 8 a.m. to 8 p.m.</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 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 Heavy Industrial 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 Heavy Industrial District but is located within 322 feet of a licensed childcare center. 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 childcare center 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: Puffy's LLC	Planner: Kip Harrington
Property Owner: JLD Properties LLC	Engineer: Dan Kools
Architect: N/A	Fire District: Tim Behlings
Engineer: Reno James Engineering.	School District: Kumar Veluswamy
Surveyor: N/A	Water/Sewer: N/A
Other: N/A	DOT: Stacy Bartlett
Subject Property Information	
Address/Location	1513 East Philadelphia Street
Neighborhood	Elk Vale Road Neighborhood Area
Subdivision	Devine Subdivision
Land Area	3.74 acres

Existing Buildings	Commercial
Topography	Flat
Access	East Philadelphia Street
Water Provider	City of Rapid City
Sewer Provider	City of Rapid City
Electric/Gas Provider	Black Hills Energy
Floodplain	N/A

Subject Property and Adjacent Property Designations

	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	HI	LI	Industrial
Adjacent North	LI	LI	Industrial
Adjacent South	LI with PD	LI	Industrial
Adjacent East	HI	LI	Industrial
Adjacent West	GC	MUC	Commercial

Zoning Map

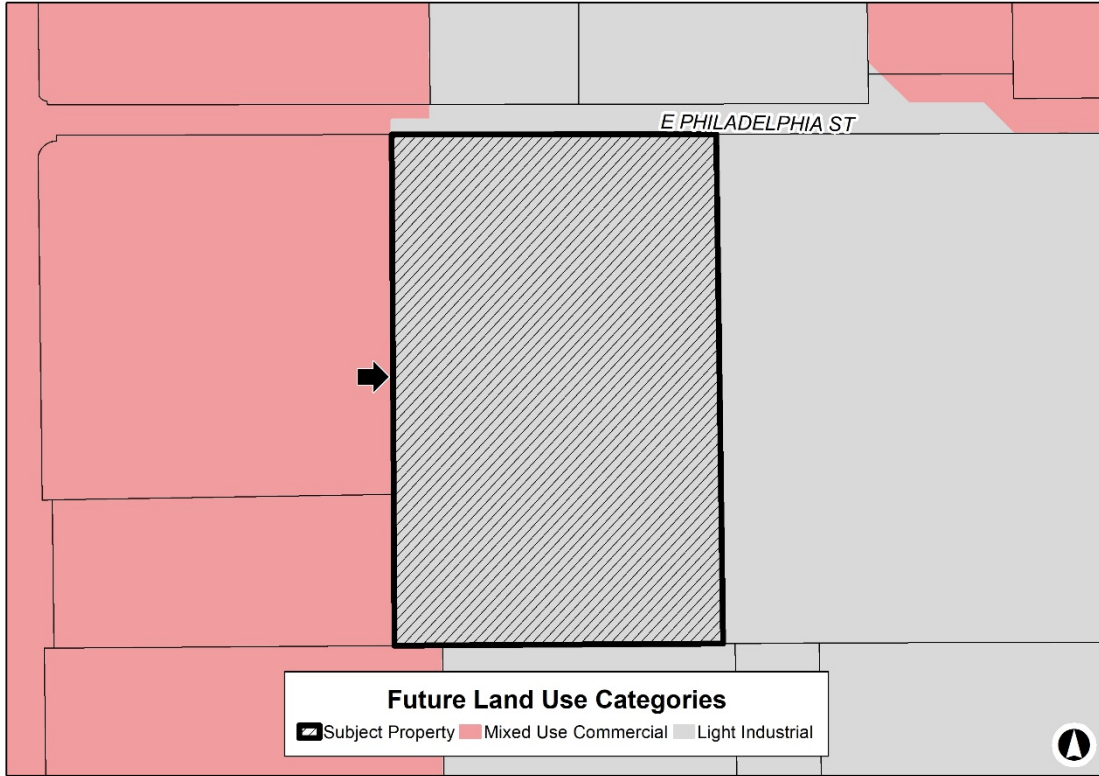


Existing Land Uses



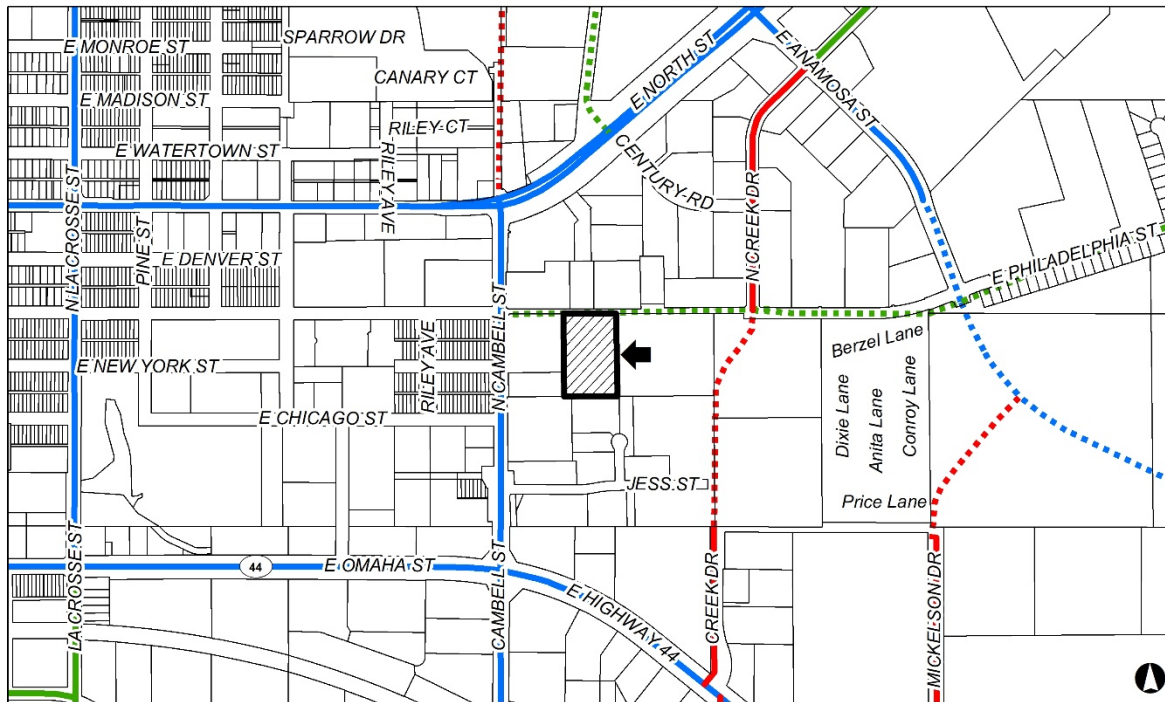
Comprehensive Plan Future Land Use

21UR036
1513 East Philadelphia



Parks or Transportation Plan

21UR036
1513 East Philadelphia



Major Street Plan

- Subject Property
 Collector
 Principal arterial
 Proposed minor arterial
- Minor arterial
 Proposed collector
 Proposed principal arterial

Relevant Case History			
Case/File#	Date	Request	Action
Relevant Zoning District Regulations			
Heavy Industrial District	Required	Proposed	
Lot Area	1 acre	3.74 acres	
Lot Frontage	N/A	N/A	
Maximum Building Heights	4 stories or 45 feet	16 feet	
Maximum Density	80%	18.8%	
Minimum Building Setback:			
• Front	35 feet	Legal non-conforming	
• Rear	25 feet	285 feet	
• Side	25 feet	Legal non-conforming	
• Street Side	35 feet	20 feet to E Philadelphia St – legal non-conforming	
Minimum Landscape Requirements:			
• # of landscape points	132,300	N/A	
• # of landscape islands	N/A	N/A	
Minimum Parking Requirements:			
• # of parking spaces	9	27	
• # of ADA spaces	1	2	
Signage	As per Sign Code	As per Sign Code	
Fencing	As per RCMC Chapter 17.50.150	Chain link fence with slats on the south lot line of the property.	

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...	Operational Plan-The applicant has indicated that the dispensary will be open daily from 8:00 a.m. to 8:00 p.m. Each prospective employee will be required to pass a criminal history background check. Security Plan-The plan identifies that the establishment will be furnished with commercial grade locking devices. In addition, camera monitoring and alarm systems, which include a failure notification system, will be installed in accordance with State regulations. Waste Management Plan- The applicant will collect, store, and prepare non-hazardous medical cannabis waste. In

	<p>particular, waste will be segregated, rendered unrecognizable and unfit, and documented in accordance with South Dakota law. Waste handling procedures include protocols that include grinding and mixing waste with at least 50 percent of other waste resulting in a mixture containing not less than 50 percent non-medical cannabis waste.</p> <p>Odor Control Plan- The plan identifies that the facility's interior building design includes, among other features, high-efficiency heating, ventilation, and air conditioning units with activated carbon filtration for odor control. These systems are designed to prevent the detection of cannabis odors outside of the premises.</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. The property is located approximately 322 feet from a childcare center that is located to the north of the proposed medical cannabis dispensary. An opaque fence is located along the south lot line of the childcare center between the childcare center and the proposed dispensary. There is a significant elevation difference between the uses, with the childcare center approximately 50 feet in elevation above the subject property. The opaque fence provides a visual barrier between the childcare center and the subject property.
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 3.74 acres in size and is located at 1513 East Philadelphia Street. The property is zoned Heavy Industrial District and is currently developed with a one-story commercial building measuring 30,614 square feet in size.
2. The location, character and design of adjacent buildings:	Property to the north, south, and east is zoned Light Industrial District. Property to the west is zoned General Commercial District.

<p>3. Proposed fencing, screening and landscaping:</p>	<p>The applicant is not proposing any new fencing or screening. The existing landscaping on the property is legal non-conforming. The medical cannabis dispensary does not require that additional landscaping be provided since the proposed use does not result in a 20% expansion of use on the property. The applicant should be aware if the use of the property should change resulting in more than a 20% increase in occupancy or a structural expansion more than 20% of the existing building(s), the landscaping must be brought into compliance with the City's Landscape Regulations. The existing screening consists of a semi-opaque chain link fence on the property line between the subject property and the industrial structure to the south. In addition, an opaque screening fence is located along the south lot line of the nearby childcare center between the childcare center and the proposed dispensary.</p>
<p>4. Proposed vegetation, topography and natural drainage:</p>	<p>The property slopes slightly from the north to the south. Utilizing an existing structure for the location of the proposed dispensary does not alter the existing topography or drainage on the property.</p>
<p>5. Proposed pedestrian and vehicular access, circulation and parking, including that related to bicycles and other unpowered vehicles and provisions for handicapped persons:</p>	<p>Vehicular access to the proposed medical cannabis dispensary is primarily from East Philadelphia Street, a collector street on the City's Major Street Plan. The applicant's parking plan has identified that 8 parking spaces with 1 ADA space being "van" accessible, are required and 13 parking spaces plus 2 ADA spaces, both being "van" accessible are being provided for the existing uses and the proposed dispensary. The remainder of the parking area is legal non-conforming gravel parking. 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.</p>
<p>6. Existing traffic and traffic to be generated by the proposed use:</p>	<p>The subject property is located within an industrial corridor with an existing street design to accommodate the industrial traffic. A 990 square foot medical cannabis dispensary will have a minimal impact on traffic at this location.</p>
<p>7. Proposed signs and lighting:</p>	<p>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.</p>
<p>8. The availability of public utilities and services:</p>	<p>The property is currently served by public utilities provided by the City of Rapid City.</p>
<p>9. The objectives of the adopted comprehensive plan and the purpose of the ordinance codified herein:</p>	<p>The property is zoned Heavy Industrial 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 322 feet from a childcare center. However, the childcare center is separated from the property by East Philadelphia Street, an industrial building, significant elevation change, and an opaque screening fence providing a buffer between the uses. The proposed signage will not be visible from the childcare center.</p>
<p>10. The overall density, yard, height and other requirements of the zone in which it is located:</p>	<p>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.</p>

<p>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:</p>	<p>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.</p>
<p>12. The degree to which conditions imposed will mitigate any probable adverse impacts of the proposed use on existing adjacent uses:</p>	<p>Based on a review of the criteria set forth in State Law and the Rapid City Municipal Code, staff is recommending approval of the proposed medical cannabis dispensary at this location. 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.</p>

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-1.1A	Compact Growth: This goal encourages growth and infill development. The property is located in an existing commercial area with all utilities in place.
 A Vibrant, Livable Community	
N/A	N/A
 A Safe, Healthy, Inclusive, and Skilled Community	
N/A	N/A
 Efficient Transportation and Infrastructure Systems	
N/A	N/A
 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.
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Comprehensive Plan Conformance – Growth and Reinvestment Chapter	
Future Land Use Plan Designation(s):	Light Industrial
Design Standards:	
N/A	The proposed medical cannabis dispensary will utilize an existing structure.
Comprehensive Plan Conformance – Neighborhood Area Policies Chapter	
Neighborhood:	Elk Vale Road Neighborhood Area
Neighborhood Goal/Policy:	
EV-NA1.1C	Mixed-Use Development: The proposed use supports redevelopment in an existing commercial corridor.

Findings
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 nearby childcare center. The property is located approximately 322 feet from the childcare center that is located to the north of the proposed medical cannabis dispensary. An opaque fence is located along the south lot line of the childcare center between the childcare center and the proposed dispensary. There is a significant elevation difference between the uses, with the childcare center approximately 50 feet in elevation above the subject property. The opaque fence provides a visual barrier between the childcare center and the subject property.

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;
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 # 21UR036	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.