



Rapid City Planning Commission

Conditional Use Permit Project Report

November 24, 2021

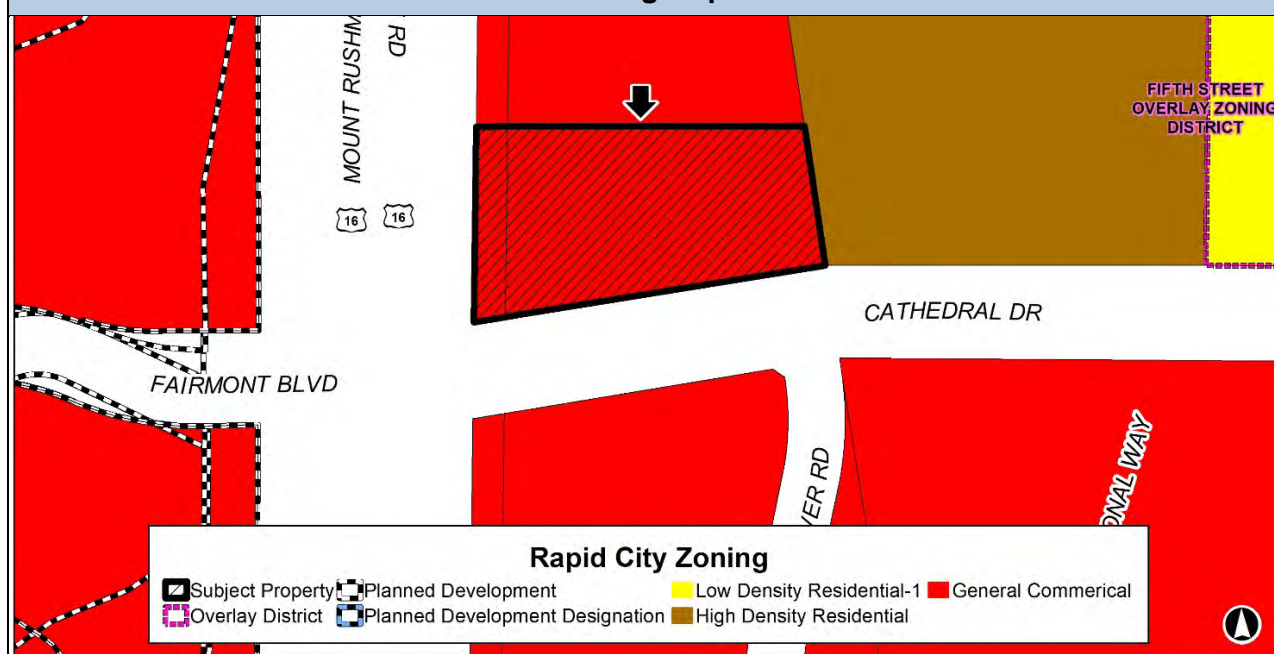
Item #36	
Applicant Request(s)	
Case #21UR034 – Conditional Use Permit to allow a Medical Cannabis Dispensary	
Companion Case(s): N/A	
Development Review Team Recommendation(s)	
Staff recommends the Conditional Use Permit to allow a Medical Cannabis Dispensary be denied.	
Project Summary Brief	
<p>The applicant has submitted a Conditional Use Permit application to allow a medical cannabis dispensary at 2640 Mount Rushmore Road. There is currently a 6,364 square foot convenience store and pharmacy located on the property. There is also a car wash under construction on the property located directly north of the dispensary. The applicant is proposing to utilize the existing pharmacy floor area (2,320 square feet) for the medical cannabis dispensary. The balance of the structure will continue to be used for the gas sales and retail use. The applicant has indicated that the medical cannabis dispensary, to be known as CC Health, will be open daily from 8 a.m. to 10 p.m. with 8 full-time employees.</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 directly adjacent to an apartment development on the east and approximately 400 feet from a church. 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 church 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: Moyle Petroleum Company	Planner: Sarah Hanzel
Property Owner: Same	Engineer: Emily Fisher
Architect: N/A	Fire District: Tim Behlings
Engineer: KTM Design Solutions, Inc.	School District: Kumar Veluswamy
Surveyor: N/A	Water/Sewer: N/A
Other: N/A	DOT: Stacy Bartlett
Subject Property Information	
Address/Location	2640 Mount Rushmore Road
Neighborhood	US Highway 16 Neighborhood Area
Subdivision	Arches Addition

Land Area	1.4 acres
Existing Buildings	Commercial
Topography	Moderate slope from west to east
Access	Mount Rushmore Road/Cathedral Drive
Water Provider	City of Rapid City
Sewer Provider	City of Rapid City
Electric/Gas Provider	Black Hills Energy
Floodplain	N/A

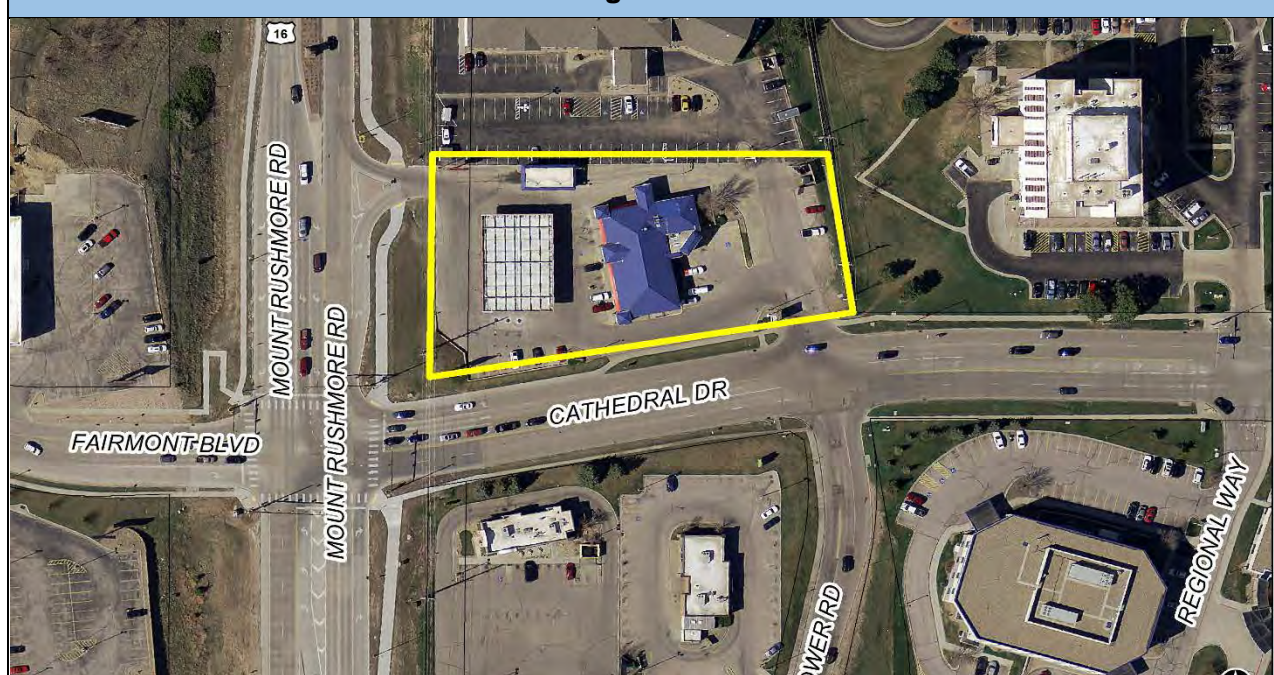
Subject Property and Adjacent Property Designations

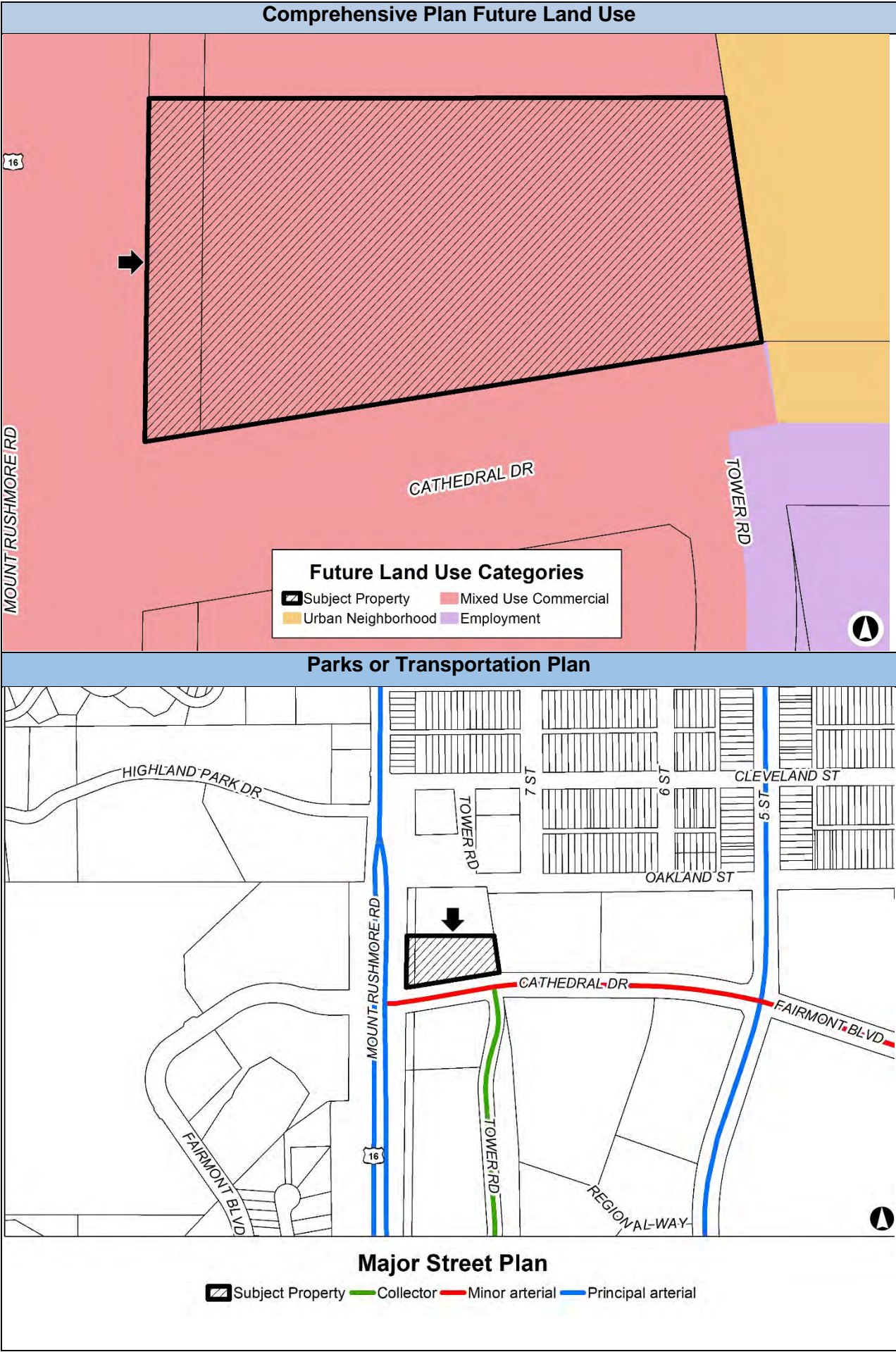
	Existing Zoning	Comprehensive Plan	Existing Land Use(s)
Subject Property	GC	MUC	Commercial
Adjacent North	GC	MUC	Commercial
Adjacent South	GC	MUC	Commercial
Adjacent East	HDR	UN	Residential/Religious
Adjacent West	GC with PD	MUC	Commercial

Zoning Map



Existing Land Uses









Relevant Case History			
Case/File#	Date	Request	Action
Relevant Zoning District Regulations			
General Commercial District	Required	Proposed	
Lot Area	N/A	N/A	
Lot Frontage	N/A	N/A	
Maximum Building Heights	4 stories or 45 feet	20 feet 8 inches	
Maximum Density	75%	15%	
Minimum Building Setback:			
• Front	25 feet	25 feet	
• Rear	0 feet	30 feet	
• Side	0 feet	N/A	
• Street Side	25 feet	25 feet to Cathedral Drive	
Minimum Landscape Requirements:			
• # of landscape points	51,758	51,960	
• # of landscape islands	N/A	N/A	
Minimum Parking Requirements:			
• # of parking spaces	44	51	
• # of ADA spaces	2	3	
Signage	As per Sign Code	(2) wall signs totaling 161 square feet	
Fencing	As per RCMC Chapter 17.50.150	None required	

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 8:00 a.m. to 10:00 p.m. At least 8 full-time employees will operate the business. Each prospective employee will be required to pass a criminal history background check.</p> <p>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.</p> <p>Waste Management Plan - The applicant will collect, store, and prepare non-hazardous medical cannabis waste. In</p>

	<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; and	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 immediately adjacent to an 8-story apartment building that provides housing for seniors. Both the subject property and the residential structure take access from Cathedral Drive. The outdoor open space and walking path associated with the residential development shares a lot line with the proposed use. A semi-opaque fence demarcates the property lines; however, the proposed medical cannabis dispensary remains highly visible from the residential structure. Due to the orientation of the proposed use's entryway and the site layout of the residential structure, the existing fence and landscaping features do not adequately buffer the uses. The proposed signage will be visible from any residents utilizing the outdoor gathering space, as well as units located on the western portion of the apartment building which provides senior housing.
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	The property is approximately 1.4 acres in size and is

natural features of the property:	located at 2640 Mount Rushmore Road. The property is zoned General Commercial District and is currently developed with a one-story commercial building measuring 6,364 square feet in size.
2. The location, character and design of adjacent buildings:	Properties to the north, west, and south are also zoned General Commercial District. The property to the east is zoned High Density Residential District and is developed with an 8-story apartment building.
3. Proposed fencing, screening and landscaping:	The applicant is not proposing any new fencing or screening. The existing landscaping on the property is legal non-conforming. The medical cannabis dispensary is less than a 20% expansion of use on the property and as such, it does not require that additional landscaping be provided. 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 residential structure to the east.
4. Proposed vegetation, topography and natural drainage:	The property slopes slightly from the west to the east. 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 primarily from Cathedral Drive, a minor arterial on the City's Major Street Plan. The City's parking regulations require that 44 parking spaces with 3 ADA spaces, one being "van" accessible, are required to accommodate the uses on site. 51 parking stalls are being provided. 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 within a commercial corridor with an existing street design to accommodate the commercial traffic. A 2,320 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 adjacent to an 8-story apartment building which provides senior housing. The proposed signage will be visible to the residents. In addition, the outdoor usable open space shares a lot line with the proposed use that is not adequately buffered. There is a lack of separation between the activities of the proposed medical cannabis dispensary and those of the apartment building.
10. The overall density, yard, height and other requirements of	No additional structural development is being proposed. The existing development located on the property is in

the zone in which it is located:	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:	Based on a review of the criteria set forth in State Law and the Rapid City Municipal Code, staff is not recommending approval of the proposed medical cannabis dispensary at this location since potential impacts are not mitigated. This recommendation is due to the proposed use being directly adjacent to the apartment building which provides senior housing. The proposed signage will be visible to the residents. In addition, the outdoor usable open space shares a lot line with the proposed use that is not adequately buffered. There is a lack of separation between the activities of the proposed medical cannabis dispensary and those of the apartment building.

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	
N/A	N/A
 A Vibrant, Livable Community	
N/A	N/A
 A Safe, Healthy, Inclusive, and Skilled Community	
N/A	Neighborhood Transitions: This goal recommends transitions between uses and buffering them with careful site design, building placement, landscaping, etc. when new development occurs in transition areas between residential and commercial uses. The proposed medical cannabis dispensary is not adequately separated from the adjacent residential use.
 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.	

Comprehensive Plan Conformance – Growth and Reinvestment Chapter		
Future Land Use Plan		Mixed-Use Commercial
Designation(s):		
Design Standards:		
GDP-MU8	Relationship to Surrounding Neighborhoods: The proposed Conditional Use Permit to allow a medical cannabis dispensary adjacent to an existing apartment structure that is not adequately separated does not promote compatibility between uses as recommended by the City’s Comprehensive Plan.	
Comprehensive Plan Conformance – Neighborhood Area Policies Chapter		
Neighborhood:		Downtown/Skyline Neighborhood Area <i>(Insert the Neighborhood Area specific to the subject property)</i>
Neighborhood Goal/Policy:		
N/A	N/A	

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. Based on a review of the criteria set forth in State Law and the Rapid City Municipal Code, staff is not recommending approval of the proposed medical cannabis dispensary at this location since potential impacts are not mitigated. This recommendation is due to the proposed use being directly adjacent to the apartment building which provides senior housing. The proposed signage will be visible to the residents. In addition, the outdoor usable open space shares a lot line with the proposed use that is not adequately buffered. There is a lack of separation between the activities of the proposed medical cannabis dispensary and those of the apartment building.	

Planning Commission Recommendation and Stipulations of Approval	
Staff recommends that the Conditional Use Permit be denied.	