



# Rapid City Planning Commission

## Conditional Use Permit Project Report

December 9, 2021

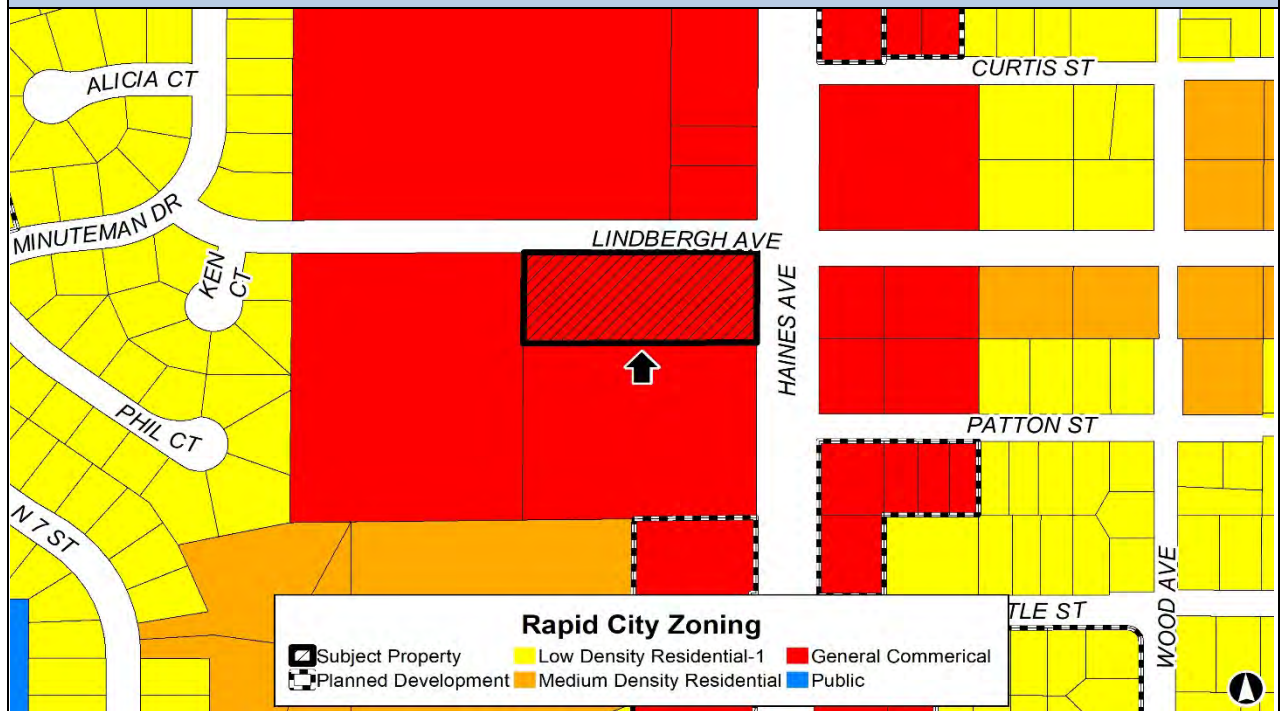
<b>Item #19</b>	
<b>Applicant Request(s)</b>	
Case #21UR043 – Conditional Use Permit to allow a Medical Cannabis Dispensary	
Companion Case(s): 21UR037 – Conditional Use Permit to allow a Medical Cannabis Dispensary 21UR044 – Conditional Use Permit to allow a Medical Cannabis Dispensary 21UR045 – Conditional Use Permit to allow a Medical Cannabis Dispensary	
<b>Development Review Team Recommendation(s)</b>	
Staff recommends that the Conditional Use Permit be approved with stipulations outlined below.	
<b>Project Summary Brief</b>	
<p>The applicant has submitted a Conditional Use Permit application to allow a medical cannabis dispensary at 1565 Haines Avenue Suite A. There is currently a 9,985 square foot building with 5 suites located on the property. The applicant is proposing a Medical Cannabis Establishment in a 1,809 square-foot suite. The applicant has indicated that the medical cannabis dispensary, to be known as Genesis Farms, will be open Monday through Saturday from 10:00 a.m. to 8:00 p.m. The applicant has submitted three additional Conditional Use Permit applications to allow medical cannabis dispensaries in three additional suites located on the same property.</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 400 feet from a residential zoning district. 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>	
<b>Applicant Information</b>	<b>Development Review Team Contacts</b>
Applicant: Genesis Farms, LLC	Planner: Kelly Brennan
Property Owner: MG Oil Company	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
<b>Subject Property Information</b>	
Address/Location	1565 Haines Avenue Suite A
Neighborhood	North Rapid Neighborhood Area
Subdivision	Northern Heights Subdivision
Land Area	1.59 acres
Existing Buildings	Commercial
Topography	Flat

Access	Lindbergh Avenue and Haines Avenue
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	Mobile Home Park/Commercial
Adjacent South	GC	MUC	Parking Lot/Commercial
Adjacent East	GC	MUC	Commercial
Adjacent West	GC	MUC	Commercial

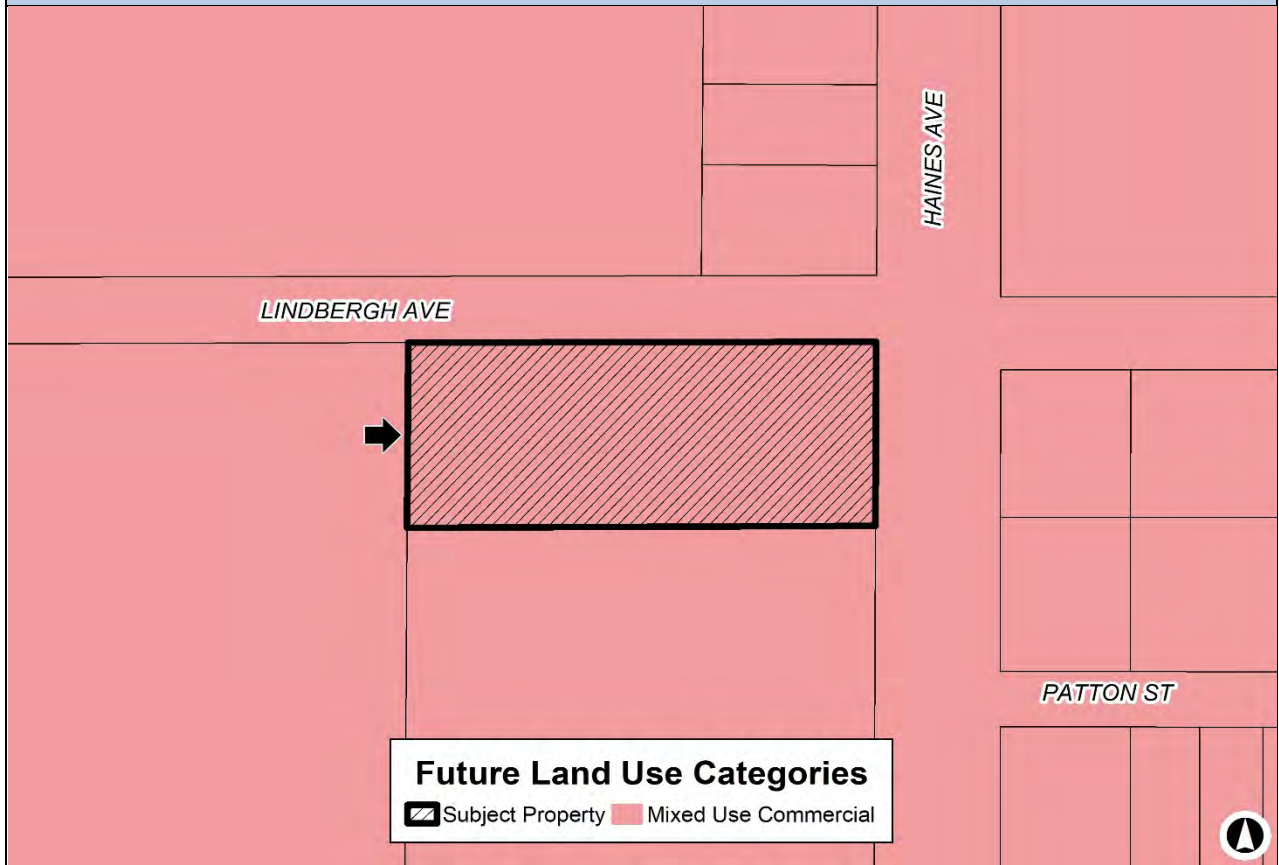
**Zoning Map**



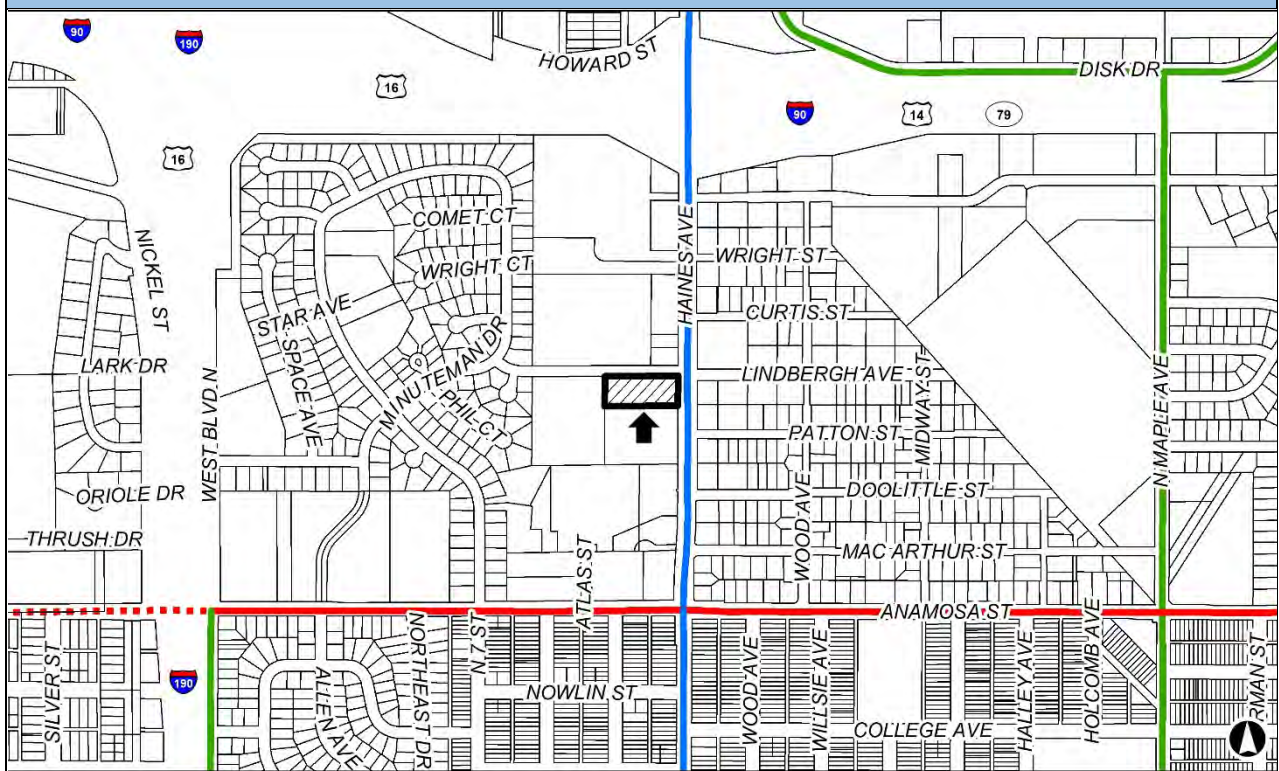
**Existing Land Uses**



### Comprehensive Plan Future Land Use



### Parks or Transportation Plan








Relevant Case History			
Case/File#	Date	Request	Action
<b>Relevant Zoning District Regulations</b>			
General Commercial District		Required	Proposed
Lot Area		N/A	1.59 acres
Lot Frontage		N/A	N/A
Maximum Building Heights		4 stories or 45 feet	23 feet
Maximum Density		75%	24%
Minimum Building Setback:			
• Front		25 feet	125 feet
• Rear		0 feet	180 feet
• Side		0 feet	40 feet north/14 feet south
• Street Side		25 feet	40 feet
Minimum Landscape Requirements:			
• # of landscape points		59,275	75,300
• # of landscape islands		2	2
Minimum Parking Requirements:			
• # of parking spaces		70	72
• # of ADA spaces		3	3
Signage		As per Sign Code	As per Sign Code
Fencing		As per RCMC Chapter 17.50.150	No proposed or existing fencing



Planning Commission Criteria and Findings for Approval or Denial	
<p><b>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:</b></p>	
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 Monday through Saturday from 10:00 a.m. to 8:00 p.m. Each prospective employee will be required to pass a criminal history background check.</p> <p>Security Plan - The dispensary floor plan features separate spaces, access points, and structural security features. Security features include an on-site trained security guard presence, commercial grade locking systems, restricted access cards and card-readers with associated programming for verification and tracking, high-resolution surveillance cameras, motion detectors/alarm systems, sufficient interior and exterior lighting, and a designated security storage room with a back-up power generator and a failure notification system which is intended to maintain security systems in the event of a power outage and to immediately notify the</p>

	<p>management team in the event of any alarm activations, outages or other incidents.</p> <p>Waste Management Plan - All waste, including waste composed of or containing finished marijuana and cannabis products shall be stored, secured, locked, and managed in accordance with State laws and Department Rules. Genesis Farms shall have separate locked limited access areas for storage of all medical cannabis and medical cannabis products, with separate storage and labeling in the secure storage area for any cannabis or cannabis products that are expired, damaged, deteriorated, mislabeled, contaminated, recalled or whose containers or packaging have been opened or breached until such inventory can be properly documented, destroyed or otherwise disposed of as required under Department Rules. "Cannabis waste" shall mean any solid, liquid, semi-solid contained gaseous material that is generated, stored or received by Genesis Farms' facility and shall include unused, surplus, returned, recalled, contaminated, or expired medical cannabis or medical cannabis products; and if applicable, wastewater.</p> <p>Odor Control Plan - The dispensary facility will ensure odor is not detected outside the licensed premises by implementing several measures, including but not limited to, the installation of air filtration and odor control/HVAC technology, a requirement that all cannabis inventory arrive and remain at the dispensary premises in sealed packaging containers, and a rapid response procedure to any detections or complaints. In addition, the dispensary will enforce a strict zero tolerance policy prohibiting consumption of cannabis products on-site.</p>
<p>4. The dispensary shall comply with all requirements of the Fire Code adopted as Chapter 8.24 of the Rapid City Municipal Code:</p>	<p>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.</p>
<p>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:</p>	<p>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 400 feet from residential zoning district. There is a large surface parking lot and a Goodwill Store buffering the use from the residential zoning district. The dispensary entrance and signage will not be visible from the residential uses.</p>
<p>6. The proposed use has been</p>	<p>See below</p>

reviewed under Chapter 17.54.030(E) Conditional Use Permit Criteria for Review:	
<b>Planning Commission Criteria and Findings for Approval or Denial</b>	
<b>Pursuant to Section 17.54.030(E) of the Rapid City Municipal Code the Planning Commission shall consider the following criteria:</b>	
1. The location, character and natural features of the property:	The property is approximately 1.59 acres in size and is located at 1565 Haines Avenue Suite A. The property is zoned General Commercial District and is currently developed with a 9,985 square-foot commercial building.
2. The location, character and design of adjacent buildings:	All adjacent properties are zoned General Commercial. The properties to the north, across Lindbergh Avenue, include a legal non-conforming mobile home park and a convenience store. The properties to the south, east, and west have existing commercial buildings.
3. Proposed fencing, screening and landscaping:	The applicant is not proposing any new fencing or screening. The landscape plan indicates 63,300 points exist and that 12,000 additional points will be provided, resulting in a total of 75,300 points.
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 Lindbergh Avenue a local street and Haines Avenue, a Principal Arterial street on the City's Major Street Plan. The applicant's parking plan has identified that 72 parking spaces including 3 ADA spaces, 2 of which are "Van" accessible are provided for the property; while 70 spaces including 3 ADA spaces are needed, according to the City's parking requirements. 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 1,809 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 400 feet from the residential uses. There is a large surface parking lot and a Goodwill Store buffering the Residential Zoning District. The dispensary entrance and signage will not be visible from the residential uses.
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.

<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>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>

<b>Planning Commission Comprehensive Plan Policy Guidance for Approval or Denial</b>	
<b>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:</b>	
<b>Comprehensive Plan Conformance – Core Values Chapters</b>	
 <b>A Balanced Pattern of Growth</b>	
<p>BPG-3.1A</p>	<p>Support a balanced mix of residential, commercial, employment, public uses, parks and green space throughout the community. A medical cannabis dispensary in this location encourages the geographic distribution of use across the City.</p>
 <b>A Vibrant, Livable Community</b>	
<p>LC-3.1C</p>	<p>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.</p>
 <b>A Safe, Healthy, Inclusive, and Skilled Community</b>	
<p>N/A</p>	<p>N/A</p>
 <b>Efficient Transportation and Infrastructure Systems</b>	
<p>TI-2.1A</p>	<p>Major Street Plan Integration: The subject property abuts Haines Avenue, which is identified as a Principal Arterial street on the City’s Major Street Plan. This section of Haines Avenue is a developed commercial corridor with the potential for reinvestment of properties along the corridor.</p>
 <b>Economic Stability and Growth</b>	
<p>EC-3.1C</p>	<p>Other Employment Areas: This goal encourages the development, redevelopment, and reinvestment in an array of employment opportunities in mixed-use commercial areas. A medical cannabis dispensary brings additional employment opportunities to the area.</p>

	<b>Outstanding Recreational and Cultural Opportunities</b>
N/A	N/A
	<b>Responsive, Accessible, and Effective Governance</b>
GOV-2.1A	<b>Public Input Opportunities:</b> 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.

<b>Comprehensive Plan Conformance – Growth and Reinvestment Chapter</b>	
<b>Future Land Use Plan Designation(s):</b>	Mixed-Use Commercial
<b>Design Standards:</b>	
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.
<b>Comprehensive Plan Conformance – Neighborhood Area Policies Chapter</b>	
<b>Neighborhood:</b>	North Rapid Neighborhood Area
<b>Neighborhood Goal/Policy:</b>	
N/A	N/A

<b>Findings</b>	
<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. The subject property is located approximately 400 feet from the residential uses. There is a large surface parking lot and a Goodwill Store buffering the Residential Zoning District. The dispensary entrance and signage will not be visible from the residential uses. The subject property is also located across the street from an existing mobile home park. The mobile home park is a legal non-conforming use on property zoned General Commercial District. Any future re-development of this property will require that the use complies with the General Commercial District. Lindbergh Avenue, a commercial street, provides a separation between the legal non-conforming mobile home park and the proposed medical cannabis dispensary. Since the applicant submitted four Conditional Use Permit applications for one property, staff is recommending that only one building permit be issued to allow one dispensary on the property should the Planning Commission choose to approve all four applications. This will ensure that there isn't a saturation of use within this area of our community.</p>	

<b>Planning Commission Recommendation and Stipulations of Approval</b>	
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.	Only one building permit shall be issued to allow one Medical Cannabis Dispensary to be operated on this legally described property; and,
8.	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)	
<b>Case # 21UR043</b>	Conditional Use Permit to allow a medical cannabis dispensary
<b>Companion Case(s) #</b>	21UR037 – Conditional Use Permit to allow a Medical Cannabis Dispensary 21UR044 – Conditional Use Permit to allow a Medical Cannabis Dispensary 21UR045 – Conditional Use Permit to allow a Medical Cannabis Dispensary
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.