MINUTES OF THE
RAPID CITY PLANNING COMMISSION
November 24, 2021

MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Golliher, John Herr, Mike Quasney, Haven Stuck and Vince Vidal. Ron Weifenbach, Council Liaison was also present.

MEMBERS ABSENT: Kelly Arguello, Eirik Heikes, and Eric Ottenbacher,

STAFF PRESENT: Vicki Fisher, Sarah Hanzel, Kelly Brennan, Tim Behlings, Chip Premus, Todd Peckosh, Steve Frooman, Kinsley Groote, Justin Williams, Rebel VanLoh, and Andrea Wolff.

Braun called the meeting to order at 7:02 a.m.

Braun noted that due to the number of participants and the large number of items on the agenda they will be using the timing lights, explained their operation and thanked everyone for their consideration and understanding.

Brennan requested that Items #30, #31, #32 and #33 be heard together.

*30. No. 21UR021 - Greenway Tract
A request by Puffy's LLC to consider an application for a Conditional Use Permit to allow a medical cannabis dispensary for Lot 1 of Tract 12 of Greenway Tract, located in Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2120 W. Main Street, Unit #1.

Brennan presented the applications and reviewed the associated slides noting that the 4 applications are located on one property in separate suites and that staff wished to address them together. Brennan stated that a developmental parking agreement would be required but as the property is owned by one person staff sees no problem obtaining one. Brennan reviewed the individual locations stating that the reason this requires a Conditional Use Permit is that the property is adjacent to the Greenway located behind the building, which is identified as a park. However, Brennan noted, as this is primarily part of the floodway, staff believes this provides a buffer. Brennan noted that staff feels that 4 dispensaries in one structure would create a saturation that could affect the neighborhood. As such, Brennan stated that staff is recommending approval with stipulations of one of the Conditional Use Permits to allow a medical cannabis dispensary and denial of the other three Conditional Use Permits to allow a medical cannabis dispensary.

Fisher reviewed what was used to arrive at the number of and procedures for dispensaries. Fisher stated that the number of units at the single location would create a saturation, but that staff understands the intent for applicants to increase their chances in the State Lottery with multiple locations. Fisher also addressed the potential for transfer of licenses, but staff cannot guarantee this will happen nor do they want to be party to that process.

Ryan Schwalk, Bermingham and Schwalk, representing Puffy's LLC, stated that as the Project Reports support all of the applications, but that based on saturation staff
recommends to deny all but one, he argues that as they support them he would like to have all four approved. Stuck stated that the State does not limit saturation and that he feels it should be encouraged. Schwalk offered language to allow a motion to approve all four with limit to only issue one building permit which would allow his client to obtain his provisional licenses to increase his number in the State lottery.

Brennan stated that staff understands the applicant’s desire to increase their numbers for the State lottery and have worked closely with all applicants to achieve the best options.

Kittrick Jeffries, 1732 Mesa Drive, Dakota Cannabis Consulting and Puffys LLC, thanked staff for all their work in this process. In response to Jeffries’ question as to which unit staff preferred, Brennan stated that staff has no preference. Jeffries asked that all four be approved.

Fisher clarified that when working on the language for licensing, one license for one location was decided. However, Fisher stated that land use identifies a location as legally described property, but addressing identifies a location as an addressed location, causing the situation before the Planning Commission. Staff believes this creates the potential for saturation and was not the plan when the regulations were created.

Brennan reviewed the Conditional Use Permit map showing the location of all received and proposed dispensaries.

Discussion followed regarding approving multiple locations on one property with the option to receive only one building permit per parcel property, the intent of the Ordinance, how staff would ensure that only one Conditional Use Permit was operated per parcel property, and the transfer of licenses.

Justin Williams, Assistant City Attorney, clarified license transferring and Fisher clarified that they can transfer between ownership.

Weifenbach stated that City Council and Planning Department discussion did not see the location being an address location versus a parcel location, but also stated that he understands that they will not open all four dispensaries in the one location. Weifenbach spoke to how City Council arrived at what they did.

Brennan clarified that deadline for submitting Conditional Use Permit applications for dispensaries has passed due to meeting dates.

Discussion followed regarding what would happen if the applicant did draw four State licenses with Fisher clarifying that should this happen the applicant has options including transferring them to another entity or another location. Fisher stated that if the location was permitted there would be no further review, but if not it would have to be reviewed by a Conditional Use Permit and as the applicant has one year to make the license operable.

Groote suggested legal language for approval identifying the applications by number and location, stating only a single Conditional Use Permit be operable on the property and any additional Conditional Use Permits on the property would
revoke that Conditional Use Permit, but Fisher suggested the approval language be kept to the approval of all four with stipulations outlined in the Project Report and that only one site and only one building permit would be issued to the legally described location.

Groote asked that the applicant confirmed understanding of the approval language and intent, Jeffries agreed they understand.

Tellinghuisen spoke to his concerns how this offsets the numbers for other applicants.

Discussion followed regarding license transferring, draws in the State Lottery and letters of compliance with Williams clarifying license holders would be able to have more than one license and would be able to transfer but must be operable within a year or it is revoked.

Fisher called the meeting back to subject, clarifying that the discussion on the floor is to approve all four of the Conditional Use Permits with stipulations and the language identifying the single use be addressed.

Quasney moved, Caesar seconded that all four Conditional Use Permits be approved with stipulations identified in 21UR021 with the additional stipulation that only one dispensary be shall be allowed to be operated from this legally described property.

Weifenbach thanked the Planning Commission for their vetting of these items stating that if any of them are brought to the Council he will be able to support their decisions.

Quasney moved, Caesar seconded and the Planning Commission approved the Conditional Use Permit to allow a medical cannabis dispensary with the following stipulation(s):
1. Only one building permit shall be issued to allow one Medical Cannabis Dispensary to be operated on this legally described property;
2. Prior to issuance of a building permit, a medical cannabis dispensary license shall be secured from the South Dakota Department of Health;
3. 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;
4. The waste management plan shall be continually monitored to ensure the security of waste handling;
5. 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;
6. 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;

7. 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;

8. Prior to submittal of a building permit application, the applicant shall enter into a Developmental Lot Agreement; a copy of the recorded document shall be submitted with the building permit application;

9. Prior to submittal of a building permit application, a revised landscaping plan will be required showing the additional landscaping needed; and

10. 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. (6 to 0 with Braun, Bulman, Caesar, Golliher, Quasney and Vidal 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 Department of Community Development by close of business on the seventh full calendar day following action by the Planning Commission.

*31. No. 21UR022 - Greenway Tract
A request by Puffy's LLC to consider an application for a Conditional Use Permit to allow a medical cannabis dispensary for Lot 1 of Tract 12 of Greenway Tract, located in Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2120 W. Main Street, Suite 3.

Quasney moved, Caesar seconded and the Planning Commission approved the Conditional Use Permit to allow a medical cannabis dispensary with the following stipulations:

1. Only one building permit shall be issued to allow one Medical Cannabis Dispensary to be operated on this legally described property;
2. Prior to issuance of a building permit, a medical cannabis dispensary license shall be secured from the South Dakota Department of Health;
3. 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;
4. The waste management plan shall be continually monitored to ensure
the security of waste handling;
5. 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;
6. 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;
7. 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;
8. Prior to submittal of a building permit application, the applicant shall
enter into a Developmental Lot Agreement; a copy of the recorded
document shall be submitted with the building permit application;
9. Prior to submittal of a building permit application, a revised
landscaping plan will be required showing the additional landscaping
needed; and
10. 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. (6 to 0 with Braun, Bulman, Caesar, Golliher, Quasney and
Vidal 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 Department of Community Development by close
of business on the seventh full calendar day following action by the Planning
Commission.
*32. No. 21UR023 - Greenway Tract

A request by Puffy's LLC to consider an application for a Conditional Use Permit to allow a medical cannabis dispensary for Lot 1 of Tract 12 of Greenway Tract, located in Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2120 W. Main Street, Suite 4.

Quasney moved, Caesar seconded and the Planning Commission approved the Conditional Use Permit to allow a medical cannabis dispensary with the following stipulations:

1. Only one building permit shall be issued to allow one Medical Cannabis Dispensary to be operated on this legally described property;
2. Prior to issuance of a building permit, a medical cannabis dispensary license shall be secured from the South Dakota Department of Health;
3. 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;
4. The waste management plan shall be continually monitored to ensure the security of waste handling;
5. 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;
6. 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;
7. 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;
8. Prior to submittal of a building permit application, the applicant shall enter into a Developmental Lot Agreement; a copy of the recorded document shall be submitted with the building permit application;
9. Prior to submittal of a building permit application, a revised landscaping plan will be required showing the additional landscaping needed; and
10. 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. (6 to 0 with Braun, Bulman, Caesar, Golliher, Quasney and Vidal 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 Department of Community Development by close of business on the seventh full calendar day following action by the Planning Commission.

*33. No. 21UR024 - Greenway Tract
A request by Puffy’s LLC to consider an application for a Conditional Use Permit to allow a medical cannabis dispensary for Lot 1 of Tract 12 of Greenway Tract, located in Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2120 W. Main Street, Suite 5.

Quasney moved, Caesar seconded and the Planning Commission approved the Conditional Use Permit to allow a medical cannabis dispensary with the following stipulations:
1. Only one building permit shall be issued to allow one Medical Cannabis Dispensary to be operated on this legally described property;
2. Prior to issuance of a building permit, a medical cannabis dispensary license shall be secured from the South Dakota Department of Health;
3. 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;
4. The waste management plan shall be continually monitored to ensure the security of waste handling;
5. 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;
6. 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;
7. 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;

8. Prior to submittal of a building permit application, the applicant shall enter into a Developmental Lot Agreement; a copy of the recorded document shall be submitted with the building permit application;

9. Prior to submittal of a building permit application, a revised landscaping plan will be required showing the additional landscaping needed; and

10. 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. (6 to 0 with Braun, Bulman, Caesar, Golliher, Quasney and Vidal voting yes and none voting no)