

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
March 7, 2019

MEMBERS PRESENT: Erik Braun, Mike Gollhofer, John Herr, Curt Huus, Eric Ottenbacher, Mike Quasney, Justin Vangraefschepe and Vince Vidal. Jason Salamun, Council Liaison was also present.

MEMBERS ABSENT: Karen Bulman, Racheal Caesar, Galen Hoogestraat

STAFF PRESENT: Ken Young, Vicki Fisher, John Green, Kelly Brennan, Patsy Horton, Tim Behlings, Todd Peckosh, Wade Nyberg and Andrea Wolff.

Braun called the meeting to order at 7:00 a.m.

Braun reviewed the Consent Agenda and asked if any member of the Planning Commission, staff or audience would like any item removed from the Consent Agenda for individual consideration.

Motion by Quasney seconded by Vidal and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 7 in accordance with the staff recommendations. (7 to 0 with Braun, Gollhofer, Herr, Ottenbacher, Quasney, Vangraefschepe and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the February 21, 2019 Planning Commission Meeting Minutes.
2. No. 19OA001 - An Ordinance To Update References to Department of Community Development in the Zoning Code By Amending Title 17 of the Rapid City Municipal Code
A request by City of Rapid City to consider an application for **An Ordinance To Update References to Department of Community Development in the Zoning Code By Amending Title 17 of the Rapid City Municipal Code.**

Planning Commission recommended that the Ordinance To Update References to Department of Community Development in the Zoning Code By Amending Title 17 of the Rapid City Municipal Code be approved.

- *3. No. 19PD006 - Johnson Ranch Subdivision
A request by KTM Design Solutions, Inc. for Yasmeen Dream, LLC to consider an application for a **Final Planned Development Overlay to allow a residential development** for a portion of Johnson Ranch Subdivision, Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the Southeast Corner of Lot 56, also being the Northerly right-of-way of Hutt Court, of Johnson Ranch Subdivision, located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; the point of beginning; Thence (1) North 0°14'11" East, a distance of 107.00 feet; property (2) South 89°54'03" East, a distance of 183.75 feet; property (3) North

0°31'05" East, a distance of 51.28 feet; property (4) South 89°47'52" East, a distance of 96.80 feet; property (5) South 74°34'55" East, a distance of 142.96 feet; property (6) South 0°06'05" West, a distance of 299.34 feet; property (7) North 89°55'11" West, a distance of 419.47 feet; THENCE (8) North 0°13'53" East, a distance of 127.14 feet; property (9) North 0°14'11" East, a distance of 52.00 feet to the point of beginning, more generally described as being located south of E. St. Patrick Street and west of Elk Vale Road.

Planning Commission approved the Final Planned Development Overlay to allow a residential development with the following stipulations:

- 1. The previously granted exception is hereby acknowledged to allow a reduced minimum lot size of 4,922 square feet in lieu of 6,500 square feet required;**
- 2. The previously granted exception is hereby acknowledged to allow a reduced minimum lot width at the front building line of 46 feet in lieu of 50 feet required;**
- 3. The previously granted exception is hereby acknowledged to allow a maximum lot coverage of 35% in lieu of 30% allowed;**
- 4. Prior to issuance of a Building Permit, Development Engineering Plans for the proposed lots shall be submitted for review and approval;**
- 5. Prior to issuance of a Certificate of Occupancy, a Final Plat application for the proposed lots shall be submitted for review and approval;**
- 6. Prior to issuance of a Certificate of Occupancy, the public park shall be constructed;**
- 7. All signage shall continually conform to the Sign Code. No electronic signs are being approved as a part of this Final Planned Development Overlay. Changes to the proposed sign package, which the Department of Community Development Director determines to be consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Planned Development Overlay. All signage not in conformance with the Sign Code shall require a Major Amendment to the Final Planned Development. Any electronic reader board signs shall require the review and approval of a Major Amendment to the Final Planned Development. Lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A Sign Permit shall be obtained for each individual sign; and,**
- 8. The Final Planned Development Overlay shall allow a residential development in the Medium Density Residential District. All requirements of the Medium Density Residential District shall be maintained unless specifically authorized as a stipulation of this Final Planned Development Overlay or a subsequent Major Amendment to the Planned Development. All uses permitted in the Medium Density Residential District which do not increase parking requirements shall be permitted contingent upon an approved Building Permit. All conditional uses in the Medium Density Residential District or uses which increase the required amount of parking on the site shall**

require a Major Amendment to the Planned Development.

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.

*4. No. 19UR001 - Northern Heights Subdivision

A request by Alex Novak , Novation Group Consulting for SBA Communications & Sprint to consider an application for a **Major Amendment to a Conditional Use Permit to allow a cellular communications tower** for Lot 3 of Tract A of Block 1 of Northern Heights Subdivision, located in Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 611 Lindbergh Avenue.

Planning Commission approved the Conditional Use Permit to allow a cellular communications tower with the following stipulation:

1. Upon submittal of a Building Permit, a grading plan, drainage plan, storm water quality treatment plan, and an erosion and sediment control plan shall be submitted for review and approval;
2. The proposed landscaping and screening fence shall be installed as proposed on the site plan submitted by the applicant;
3. Lighting and signage on the tower shall not be allowed; and,
4. The Conditional Use Permit shall allow a 100 foot high monopole cellular communication tower with an additional 5 foot lightning rod and an associated equipment pad. The tower shall be designed for co-location and a Building Permit shall be required for the construction of the additional equipment pads. Changes to the proposed tower or equipment shelter(s) that do not meet the criteria of Chapter 17.54.030(I) of the Rapid City Municipal Code shall require a Major Amendment. 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.

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.

5. No. 19OA003 - Ordinance Amendment to Update References to Department of Community Development in the Subdivision Regulations by Amending Section 16.04.080 and Section 16.20.010 of the Rapid City Municipal Code

A request by City of Rapid City to consider an application for an **Ordinance Amendment to Update References to Department of Community Development in the Subdivision Regulations by Amending Section 16.04.080 and Section 16.20.010 of the Rapid City Municipal Code.**

Planning Commission recommended that the Ordinance Amendment to Update References to Department of Community Development in the Subdivision Regulations by Amending Section 16.04.080 and Section 16.20.010 of the Rapid City Municipal Code be approved.

6. No. 19OA004 - Ordinance to Revise the Definition for Building Setback Line Where Right-Of-Way Has Been Expanded for Fire Hydrants by Amending Section 17.04.125 of the Rapid City Municipal Code

A request by City of Rapid City to consider an application for an **Ordinance to Revise the Definition for Building Setback Line Where Right-Of-Way Has Been Expanded for Fire Hydrants by Amending Section 17.04.125 of the Rapid City Municipal Code**

Planning Commission recommended that the Ordinance to Revise the Definition for Building Setback Line Where Right-Of-Way Has Been Expanded for Fire Hydrants by Amending Section 17.04.125 of the Rapid City Municipal Code be approved.

7. No. 19TP003 - Rapid City Area Metropolitan Planning Organization 2018 Traffic Volume Counts Report (Information Only)

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

- *8. No. 18PD038 - Discovery Subdivision

A request by KTM Design Solutions, Inc for Discovery Circle, LLC to consider an application for an **Initial and Final Planned Development Overlay to allow a convenience store and on-sale liquor in conjunction with a casino** for Lots 3, 4, 10, 11 and 12 of Tract 3 of Discovery Subdivision, located in the NE1/4 of the SE1/4 and the SE1/4 of the NE1/4 of Section 28, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southwest of the intersection of Elk Vale Road and E. Mall Drive.

Green noted that due to a sign posting error that put the application out of compliance with public notification, staff is requesting that the application be divided to allow the Initial and Final Planned Development to allow a convenience store to be addressed at this meeting and the Conditional Use Permit portion addressing the on-sale liquor be continued to the March 21, 2019 Planning Commission meeting. Green stated that revised stipulations showing these changes have been provided as a handout to the Planning Commission. Green reviewed the proposed layout of the site plan indicating it will be 15,000 square foot convenience store with a fueling station and will include casino section that is separated by a wall. Green stated that all of the parking and landscaping meets the Rapid City Municipal Code. One of the purposes of the Planned Development is to request signage that is above that allowed by the Rapid City Sign Code. The applicant is requesting an Exception to allow a Pole Sign with a height of 60 feet in lieu of a maximum allowed height of 45 feet and an Exception to allow 491 square feet of LED signage in lieu of a maximum 60

square feet allowed. Green reviewed the proposed layout and location of the pole indicating it is located in the southeast of the property adjacent to Interstate 90.

Green stated that the property is located along a Gateway Corridor and the Rapid City Comprehensive Plan discourages pole signing in Gateway and Entry Corridors in lieu of low profile monument signage. Green identified other pole signs of the same general size and height in the area including the sign at Flying J directly across Elk Vale Road from the proposed site and the La Quinta sign that is further east along Elk Vale Road; however, he noted that both of these signs are located in the City of Box Elder and not in Rapid City. Green said staff recommends that both the Exception to height and the Exception to maximum LED signage be denied. Green presented staff's recommendation that the Initial and Final Planned Development to allow a convenience store be approved with stipulations outlined in the Project Report.

Fisher discussed the difficulty with signs requests agreeing that we want to follow the Comprehensive Plan but not deny opportunities for applicants. Fisher spoke to past actions and reasons for denying or approving Exceptions.

In response to a question from Quasney, Fisher confirmed that staff's recommendation is to deny the Exceptions and approve the rest of the application.

Jim Sachs, Moyle Petroleum, stated that he believes that this project will be a benefit to the city and briefly reviewed Moyle Petroleum's history in the area including past development and philanthropic activities. Sachs presented a presentation showing similar projects that they have built and the proposed site and project. Sachs noted that the reason for the height request is for line-of-site from the interstate, noting that the lag time from identifying the sign from the interstate to making the exit with a shorter sign would create a detriment and that there is a competitive need to allow them to compete with Flying J and their 60 foot high sign located across the Elk Vale Road.

Huus entered the meeting at this time.

Kyle Treloar, KTM Design Solutions, discussed the need for the height of the sign including the larger more aggressive signage of the neighboring competitor. Treloar identified that the actual square footage of the LED signage is 317 foot which is less than the 491 square foot previously stated. Treloar noted that the LED signage is for the static display of fuel price and logo information and will not have moving or live action LED signage like those of the sign at the Flying J across Elk Vale Road. Treloar presented a visual review showing how the sign will affect the line-of-sight from the aspect of approaching from the interstate. Treloar noted that the Flying J sign is 85 feet high and 50 feet wide acknowledging that it is a Box Elder sign and not required to meet Rapid City Sign Code. Treloar reviewed other signs that have digital reader boards and comparable heights.

In response to a question from Vidal regarding the distance of the property's lot

line from Box Elder, Treloar stated that it is just on the other side of Elk Vale Road with Elk Vale Road being in Rapid City.

In response to questions from Vidal regarding the higher signs in the area, Fisher clarified that those signs in question are in Box Elder noting that previous requests for such signs within Rapid City have been denied.

In response to a question from Vangraefschepe, Sachs noted the site for the proposed pole sign is approximately 2 feet lower than Elk Vale Road.

Quasney acknowledge the applicants attempts to reduce overall signage, but he feels that a decision to start reducing pole signage in these corridors as designated by the Comprehensive Plan needs to be made.

In response to a question from Braun on the rise of the off ramp from the interstate, neither Sachs nor staff was able to definitively identify the rise.

Herr said that competition should be considered and this request shouldn't be denied just because it is in the City when the other business just across the highway can have the larger sign.

Quasney said that he believes the signs from Flying J already draw customers off the interstate and this business could use that draw to their advantage. He reiterated that he feels that the Planning Commission needs to start enforcing the Comprehensive Plan.

Huus stated that he would rather see a sign like this than see additional billboards along the interstate and understands the trepidation of investing millions of dollars into a project without adequate signage.

Ottenbacher asked how it was determined that so much business would be lost by the sign being lower and that he also feels that the existing signage of the competitor will help to draw initial interest and then the customer could be able to see they had options as they got closer or after taking the off ramp. He also stated that it is unfortunate that the City of Box Elder does not appear to have the same restrictions, but that the Planning Commission needs to start holding the line and enforcing the Ordinances that are in place.

In response to a question from Vangraefschepe on the intent of the height limits and if they are intended to avoid driver distraction or to avoid distraction of local residents. Fisher reviewed the history of the sign committee that worked to create the Sign Code Ordinance and noted how they had wanted to maintain the skyline and to limit sign heights. Fisher noted that the sign height exceeds the allowed building height in Commercial Districts and so the sign height of 60 feet was denied and the current height was set.

Fisher also noted that there are other options for the location of services along the interstate such as service signs that identify upcoming services on the interstate where space can be rented or purchased and online sources that are used by younger customers.

Further discussion followed.

Quasney stated that he feels if this Exception is allowed then the next time a request is made they will be able to say that since this was granted they should have it also and so on and so on and that a stand needs to be made.

Herr spoke to the potential for future building height stating that our need to adjust, Fisher responded that the city already has zoning districts that allow taller buildings.

Fisher suggested that a separate motion to address the Exception to the Height and then a separate action for the convenience store to avoid a potential tie.

In response to Braun's request for procedure, Nyberg stated that he believes it is up to the discretion of the applicant.

Sachs stated that they would like to have a single decision rather than multiple. He then spoke to the idea of using the competitions sign was not acceptable indicating that the sign is a requirement for the applicant to build the proposed project

Fisher reviewed the revised stipulations noting that they should include the lesser LED footage of 317 square footage of LED signage as noted by Trelaor earlier in the meeting.

Quasney move, Galliher seconded to approve the Initial and Final Planned Development to allow a convenience store with the stipulations as noted by staff Project Report with staff's friendly amendment to adjustment to reflect 317 square footage of LED signage and to acknowledge the continuation of the On-Sale Liquor to the March 21, Planning Commission meeting. Roll Call Vote was taken. Motion failed 3-5 (3 to 5 with Gollither, Ottenbacher and Quasney voting yes and Braun, Herr, Huus, Vangraefschepe and Vidal voting no)

Herr moved, Huus seconded to approve the convenience store and casino with stipulations, to grant the Exceptions to sign height and LED signage with the noted correction to 317 square footage of LED signage and to continue the Conditional Use Permit for on-sale liquor to the March 21, 2019 Planning Commission Meeting.

In response to a question from Vidal if language identifying that the Exception is being granted only because of existing sign located in another jurisdiction just across the roadway that creates an unfair advantage, Fisher said she didn't believe such language was needed but did note that the minutes reflecting the meeting would definitely reflect such.

Huus stated that although he is OK with the static LED signage showing the fuel prices, as shown in the plans, he would not feel the same if the sign was a moving, active sign and like to see a stipulation to require that the LED signage

remain static.

Sachs stated that he had no argument with retaining this signage as fuel pricing as long as it is acknowledged that the prices would shift between fuel types and prices.

Herr agreed to the revised stipulations to identify the LED sign as fuel price display, Huus seconded.

Herr moved, Huus seconded and the Planning Commission recommended that the Initial and Final Planned Development Overlay application to allow a convenience store be approved with the following stipulations and that the on-sale liquor in conjunction with a casino be continued to the March 21, 2019 Planning Commission meeting to allow the applicant to post the "On-Sale Liquor" sign as required:

- 1. The Exception request to allow a Pole Sign with a height of 60 feet in lieu of a maximum allowed height of 45 feet is hereby approved;**
- 2. The Exception request to allow 317 square feet of LED signage in lieu of a maximum 60 square feet allowed is hereby approved. The signage shall display fuel price only;**
- 3. Prior to issuance of a Building Permit, construction plans shall be revised to address all redlined comments;**
- 4. Prior to issuance of a Building Permit, the Traffic Impact Study shall be revised to address all redlined comments;**
- 5. Prior to issuance of a Building Permit, the site plan shall be revised to show all access approaches designed in compliance with the Infrastructure Design Criteria Manual, or an Exception shall be obtained;**
- 6. Prior to issuance of a Building Permit, site plans shall be revised to show a minimum of 5 landscape islands;**
- 7. Prior to issuance of a Building Permit, the subject property shall be replatted to create a single lot for the proposed development, or a Developmental Lot Agreement between all five lots shall be recorded;**
- 8. Prior to issuance of a Building Permit, all portions of the Major Drainage Easement shown as occupied by structural development shall be vacated;**
- 9. A Major Amendment to the Planned Development Overlay shall be approved prior to the construction of the restaurant;**
- 10. The Initial and Final Planned Development Overlay shall allow a convenience store on the property operated in compliance with the applicant's operations plan. All requirements of the General Commercial District shall be maintained unless specifically authorized as a stipulation of this Final Planned Development Overlay or a subsequent Major Amendment to the Planned Development. All uses permitted in the General Commercial District which do not increase parking requirements shall be permitted contingent upon an approved Building Permit. All conditional uses in the General Commercial District or uses which increase the required amount of parking on the site shall require a Major Amendment to the Planned Development. (5**

to 3 with Braun, Herr, Huus, Vangraefschep and Vidal voting yes and Gollither, Ottenbacher and Quasney 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.

Brennan requested that Items #9 and #10 be heard concurrently.

9. No. 19CA001 - Section 12, T1N, R7E

A request by KTM Design Solutions, Inc for Maguire Services, LLC to consider an application for a **Comprehensive Plan Amendment to the Future Land Use from Forest Conservation to Low Density Neighborhood** for the tract of land lying in the S1/2NE1/4 and the N1/2SE1/4 of Section 12, T1N, R7E of the B.H.M. and being more particularly described as follows: commencing at the Northeast corner of Lot 32, Block 3 of Robbinsdale Terrace Addition as recorded in the steel files in the Pennington County Register of Deeds and being the Point of Beginning; Thence with said Addition southwesterly a distance of 300 feet to the Northwest corner of Lot 26, Block 5; Thence continuing with said Addition southeasterly a distance of 210 feet to the southwest corner of Lot 25, Block 5; Thence continuing with said Addition southwesterly a distance of 46 feet to the northwest corner of Lot 20, Block 5; Thence continuing with said Addition northwesterly a distance of 166 feet to the southeast corner of Lot 16, Block 5; Thence continuing with said Addition northwesterly a distance of 450.5 feet to the southeast corner of Lot 10 Revised, Block 5; Thence continuing with said Addition northerly a distance of 46.06 feet to an angle point in the easterly line of Lot 10A, also being an angle point in the south line of Lot 1 of Faith Lutheran Addition as recorded in Book 29 of Plats, Page 21 in the Pennington County Register of Deeds; Thence with said Faith Lutheran Addition northerly a distance of 11.50 feet to an angle point in the south line of said Lot 1; Thence continuing with said Addition easterly a distance of 206.77 feet to the southeast corner of said Lot 1; Thence continuing with said Addition northerly a distance of 100.00 feet to a point on the easterly line of said Lot 1, also being the southwest corner of Lot 2, Block 5 of aforementioned Robbinsdale Terrace Addition; Thence with said Robbinsdale Terrace Addition easterly a distance of 583 feet to the northwest corner of Lot 9, Block 3; Thence continuing with said Addition southeasterly a distance of 306 feet to the southwest corner of Lot 12, Block 3; Thence continuing with said Addition southeasterly a distance of 203 feet to an angle point in the south line of Lot 15, Block 3; Thence continuing with said Addition southwesterly a distance of 361.5 feet to the northeast corner of Lot 25, Block 3; Thence continuing with said Addition westerly a distance of 112 feet to the northwest corner of Lot 26, Block 3; Thence continuing with said Addition northwesterly a distance of 474 feet to the northeast corner of Lot 32, Block 3 and the Point of Beginning, more generally described as being located southeast of the intersection of Oak Avenue and Indiana Street.

10. No. 19RZ005 - Section 12, T1N, R7E

A request by KTM Design Solutions, Inc for Maguire Services, LLC to consider

an application for a **Rezoning Request from Park Forest District to Low Density Residential District** for the tract of land lying in the S1/2NE1/4 and the N1/2SE1/4 of Section 12, T1N, R7E of the B.H.M. and being more particularly described as follows: commencing at the Northeast corner of Lot 32, Block 3 of Robbinsdale Terrace Addition as recorded in the steel files in the Pennington County Register of Deeds and being the Point of Beginning; Thence with said Addition southwesterly a distance of 300 feet to the Northwest corner of Lot 26, Block 5; Thence continuing with said Addition southeasterly a distance of 210 feet to the southwest corner of Lot 25, Block 5; Thence continuing with said Addition southwesterly a distance of 46 feet to the northwest corner of Lot 20, Block 5; Thence continuing with said Addition northwesterly a distance of 166 feet to the southeast corner of Lot 16, Block 5; Thence continuing with said Addition northwesterly a distance of 450.5 feet to the southeast corner of Lot 10 Revised, Block 5; Thence continuing with said Addition northerly a distance of 46.06 feet to an angle point in the easterly line of Lot 10A, also being an angle point in the south line of Lot 1 of Faith Lutheran Addition as recorded in Book 29 of Plats, Page 21 in the Pennington County Register of Deeds; Thence with said Faith Lutheran Addition northerly a distance of 11.50 feet to an angle point in the south line of said Lot 1; Thence continuing with said Addition easterly a distance of 206.77 feet to the southeast corner of said Lot 1; Thence continuing with said Addition northerly a distance of 100.00 feet to a point on the easterly line of said Lot 1, also being the southwest corner of Lot 2, Block 5 of aforementioned Robbinsdale Terrace Addition; Thence with said Robbinsdale Terrace Addition easterly a distance of 583 feet to the northwest corner of Lot 9, Block 3; Thence continuing with said Addition southeasterly a distance of 306 feet to the southwest corner of Lot 12, Block 3; Thence continuing with said Addition southeasterly a distance of 203 feet to an angle point in the south line of Lot 15, Block 3; Thence continuing with said Addition southwesterly a distance of 361.5 feet to the northeast corner of Lot 25, Block 3; Thence continuing with said Addition westerly a distance of 112 feet to the northwest corner of Lot 26, Block 3; Thence continuing with said Addition northwesterly a distance of 474 feet to the northeast corner of Lot 32, Block 3 and the Point of Beginning, more generally described as being located southeast of the intersection of Oak Avenue and Indiana Street.

Brennan stated that this Rezoning request (17RZ025) had been requested back in October of 2017 and had been denied by the City Council at that time due to concerns with topography, drainage, soil stability and proposed density of future development. Brennan stated that no new information has been provided to address these concerns at this time. Brennan reviewed the associated slides including a topography graphic showing the steepness of the property, explaining that it is general practice to designate such areas Park Forest or Forest Conservation due to rugged terrain. Brennan noted that staff has received five letters in opposition to the request. She further noted that the applicant currently could develop the property into three residential lots without either the Rezoning request or the Comprehensive Plan Amendment and that staff recommends that the Comprehensive Plan Amendment to the Future Land Use from Forest Conservation to Low Density Neighborhood and the Rezoning Request from Park Forest District to Low Density Residential District be denied.

Pat Muldoon, 135 East Indiana, stated that she is very much against this request noting that no surveys or testing have been done. She noted that the existing residences already have issues with shifting soil. She noted that on the prior request she provided a petition with 28 residents against and 2 that were in favor.

In response to a question from Vangraefschepe whether the Rezoning request align with the City's overall plan, Fisher addressed how the City's Future Land Use Plan shows it as Forest Conservation due to the topographic constraints. Vangraefschepe stated that he understands those concerns, but noted that in theory, if the development is done correctly it should improve the drainage and other issues and that is why he has a hard time denying it on hearsay rather than investigative information.

In response to a question from Vidal regarding current building options, Fisher clarified that they can build a single family home, anything more would require engineering plans, soils and other reports.

In response to questions from Huus regarding the current allowable development of this property, Fisher clarified that based on the 9.85 acres the property could currently be subdivided into three, three-acre lots within the current Park Forest zoning and that the Rezoning request and the Amendment to the Comprehensive Plan is to allow for 6,500 square foot lots. Huus acknowledged that the cost of the required geotechnical studies would be an investment, but that the initial Rezoning request had been denied because staff had requested more information on the geotechnical status. Huus noted that it is important that they be required to provide the requested information before a Rezoning be granted.

In response to a comment from Vangraefschepe that the Rezoning does not clear the field for development but makes it more financially feasible for them to invest in the required studies and reports needed to move forward, Fisher said that once the property is rezoned, it would make it difficult to deny a plat that is supported by the increased density regardless if the studies and reports are provided. She indicated that retaining the lower density zoning protects not only the property itself from over development it helps protect the neighborhood, which is why staff recommends denial of the Rezoning request.

Kyle Treloar, KTM Design, stated that the applicant is open to a Planned Development Designation as a part of the Rezoning, which would provide that any plans for development would come before the Planning Commission.

Fisher reiterated that both Planning Commission and City Council had requested this information be provided during the review and denial of the previous Rezoning request and that to date that information has not been received.

Salamun left the meeting at this time.

Golliher moved, Quasney seconded and the Planning Commission recommended that the Comprehensive Plan Amendment to the Future

**Land Use from Forest Conservation to Low Density Neighborhood be denied; and that,
The Rezoning Request from Park Forest District to Low Density Residential District be denied. (5 to 3 with Braun, Gollither, Huus, Ottenbacher and Quasney voting yes and, Herr, Vangraefschepe and Vidal voting no)**

Horton requested that items # 11 and # 12 be heard concurrently.

11. No. 19OA002 - Ordinance to Update the Tax Increment Financing District Review Process by Amending Chapter 3.26 of Rapid City Municipal Code
A request by City of Rapid City to consider an application for an **Ordinance to Update the Tax Increment Financing District Review Process by Amending Chapter 3.26 of Rapid City Municipal Code.**
12. Resolution Adopting the Rapid City Tax Increment Financing Policy
A request by City of Rapid City to consider an application for a **Resolution Adopting the Rapid City Tax Increment Financing Policy.**

Horton reviewed the Ordinance to update the Tax Increment Finance Review Process and the Resolution approving the Tax Increment Finance Policy. Horton noted there were a few changes from the initial creation of the Ordinance and how those changes affect the associated resolution. Horton noted those changes are shown in the current version attached on line. Horton reviewed how the Tax Increment Finance qualifications, structure, internal procedures and processing have been revised including the targeting of areas, the targeting of uses and the introduction of a point system and the replacement of the Tax Increment Review Committee with a team. Horton stated that the Review Team is currently being used and appears to be working well. Horton reviewed evaluation review criteria and required points for approval stating that there are numerous ways to reach the needed points for approval. Horton stated that the adjustment is to utilize the existing infrastructure more efficiently.

In response to a question from Braun, Horton stated that she would prefer separate motions on the two items.

In response to a question from Herr on the make-up of the Review Team, Horton confirmed that the Review Team is made up of staff and one economic development member eliminating the duplicate review by Planning Commission or City Council.

Young stated that during the review of our Tax Increment Financing Policy, it was noted that it appeared to have an excessive review so this is an adjustment to bring this into line.

Horton stated that this does not remove Planning Commission from the Tax Increment review noting that Planning Commission will still review and approve for an item to move forward for City Council approval. Horton clarified that if a Tax Increment Financing application is not approved by Planning Commission it dies, so the Planning Commission is an important role in the review of Tax Increment Financing application

Kent Hagg, Alta Terra Development and attorney that works with Municipal and Tax Increment laws, spoke to the state statute regarding Tax Increment Financing. He feels that the codification of the criteria that is in the proposed Ordinance will restrict the review options. He stated that he feels this has been reviewed by a very limited group which did not include the majority of the financing industry or the development community. Hagg said that this penalizes the developers who put their name on the line for any Tax Increment development if they do not succeed. He believes that the target areas will limit opportunities and penalize development in other areas. He does not believe that the proposed point system will allow viable growth. Hagg strongly disagrees with the adjustment to amortization schedules.

Young responded that the point system is lenient and is not overly restrictive but is trying to make overall basic standards to allow good development with a good basis.

In response to a question from Quasney directed to Hagg regarding his concern on the points limiting development, Hagg stated that projects in certain areas would receive favorable points, therefore creating a potential based on the lower points granted, of limiting development to certain areas.

In response to a question from Quasney whether it is the intent of the revision to improve the downtown, Young responded that it is a desire to do so, but not the key focus.

In response to a question from Vidal to Hagg whether he was aware of any existing Tax Increment District that would have not been approved based on the point proposed numbering system, Hagg said he did not, but indicated that he feels developers had not been included to a significant level in the Tax Increment Finance planning and he probably will not be looking to continue to develop in the City. He proposed that the Ordinance before the Planning Commission be denied to allow it to be reviewed with the input of both the development and the financial sector.

Quasney asked if there is a need for additional input from the Financial Sector, Young said that he feels the proposed ordinance is a good tool and believes it will be supported by the financial industry.

Nyberg state that he agrees that the statue gives the City Council great discretion and the Tax Increment Finance Policy is trying to set forth a solid base of what has proven successful to allow the City Council to evaluate the Tax Increment projects.

Quasney acknowledges that Rapid City has an exceedingly high number of Tax Increment Districts compared to other municipalities, but he also understands the need for Tax Increment Financing to drive development and suggested that perhaps the City should take input from developers before proceeding with the revisions.

Horton reviewed available points and requirements and that she does not feel that requiring 10 out of 28 points is restrictive.

In response to a question from Braun whether an item that did not meet points could be appealed, Horton said it could not.

Fisher asked that a motion be made to continue the meeting beyond 9:00.

Braun moved to continue the meeting beyond 9:00, Quasney seconded and the Planning Commission carried unanimously.

Vangraefscheppe inquired if quorum would be met if he were to leave; Braun confirmed that quorum would be met. Vangraefscheppe left the meeting at this time.

Braun asked if there are plans to review the process should the Ordinance be approved and to make changes if needed. Horton stated that the Ordinance would probably be reviewed after a year and changes could be made at that time.

Braun stated that he feels that there should be a cap on City's interest rate and the that the prioritizing of the core but not allowing certain use of costs may create a very large decrease of Tax Increment Financing and fears this will decrease large development in the area.

In response to a question from Herr on the number of public reviews this Ordinance would have, Nyberg stated that there will be five Public Hearings including this Hearing, two Legal Finance Committee meetings and two City Council meetings.

Golliher moved to approve the Ordinance to Update the Tax Increment Financing District Review Process by Amending Chapter 3.26 of Rapid City Municipal Code. Motion failed due to lack of aseconded.

Vidal stated that he feels this needs further review and would like the item to be continued.

Fisher clarified that due to publication requirements that this would need to be continued to the April 4, 2019 Planning Commission meeting. She stated that this should also allow time to meet with and ask for input from the financial and development sector.

Horton noted the all the information on the review of the Tax Increment Finance Policy is available on the City Webpage.

Herr noted that Item 12, the associated Resolution to Approved the Tax Increment Financing Policy should also be continued to the April 4, 2019 Planning Commission meeting.

Vidal and Huss agreed to the revision of the motion to include Item 12.

Vidal moved, Huus seconded and the Planning Commission unanimously carried that the Ordinance to Update the Tax Increment Financing District Review Process by Amending Chapter 3.26 of Rapid City Municipal Code be continued to the April 4, 2019 Planning Commission meeting; and, That the Resolution Adopting the Rapid City Tax Increment Financing Policy be continued to the April 4, 2019 Planning Commission meeting. (7 to 0 with Braun, Gollhofer, Herr, Huus, Ottenbacher, Quasney, and Vidal voting yes and none voting no)

13. Discussion Items

None

14. Staff Items

Young reminded the Planning Commission to complete the survey on the Accessary Dwelling Unit issue that is available on Monkey Survey. He stated that there have been issues with the survey and that if anyone else has experienced any issues to let staff know and they will address them so everyone can respond.

15. Planning Commission Items

- A. Planning Commission Liaison for the March 18, 2019 City Council Meeting will be Erik Braun.

There being no further business, Quasney moved, Gollhofer seconded and unanimously carried to adjourn the meeting at 9:10 a.m. (7 to 0 with Braun, Gollhofer, Herr, Huus, Ottenbacher, Quasney, and Vidal voting yes and none voting no)