

MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
March 21, 2019

MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Gollhofer, John Herr, Galen Hoogestraat, Eric Ottenbacher, Mike Quasney, Justin Vangraefschepe and Vince Vidal. John Salamun, Council Liaison was also present.

MEMBERS ABSENT: Curt Huus,

STAFF PRESENT: Ken Young, Fletcher Lacock, John Green, Kelly Brennan, Tim Behlings, Todd Peckosh, Ted Johnson and Andrea Wolff.

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

1. Approval of February 7, 2019 Zoning Board of Adjustment Meeting Minutes.

Bulman moved, Caesar seconded and the Zoning Board of Adjustment unanimously approved the February 7, 2019 Zoning Board of Adjustment Minutes. (9 to 0 with Braun, Bulman, Caesar, Gollhofer, Herr, Hoogestraat, Quasney, Vangraefschepe and Vidal voting yes and none voting no)

2. Discussion Items
None

3. Staff Items
None

4. Zoning Board of Adjustment Items
None

There being no further business, Gollhofer moved, Caesar seconded and unanimously carried to adjourn the meeting at 7:01 a.m. (9 to 0 with Braun, Bulman, Caesar, Gollhofer, Herr, Hoogestraat, Quasney, Vangraefschepe and Vidal voting yes and none voting no)

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
March 21, 2019

MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Gollhofer, John Herr, Galen Hoogestraat, Eric Ottenbacher, Mike Quasney, Justin Vangraefschepe and Vince Vidal. Jason Salamun, Council Liaison was also present.

MEMBERS ABSENT: Curt Huus

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

Braun called the meeting to order at 7:01 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 Caesar, seconded by Gollhofer and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 7 in accordance with the staff recommendations. (9 to 0 with Braun, Bulman, Caesar, Gollhofer, Herr, Hoogestraat, Quasney, Vangraefschepe and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the March 7, 2019 Planning Commission Meeting Minutes.
- *2. No. 19UR003 - Rapid City Greenway Tract
A request by Carly Loper for Hills Alive Festival to consider an application for a **Major Amendment to a Conditional Use Permit to allow a music festival** for Tract 20 Less Lot 1, Rapid City Greenway Tract, located in Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of Omaha Street between Mount Rushmore and 5th Street.

Planning Commission approved the Major Amendment to a Conditional Use Permit to allow a music festival with the following stipulations:

1. **A Temporary Use Permit shall be obtained prior to each annual event;**
2. **Prior to issuance of a Temporary Use Permit for each event, Hills Alive shall enter into an agreement with Rapid City Parks and Recreation Department for the reclamation and rehabilitation of Memorial Park immediately following each event;**
3. **Prior to issuance of a Temporary Use Permit, a copy of all emergency evacuation plans shall be submitted to Pennington County Emergency Management and the Rapid City Fire Department for review and approval. Prior to commencement of the event all tents and other facilities shall receive inspection and approval from the Rapid City Fire Department. All electrical services shall comply with all**

- applicable provisions of the Uniform Building and Electrical Codes. In addition, security shall be provided at all times during the event and a weather radio shall be on-site and monitored at all times;
4. Prior to issuance of a Temporary Use Permit for each future event, a traffic plan shall be submitted to the Rapid City Police Department for review and approval.
 5. A Floodplain Development Permit shall be obtained prior to each event;
 6. Restroom facilities shall be provided to ensure adequate service for the anticipated number of people attending the event;
 7. ADA accessibility shall be provided and maintained throughout the site as necessary;
 8. Overnight prayer shall be permitted in a festival tent on Saturday night of each event, each year. No speakers, microphones, or amplification shall be utilized during overnight activities. No camping shall be permitted;
 9. All signage shall comply with the requirements of the Rapid City Sign Code. No signage shall be permitted on any temporary or permanent fencing within the Park. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this request. A sign permit shall be obtained for each sign;
 10. The requested Major Amendment to the Conditional Use Permit shall allow a music festival to operate on the 3rd weekend in July, indefinitely, within Memorial Park. The festival shall operate in compliance with the approved operations plan and in compliance with all requirements of the Flood Hazard District. Any modifications to the operations plan and/or site plan which increase the size, scale, or scope of the event or any changes to the operator of the event shall require a Major Amendment to the Conditional Use Permit. Any modifications to the operations plans which introduce conditional uses to the event shall require a Major Amendment to the Conditional Use Permit. Complaints filed against the event by any member of the public and/or local administration shall require the review and approval of a subsequent Major Amendment to the Conditional Use Permit to allow the festival to continue within Memorial Park.

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.

3. No. 19VR001 - Simmons Addition
A request by Scott O'Meara for OM Properties to consider an application for a **Vacation of Right-of-Way** for that portion of the right-of way of East Boulevard adjacent to a previously vacated 30 foot wide strip adjacent to Lots 30 and 31 of Block 4 of Simmons Addition, located in Government Lot 1 (NE1/4NE1/4) of Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 316 and 324 East Boulevard.

Planning Commission recommended that the Vacation of Right-of-Way be approved with the following stipulations:

1. **Upon recording of the Vacation of Right-of-Way resolution, a temporary construction easement shall be submitted for recording; and,**
2. **Upon recording of the Vacation of Right-of-Way resolution, a public utility easement shall be submitted for recording.**

4. No. 19RZ006 - Robbinsdale Addition No. 8

A request by City of Rapid City Parks and Recreation Department to consider an application for a **Rezoning request from Medium Density Residential District to Public District** for that portion of the SE1/4 of the SE1/4 of the NW1/4 of Section 18 and that portion of the SW1/4 of the NE1/4 of Section 18, T1N, R8E, more particularly described as follows: commencing at the Point of Beginning: the SE Corner of Lot 38, Block 11, Robbinsdale Addition No. 8, Then S2°01'43"W for 174.59'; Then N87°35'08"W for 1544.49'; Then N1°54'40"E for 301.30'; Then S87°43'10"E for 1544.95' Then S1°57'52"W for 130.31' the point of beginning, all located in Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located in the 1000 Block of East Minnesota Street.

Planning Commission recommended that the Rezoning request to rezone a parcel of land from Medium Density Residential District to Public District be approved.

5. No. 19RZ007 - Robbinsdale Addition No. 8

A request by City of Rapid City Parks and Recreation Department to consider an application for a **Rezoning request from Low Density Residential District to Public District** for Lots 38 and 39 of Block 11 of Robbinsdale No. 8, excluding the area described as follows; starting at the SE Corner of Lot 38, Block 11, Robbinsdale Addition No. 8 then north along the East line of Lot 38 with a bearing N1°57'52"E for 130.31 Ft; Then N87°43'10"W for 498.25 Ft; Then S59°37'27"E for 75.21; Then along a curve with a Radius of 807.64 ft and a chord bearing of S73°49'48"E a distance of 400.49 ft; Then S88°02'08"E for 47.81 the point of beginning all located in Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3820 Odde Drive.

Planning Commission recommended that the Rezoning request to rezone a parcel of land from Low Density Residential District to Public District be approved.

6. No. 19PL014 - Robbers Roost Addition

A request by Davis Engineering, Inc for Patrick Foley to consider an application for a **Preliminary Subdivision Plan** for proposed Lot B of Robbers Roost Addition, legally described as the SW1/4 of the NW1/4 of the SW1/4 of Section 4, T1S, R8E, BHM; Lot 2 of the NE1/4 of the SE1/4, Lot AB of the NE1/4 of the SE1/4 of Section 5, T1S, R8E, BHM, Pennington County, South Dakota, more generally described as being located 3 miles south of landfill on east side of Hwy

79.

Planning Commission recommended that the Preliminary Subdivision Plan be approved with the following stipulations:

- 1. Upon submittal of a Development Engineering Plan application, construction plans for S. D. Highway 79 shall be submitted for review and approval showing the street constructed with curb, gutter, sidewalk, street light conduit, sewer and water mains or an Exception shall be obtained. If an Exception is obtained, a copy of the approved Exception shall be submitted with the Development Engineering Plan application;**
- 2. Prior to submittal of a Final Plat application, the unplatted balance shall be rezoned to allow a 2.09 acre parcel or a lot size Variance shall be obtained from Pennington County;**
- 3. Prior to submittal of a Final Plat application, the applicant shall work with the Pennington County Planning Department to address the junk and junk vehicles located on the property;**
- 4. Prior to submittal of a Final Plat application, the applicant shall work with the Pennington County Planning Department to secure building permits for the “mobile minis” and a 720 square foot detached garage located on the property;**
- 5. Prior to submittal of a Final Plat application, the applicant shall submit documentation confirming that the approach and driveway constructed within the S.D. Highway 79 right-of-way has been approved by the South Dakota Department of Transportation or the driveway shall be removed;**
- 6. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; and,**
- 7. Prior to the City’s acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.**

7. 19TP004 – Rapid City Year End 2018 Population Estimate (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 reviewed the application explaining that the request to allow on-sale liquor in conjunction with a casino is being heard separately from the request to allow a

convenience store to allow the application to meet notice requirements due to a signage error for on-sale liquor. Green stated that the Planning Commission had approved the Initial and Final Planned Development Overlay to allow a convenience store at the March 7, 2019 Planning Commission meeting and that staff recommends that the on-sale liquor in conjunction with a casino be approved with stipulations.

Bulman moved, Vidal seconded and the Planning Commission approved that the Initial and Final Planned Development Overlay application to allow a convenience store and on-sale liquor in conjunction with a casino be approved with the following stipulations:

- 1. Acknowledge the approval of the Exception request to allow a Pole Sign with a height of 60 feet in lieu of a maximum allowed height of 45 feet;**
- 2. Acknowledge the approval of the Exception request to allow 317 square feet of LED signage in lieu of a maximum 60 square feet allowed;**
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 and on-sale liquor in conjunction with a casino 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.**

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.

*9. No. 19UR002 - Plaza Subdivision

A request by KTM Design Solutions, Inc for Gyro Hub to consider an application for a **Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant** for Lot 2 of the Plaza Subdivision, located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1301 W. Omaha Street, Suite 104.

Lacock presented the application and reviewed the associated slides. Lacock stated that the Gyro Hub is an existing restaurant and are requesting to be allowed to sell beer and wine. Lacock identified that the property is located in an existing strip mall with multiple uses, noting that there are other on-sale permits in the strip mall in the area, but stated that this is the zoning district these types of uses are desired. Lacock stated that staff recommends the Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant be approved with stipulations.

Caesar moved, Quasney seconded and the Planning Commission approved the Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant with the following stipulation(s)

1. **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. All signage shall meet the requirements of the Rapid City Sign Code. A sign permit shall be obtained for each sign; and,**
2. **The Conditional Use Permit shall allow an on-sale liquor establishment in conjunction with a restaurant for the applicant. Any expansion to the on-sale use shall require a Major Amendment to the Conditional Use Permit. Any change in use that is a permitted use in the General Commercial District in compliance with the Parking Ordinance shall require the review and approval of a Building Permit. Any change in use that is a Conditional Use in the General Commercial District shall require the review and approval of a Major Amendment to the Conditional Use Permit. (9 to 0 with Braun, Bulman, Caesar, Gollither, Herr, Hoogestraat, Huus, Quasney, Vangraefschep 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.

*10. No. 19UR004 - Original Town of Rapid City

A request by Daniel Byers for Overclock Lounge to consider an application for a **Major Amendment to a Conditional Use Permit to allow an on-sale liquor establishment** for Lot 17 thru 18 and the north 55 feet of Lots 19 and 21 of

Block 84 of Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 632 1/2 St. Joseph Street.

Lacock presented the application and reviewed the associated slides noting that the applicant is proposing to operate a competitive gaming, eSports bar in the lower level suite. Lacock noted that as the property is located in the Downtown Historic District signage will require review by the Historic Sign Board. Lacock stated that staff had received a call with concerns to the use, but stated that staff feels this is the correct area for this type of use and does not anticipate issues with this use. Lacock noted that there are existing building code violations that will need to be addressed prior to a building permit being issued. Lacock stated that staff recommends that the Major Amendment to a Conditional Use Permit to allow an on-sale liquor establishment be approved with stipulations.

In response to a question from Caesar regarding minors, Nyberg stated that he believes there would be some restrictions to the patronage of minors unless there was a food element to the operation plan of the bar.

Caesar moved, Bulman seconded the Planning Commission approved Major Amendment to the Conditional Use Permit to allow an on-sale liquor establishment with the following stipulations:

- 1. Prior to issuance of a Building Permit for the proposed lounge, all outstanding Building Code violations identified on March 5, 2019 shall be addressed;**
- 2. Prior to issuance of a sign permit, all signs shall obtain review and approval through the Historic Sign Review Board. All signage shall comply with the requirements of the Rapid City Sign Code. No electronic or Light Emitting Diode (LED) message centers are being approved as a part of this Major Amendment. The inclusion of any LED message centers shall require a Major Amendment to the Conditional Use Permit. A sign permit shall be obtained for each sign;**
- 3. The requested Conditional Use Permit shall allow an on-sale liquor establishment to be located on the property and operated in compliance with the submitted operations plan. Any change in operator shall require a Major Amendment to the Conditional Use Permit. All requirements of the Central Business District shall be continually maintained. Any permitted use in the Central Business District shall be allowed with a Building Permit. Conditional uses in the Central Business District or any expansion of the on-sale liquor use on the property shall require a Major Amendment to the Conditional Use Permit. (9 to 0 with Braun, Bulman, Caesar, Gollieher, Herr, Hoogestraat, Huus, Quasney, Vangraefschepe 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.

11. No. 18TI002 - Park Hill Subdivision No. 7

A request by Sperlich Consulting, Inc for Park Hill Development, Inc. to consider an application for a **Resolution Creating Park Hill Tax Increment District and Approving Project Plan** for a portion of the unplatted balance of the N1/2 of the NE1/4 of the SE1/4 and a portion of the unplatted balance of the SE1/4 of the NE1/4 less right-of-way, located in the NE1/4 of the SE1/4 and the SE1/4 of the NE1/4 of Section 7, T1N, R8E, B.H.M., Rapid City, Pennington County, South Dakota. A portion of the dedicated right-of-way of Sidney Drive located in the NE1/4 of the SE1/4 of Section 7, T1N, R8E, B.H.M., Rapid City, Pennington County, South Dakota. The Vacated right-of-way of Wilma Street located in the NE1/4 of the SE1/4 and the SE1/4 of the NE1/4 of Section 7, T1N, R8E, B.H.M., Rapid City, Pennington County, South Dakota. A portion of the dedicated right-of-way of Wilma Street located in the SE1/4 of the NE1/4 of Section 7, T1N, R8E, B.H.M., Rapid City, Pennington County, South Dakota. Lot H1 of the NE1/4 of the SE1/4 and the SE1/4 of the NE1/4 of Section 7, T1N, R8E, B.H.M., Rapid City, Pennington County, South Dakota, more generally described as being located north of Sydney Drive, east of Smith Avenue and west of Cambell Street.

Horton presented the application and reviewed the associated slides. Horton noted that the applicant has completed three neighboring developments and this proposed development will be similar to those developments. Horton briefly reviewed Tax Increment Financing. Horton noted that the financial calculations have been revised from when this application was initially reviewed back in November of 2018 and that those figures are included in the Tax Increment Financing Project Plan. Horton reviewed the proposed improvements, which include grading, off-site streets improvements, a regional drainage detention pond, off-site sidewalks per staff request, and fencing and landscaping to border the Light Industrial District located to the east side of the proposed district. Horton reviewed the proposed development and associated costs and revenues. Horton addressed the Affordable Housing aspect of the Tax Increment Financing. Horton reviewed the various figures associated with the Tax Increment Financing. Horton recommended that Planning Commission approve creating the Tax Increment District, based on the Tax Increment Financing Committees recommendation.

Horton reviewed additional cost options with one including 100 percent of drainage costs and 100 percent of soil costs being covered by Tax Increment Financing, which the applicant is requesting be considered, noting that there are offsetting earnings such as rental revenue, real estate commissions or profits from home construction or other fees that are not included in the figures.

In response to a question from Bulman on grading costs, Horton explained that the developer has indicated it is more cost effective to grade out all of the needed soil and replace with non-expansive soils all at one time rather than in portions. Horton stated that she believes that this cost benefit should be passed along to the property owners should the developer receive this benefit. of the Tax

Increment Financing paying for the grading and soil replacement.

Tony Marshall, President of Park Hill Development, spoke to the work that has gone into the design of this project and Tax Increment Financing Committee approval of the proposed Project Plan. Marshall discussed the grading costs noting that it will have to be over excavated, based on the geotech in the area. Marshall stated that this will fill a niche market that needs to be met in the City. Marshall stated that the project is very tight and he requested the Planning Commission move to approve the Project Plan with 100 percent of the drainage and grading costs. He feels that the project is good for the neighborhood.

Caesar requested a review of the detention pond. Marshall reviewed the drainage area indicating the 35 percent are regional costs and noted that he is looking for 100 of the costs to make the project more feasible. Caesar stated she can understand the need for this type of project.

Bulman stated that she supports the Tax Increment Financing proposal, but she cannot support the additional costs stating that the grading and such fees are costs generally covered by the developer and Tax Increment Financing is not to ensure a profit for the developer, but to assist with those extraordinary costs associated to development projects.

Vidal moved, Bulman seconded and the Planning Commission recommended to approve the application to create a tax incremental district and approve the Project Plan allowing Tax Increment Financing funded project costs in the amount of \$987,393.72, provided that the applicant enter into a restrictive covenant agreement to ensure that the affordable housing requirements are met by all future property owners until the TID is dissolved. (8 to 1 with Bulman, Caesar, Golliher, Herr, Hoogestraat, Huus, Quasney, Vangraefschepe and Vidal voting yes and Braun voting no)

12. Discussion Items
None

13. Staff Items

Young reminded the Planning Commission of the upcoming joint work session on ADUs scheduled for Thursday, March 28, 2019 in the City Council Chambers and asked that they be sure to complete the online survey if they have not already.

Young also noted that there will be a brown bag work session on the Tax Increment Financing Policy, April 3rd and the Planning Commission is welcome to join in, but the brown bag session is more of a review for the developers as requested at the March 7, 2019 Planning Commission meeting.

In response to Herr's request for feedback on the ADU survey, Young said they would send an email next week.

14. Planning Commission Items
None

There being no further business, Caesar moved, Golliher seconded and unanimously carried to adjourn the meeting at 7:47. a.m. (9 to 0 with Braun, Bulman, Caesar, Golliher, Herr, Hoogestraat, Huus, Quasney, Vangraefschepe and Vidal voting yes and none voting no)