

MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
July 26, 2018

MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Golliher, John Herr, Curt Huus, Mike Quasney, Justin Vangraefschepe and Vince Vidal. John Roberts, Council Liaison was also present.

MEMBERS ABSENT: Galen Hoogestraat, Eric Ottenbacher

STAFF PRESENT: Ken Young, Vicki Fisher, Fletcher Lacock, John Green, Kip Harrington, Sarah Hanzel, Todd Peckosh, Ted Johnson, Wade Nyberg and Andrea Wolff.

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

1. Approval of May 24, 2018 and July 5, 2018 Zoning Board of Adjustment Meeting Minutes.

Huus moved, Golliher seconded and the Zoning Board of Adjustment unanimously approved the May 24, 2018 and July 5, 2018 Zoning Board of Adjustment Meeting Minutes.

2. No. 18VA007 - North Rapid Addition

A request by Gary Black to consider an application for a **Variance to reduce a side yard setback abutting a street from 35 feet to 15 feet** for Lots 31 and 32 of Block 4 of North Rapid Addition, located in Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 830 Lemmon Avenue.

Lacock presented the application and reviewed the associated slides noting that the special condition on the property is being located on a corner lot and being a 50 foot wide lot. Lacock stated that an existing legal non-conforming garage with a 15 foot setback was removed by the applicant and the need for a variance to the setback wasn't identified until they were applying for the building permit for the new garage. Lacock stated that anything less than a 20 foot setback does not allow sufficient parking without encroaching into the right-of-way. Lacock stated that staff recommends that a variance to allow a 20 foot side yard setback in lieu of 35 foot setback be approved.

Caesar moved to allow a minimum 20 foot side yard setback that abuts a street in lieu of 35 feet siting criteria that the unique lot width and corner location, Bulman seconded and unanimously carried to approve.

The applicant requested to speak to the item after action had been taken by the Zoning Board of Adjustment.

As action has already been taken, Vidal moved to reopen the item to allow it to be reconsidered.

Gary Black, 830 Lemmon Avenue, stated that he has had the gas line on the property buried recently and that the 20 foot setback would run over the newly buried gas line. Black stated he would be building on the existing foundation which had the 15 foot setback and with the placement of the gas line that he had moved, a 20 foot setback would reduce his garage depth from 24 feet to 19 feet.

In response to a question from Vangaefschepe's whether there was an easement for the gas line, Fisher stated that if it was a service line it would not require one.

In response to Vangraefschepe's question why the old garage was torn down, Black stated the previous garage was falling down.

Fisher noted that Rapid City Municipal Ordinance prohibits the blocking of right-of-way and or sidewalks. Fisher further stated that based on issues arising from instances where setbacks less than 20 feet were granted, staff now recommends that 20 feet be the minimum setback allowed.

Braun asked for a second on action to reconsider or whether they wanted to let their action stand.

John Roberts spoke to the difficulty associated with selling this property noting that numerous others had opted to not purchase due to the work it required and commended Mr. Black on the improvement to the property. Roberts spoke to the potential benefits to the neighborhood and feels that the property owner should not be penalized for wanting to improve the property.

Caesar spoke to her concerns regarding the safety issues with the reduced setbacks.

In response to question from Quasney regarding the gas line, the owner discussed where the line had been, where it had been moved and the options for replacement. Virginia McLeod, who is the second property owner, stated that MDU had informed them the only other option was to go past the driveway, under the garage, and back to the house.

In response to a question from Vangraefschepe if there is an option to move the gas line, Black stated that the cost could be prohibitive.

Black indicated that if he moved the garage back the requested five feet he would be below the required side yard setback. Fisher stated a review of the submitted site plan shows the eleven feet to the back of the garage, so an additional five feet would still allow six feet which is within the minimal setback.

Fisher clarified that when planning for the new garage and the demolition of the existing garage, including City staff before any action would have allowed these issues to be avoided. Fisher suggested that that if the Zoning Board of Adjustment was willing to revise the action, that they continue the item to allow the applicant to meet with the gas company to review their options now that they

Zoning Board of Adjustment Minutes
July 26, 2018

are aware of the restrictions, and then come back before the Zoning Board of Adjustment with the results of those discussions.

Black stated that he will build the garage with or without approval. He does not feel he should be punished for improving the property.

Virginia McLeod, spoke to the dangers of the previous gas line and the placement of the new gas line.

Vidal stated that he understands the difficulty the applicant is in but requests that they consider moving the gas line.

Braun again asked for a motion to reopen for review the action.

Vangraefschepe moved, Caesar seconded and the Zoning Board of Adjustment unanimously carried to approve that the item be reconsidered.

Vangraefschepe moved, Quasney seconded and the Zoning Board of Adjustment unanimously carried to continue to the August 9, 2018 Zoning Board of Adjustment Meeting to allow the property owner to visit with the gas company and bring back information specific to relocating the gas line to meet the 20 foot setback.

3. Discussion Items
4. Staff Items
5. Zoning Board of Adjustment Items

There being no further business, Caesar moved, Huus seconded and unanimously carried to adjourn the meeting at 7:36 a.m. (9 to 0 with Braun, Bulman, Caesar, Gollither, Herr, Huus, Quasney, Vangraefschepe and Vidal voting yes and none voting no)

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
July 26, 2018

MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Gollither, John Herr, Curt Huus, Mike Quasney, Justin Vangraefschepe and Vince Vidal. John Roberts, Council Liaison was also present.

MEMBERS ABSENT: Galen Hoogestraat and Eric Ottenbacher.

STAFF PRESENT: Ken Young, Vicki Fisher, Fletcher Lacock, John Green, Kip Harrington, Sarah Hanzel, Ted Johnson, Todd Peckosh, Wade Nyberg and Andrea Wolff.

Braun called the meeting to order at 7:36 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 Gollither, seconded by Bulman and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 12 in accordance with the staff recommendations. (9 to 0 with Braun, Bulman, Caesar, Gollither, Herr, Huus, Quasney, Vangraefschepe and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the June 21, 2018 and July 5, 2018 Planning Commission Meeting Minutes.
2. No. 18CA001 - Eastbrooke Subdivision
A request by KTM Design Solutions, Inc for Mollers Limited Partnership to consider an application for a **Comprehensive Plan Amendment to Amend the Future Land Use Plan from Mixed Use Commercial to Urban Neighborhood** for a portion of Lot 3 of the Eastbrooke Subdivision, all located in Sections 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the Northwest Corner of Lot 3 of the Eastbrooke Subdivision, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, and the point of beginning; Thence first course: S89°30'41"E, a distance of 439.38 feet; Thence second course: S00°00'57"E, a distance of 248.11 feet; Thence third course: N89°56'46"W, a distance of 247.06 feet; Thence fourth course: N89°56'46"W, a distance of 192.52 feet; Thence fifth course: N00°02'05"W, a distance of 251.44 feet, to the point of beginning, more generally described as being located northwest of the intersection of Lacrosse Street and E. Omaha Street.

Planning Commission approved the summary and authorized publication in the Rapid City Journal.

3. No. 18PL053 - Whalen Addition

A request by Davis Engineering, Inc for Gregory J. Whalen to consider an application for a **Preliminary Subdivision Plan** for proposed Lots A and B of Whalen Addition, legally described as Lot 6 of Tract 1 of the NW1/4 of the SE1/4 of Section 34; and a Tract of land 50' X 158.12' in the NW1/4 of the SE1/4 lying south of Lot 6 of Tract 1, all located in the NW1/4 of the SE1/4 of Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located northern terminus of Krebs Drive.

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 Krebs Drive shall be submitted for review and approval showing the street constructed with a minimum 24 foot wide paved surface, curb and gutter 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. **Upon submittal of a Development Engineering Plan application, the plat document shall show the existing right-of-way width for Krebs Drive and the dedication of ½ of the required right-of-way needed to ensure that the street is located in a minimum 68 foot wide right-of-way 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;**
3. **Upon submittal of a Final Plat application, the plat document shall be revised to show the bend in the west lot line at the location of the existing common lot line;**
4. **Upon submittal of a Final Plat application, the plat document shall be revised to show the Certificates for a Final Plat in lieu of a Lot Line Adjustment-Consolidation Plat;**
5. **Upon submittal of a Final Plat application, the Drainage Note shall be removed from the plat document since the plat does not include a Major Drainage Easement;**
6. **Upon submittal of a Development Engineering Plan application, a cost estimate for any required subdivision improvements shall be submitted for review and approval;**
7. **Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements;**
8. **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,**
9. **Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.**

4. No. 18RZ018 - Fountain View Subdivision

A request by Joseph Simpson to consider an application for a **Rezoning from General Agricultural District to Medium Density Residential District** for

Tract E of Fountain View Subdivision, located in Section 26, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located northeast of the intersection of Harmony Heights Lane and Sunny Springs Drive.

Planning Commission recommended that the Rezoning request from General Agricultural District to Medium Density Residential District be approved.

5. No. 18AN004 - Jack's View Subdivision

A request by Ronald J. and Cheryl A. Loftus to consider an application for a **Petition of Annexation** for the NE1/4 of the NW1/4, less right-of-way, less Loftus Subdivision, less 100 feet X 150 feet tract in the northwest corner, located in Section 17, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 3700 Red Rock Canyon Road.

Planning Commission recommended approving the Petition for Annexation.

6. No. 18RZ019 - Jack's View Subdivision

A request by City of Rapid City to consider an application for a **Rezoning from No Use District to Park Forest District** for the NE1/4 of the NW1/4, less right-of-way, less Loftus Subdivision, less 100 feet X150 feet tract in the northwest corner, located in Section 17, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 3700 Red Rock Canyon Road.

Planning Commission recommended approving the Request to rezone property from No Use District to Park Forest District contingent upon the approval of the petition for annexation.

*7. No. 18PD022 - Hamilton Subdivision

A request by Renner Associates, LLC for Paradigm Construction to consider an application for a **Initial Planned Development Overlay to allow an apartment building** for Lot CR of Hamilton Subdivision, located in Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1330 E. Minnesota Street.

Planning Commission approved the Initial Planned Development Overlay to allow an apartment building with the following stipulations:

1. **Upon submittal of a Final Planned Development Overlay application, the elevation plans showing the proposed three story apartment building shall include a height dimension to show that the structure does not exceed 35 feet;**
2. **Upon submittal of a Final Planned Development Overlay application, a drainage plan shall be submitted for review and approval;**
3. **Upon submittal of a Final Planned Development Overlay application, a landscape plan shall be submitted for review and approval. In**

particular, the landscape plan shall include a minimum of 79,822 landscape points and one landscape island. The landscape island shall contain a minimum of 100 square feet and provide a minimum of 1 tree with shrubs, groundcover and/or mulch covering at the base;

4. Upon submittal of a Final Planned Development Overlay application, a sign package shall be submitted for review and approval if signage is being proposed;
5. Upon submittal of a Final Planned Development Overlay application, a lighting plan shall be submitted for review and approval; and,
6. Prior to submittal of a building permit, a Floodplain Development Permit shall be obtained.

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.

8. No. 18RZ020 - Hamilton Subdivision

A request by Renner Associates, LLC for Paradigm Construction to consider an application for a **Rezoning from General Commercial District to Office Commercial District** for Lot CR of Hamilton Subdivision, located in Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1330 E. Minnesota Street.

Planning Commission recommended that the Rezoning request from General Commercial District to Office Commercial District be approved in conjunction with the associated Initial Planned Development Overlay.

9. No. 18AN005 - Section 20, T2N, R8E

A request by City of Rapid City to consider an application for a **Resolution of Intent to Annex Prairie Acres South Mobile Home Park** for the W1/2 of the E1/2 of the SE1/4 of the SW1/4 Less Tract 1 of Vetsch Subdivision; the E1/2 of the W1/2 of the SE1/4 of the SW1/4; all of the section line right-of-way and dedicated right-of-way lying north of Seger Drive including plat of Lot H1 and dedicated right of way in the W1/2 of the E1/2 of the SE1/4 of the SW1/4 less Tract 1 Vetch's Subdivision and the E1/2 of the W1/2 SE1/4 of the SW1/4; plat of Lot H1 in the E1/2 of the E1/2 of the SE1/4 of the SW1/4; plat of Lot H1 in the SE1/4 less lots A, B, C and D; all of the dedicated right-of-way in Lot D of the Golden Eagle Subdivision in the SW1/4 of the SE1/4; plat of Lot H1 in Lot B in the SW1/4 of the SE1/4; plat of Lot H1 in W400' of Lot A in the S1/2 of the SE1/4; and plat of Lot H2 in Lot A Less W400' in the S1/2 of the SE1/4, all located in Section 20, T2N, R8E, BHM, Pennington County, South Dakota, more generally described as being located north of Seger Drive, east of 143rd Avenue, west of Dyess avenue.

Planning Commission recommended approving the Resolution of Intent to Annex rairie Acres South Mobile Home Park.

*10. No. 18PD023 - Original Town of Rapid City

A request by Upper Deck Architects, Inc for Rapid City Education Center, Inc. to consider an application for an **Initial and Final Planned Development Overlay to allow a business office and a child care center** for Lot 25 thru 32 of Block 91 of Original Town of Rapid City, located in Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 625 9th Street.

Planning Commission approved the Initial and Final Planned Development Overlay to allow a business office and a child care center with the following stipulations:

1. Upon submittal of a Building Permit, the site plan shall be revised to show one off-street ADA “van accessible” parking space;
2. Prior to issuance of a Building Permit, a Traffic Impact study shall be submitted for review and approval or an Exception shall be obtained to waive the requirement. In addition, any improvements required pursuant to the recommendation of the Traffic Impact Study shall be completed prior to issuance of a Certificate of Occupancy;
3. Prior to issuance of a Building Permit, the property owner shall plat the property or enter into a Developmental Lot Agreement;
4. All signage shall comply with the requirements of the Rapid City Municipal Code. Electronic or Light Emitting Diode (LED) message centers are not permitted as a part of this request. The addition of LED message centers in the future shall require a Major Amendment to the Planned Development. A sign permit shall be obtained for each sign;
5. The proposed childcare center shall operate in compliance with the submitted operations plan and all approved plans. Any expansion of the childcare center shall require a Major Amendment to the Planned Development; and,
6. The Initial and Final Planned Development Overlay shall allow for a childcare center and business offices. Any change in use or expansion of use permitted in the Central Business District shall require a Building Permit. Any new Conditional Use shall require the review and approval of 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.

*11. No. 18UR006 - Western Heights Subdivision

A request by Julie and Cory Dieter to consider an application for a **Conditional Use Permit to allow a child care center** for Lot 2 of Block 8 of Western Heights Subdivision, located in Section 4, T1N, R7E, BHM, Rapid City,

Pennington County, South Dakota, more generally described as being located at 4021 Range Road.

Planning Commission approved the Conditional Use Permit to allow a childcare center with the following stipulation(s):

- 1. Upon submittal of a Building Permit, a revised site plan shall be submitted showing a striped access aisle for the proposed ADA parking spaces;**
- 2. 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;**
- 3. The proposed childcare center shall operate in compliance with the submitted operations plan and all approved plans. Changes in the operator of this facility shall require a Major Amendment to the Conditional Use Permit; and,**
- 4. The Conditional Use Permit shall allow a childcare center for a maximum of 48 children and 10 staff members with two shifts per day. Any expansion of the childcare center shall require a Major Amendment to the Conditional Use Permit. Permitted uses within the Medium Density Residential 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.

12. No. 18CA002 - Amendment to the Comprehensive Plan to revise the Major Street Plan

A request by City of Rapid City to consider an application for an **Amendment to the Comprehensive Plan to revise the Major Street Plan.**

Planning Commission recommended approving the request to amend the Comprehensive Plan to revise the Major Street Plan by removing and realigning collector and minor arterial streets

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

- *13. No. 18PD024 - Northern Heights Subdivision

A request by Dana Forman for KLJ to consider an application for a **Initial and Final Planned Development Overlay for a retreat center** for Lot 1 of Lot A of

Block 6 of Northern Heights Subdivision, located in the SE1/4 of the SW1/4 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 522 Anamosa Street.

Green presented the application and reviewed the associated slides. Green stated that the applicant is requesting to expand the Planned Development to include the use of a nine unit retreat center. Green stated that the applicant is requesting an Exception to waive the requirement to provide one landscape island and staff supports the request based on the proposed design of the expanded parking. Green noted that additional landscaping will be provided in the west side of the church and also between the current and additional parking spaces. Fisher clarified that staff recommends the Initial and Final Planned Development Overlay for a retreat center be approved with stipulations.

Bulman moved, Quasney seconded and the Planning Commission unanimously approved the Initial and Final Planned Development Overlay to allow a retreat center with the following stipulations:

1. **An exception is hereby granted to waive the requirement to provide one landscape island;**
2. **Upon submittal of a Building Permit, site plans showing construction of a sidewalk built to city design standards shall be shown along Atlas Street, or a Variance shall be obtained. If a Variance is obtained, a copy of the approved documents shall be submitted with the building permit application;**
3. **Upon submittal of a Building Permit, ADA Van Accessible sites shall show the accessible aisle on the passenger side of the parking space;**
4. **Upon submittal of a Building Permit, site plan shall show sewer cleanouts a minimum of every 75 feet; and,**
5. **Upon submittal of a Building Permit, sewer service calculations shall be provided as per the Infrastructure Design Criteria Manual standards. (9 to 0 with Braun, Bulman, Caesar, Gollither, Herr, 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.

14. No. 18OA011 - Ordinance Amendment to Allow for Accessory Dwelling Units in Residential Districts by Amending Title 17 of the Rapid City Municipal Code
A request by City of Rapid City to consider an application for an **Ordinance Amendment to Allow for Accessory Dwelling Units in Residential Districts by Amending Title 17 of the Rapid City Municipal Code.**

Hanzel stated that staff is requesting that the Ordinance Amendment to Allow for Accessory Dwelling Units in Residential Districts by Amending Title 17 of the Rapid City Municipal Code be continued to the August 23, 2018 PC meeting to

allow staff to further review additional criteria.

Quasney moved, Caesar seconded and the Planning Commission unanimously carried to continue the Ordinance Amendment to Allow for Accessory Dwelling Units in Residential Districts by Amending Title 17 of the Rapid City Municipal Code to the August 23, 2018 Planning Commission for staff to evaluate and introduce revisions to the ordinance. (9 to 0 with Braun, Bulman, Caesar, Gollither, Herr, Huus, Quasney, Vangraefschepe and Vidal voting yes and none voting no)

15. Discussion Items

Fisher reminded the Commission of the upcoming Coffee with Planners that is scheduled for August 2, 2018. Fisher stated that they will be introducing a new format where each table will be discussing a different topic and participants will be able to move from table to table or stay at one depending on their interests. She encouraged each of the Commissioners to plan to attend.

Young clarified that the meeting is on a Thursday rather than Wednesday as the previous Coffee with Planners have been.

Young thanked those Planning Commissioners that were able to attend the special work session on July 12, 2018 to discuss Infrastructure Design Criteria Manual. Young stated that they had brought some proposed Ordinance language for the criteria of granting a variance for discussion and it was the opinion of the City Council and Planning Commission at that time to entertain the proposal, so staff will be bringing forward those changes in the near future. Young stated that the presentation that was provided at the special work session is available.

Herr spoke to his thoughts on the Ordinance for Accessory Dwelling Units saying he thinks some reference to working in association with what is allowed by covenants. Young stated that this will be considered, but noted that development covenants are above and beyond City requirements.

16. Staff Items

None

17. Planning Commission Items

Planning Commission Liaison for the August 6, 2018 City Council Meeting will be Rachel Caesar.

There being no further business, Bulman moved, Huus seconded and unanimously carried to adjourn the meeting at 7:49 a.m. (9 to 0 with Braun, Bulman, Caesar, Gollither, Herr, Huus, Quasney, Vangraefschepe and Vidal voting yes and none voting no)