

DRAFT

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
September 26, 2019

MEMBERS PRESENT: Kelly Arguello, Erik Braun, Karen Bulman, Racheal Caesar, Mike Golliher, Eirik Heikes, John Herr and Vince Vidal. John Roberts, Council Liaison was also present.

MEMBERS ABSENT: Galen Hoogestraat, Eric Ottenbacher and Mike Quasney.

STAFF PRESENT: Ken Young, Vicki Fisher, Fletcher Lacock, John Green, Patsy Horton, Tim Behlings, Todd Peckosh, Carla Cushman and Andrea Wolff.

Braun called the meeting to order at 7:13 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 Bulman seconded by Rachel and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 6 in accordance with the staff recommendations. (8 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Heikes, Herr and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the September 5, 2019 Planning Commission Meeting Minutes.
2. No. 19CA002 - Summary of Adoption Action on Comprehensive Plan Amendment to revise the Rapid City Future Land Use Plan
Summary of Adoption Action on a request by City of Rapid City to consider an application for **of Comprehensive Plan Amendment to revise the Rapid City Future Land Use Plan.**

Staff recommends that the Planning Commission approve the summary and authorize publication in the Rapid City Journal.

3. No. 19RZ029 - 1006 and 1012 Farlow Avenue
A request by Longbranch Civil Engineering, Inc for Sara Hyde to consider an application for a **Rezoning from Neighborhood Commercial District to Medium Density Residential District** for Lots 17 thru 21 of Block 60 of North Rapid Addition No.2, located in the NE1/4 of the NW1/4, Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located in North Rapid City Addition No. 2.

Staff recommends continuing the Rezoning from Neighborhood Commercial District to Medium Density Residential District to the October 10, 2019 Planning Commission Meeting.

4. No. 19PL078 - East of 5th Street, north of Sandra Lane

A request by Centerline for Lazy P-6 Land Co., Inc. to consider an application for a **Preliminary Subdivision Plan** for proposed Lot 21 of Block 1 of Gemstone Subdivision, legally described as the unplatted portion of Government Lot 1, located in Section 19, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located in Gemstone Subdivision.

Staff recommends that the Preliminary Subdivision Plan be approved with the following stipulations:

1. Upon submittal of a Development Engineering Plan application, construction plans for the proposed Access and Utility Easement shall be submitted for review and approval showing the street located in a minimum 50-foot wide easement and constructed pursuant to Figure 2-1 of the Infrastructure Design Criteria Manual for a lane place street or shall meet criteria for obtaining an Exception or Variance (sidewalk). If an Exception is obtained, a copy of the approved document shall be submitted with the Development Engineering Plan application;
2. Upon submittal of a Development Engineering Plan application, construction plans for Elm Avenue shall be submitted for review and approval showing the dedication of 50 feet of right-of-way, half of the 100 feet of right-of-way required for a minor arterial street, and constructed pursuant to Figure 2-1 of the Infrastructure Design Criteria Manual or shall meet criteria for obtaining an Exception or Variance (sidewalk). If an Exception is obtained, a copy of the approved document shall be submitted with the Development Engineering Plan application;
3. Upon submittal of a Development Engineering Plan application, construction plans for Sandra Lane shall be submitted for review and approval showing the street located in a minimum 52-foot wide right-of-way and constructed pursuant to Figure 2-1 of the Infrastructure Design Criteria Manual for a local street or shall meet criteria for obtaining an Exception or Variance (sidewalk). If an Exception is obtained, a copy of the approved document shall be submitted with the Development Engineering Plan application;
4. Upon submittal of a Development Engineering Plan application, water plans and analysis prepared by a Registered Professional Engineer shall be submitted for review and approval in accordance with the Infrastructure Design Criteria Manual. In particular, the water plans shall include the extension of a water main to serve the proposed lot. The design report shall also demonstrate that the water service is adequate to meet estimated domestic flows and required fire flows to support the proposed development. In addition, easements shall be provided as needed;
5. Upon submittal of a Development Engineering Plan application, a sewer design report prepared by a Registered Professional Engineer as per the Infrastructure Design Criteria Manual shall be submitted for review and approval. In particular, the sewer plans shall include the extension of a sewer main to serve the proposed lot if extended from Topaz Lane. The design report shall also demonstrate that the sanitary sewer capacity is adequate to meet estimated flows and provide sufficient

- system capacity in conformance with the Infrastructure Design Criteria Manual. In addition, easements shall be provided as needed;
6. Upon submittal of a Development Engineering Plan application, a drainage plan and report prepared by a Registered Professional Engineer as per the Infrastructure Design Criteria Manual and the Rapid City Municipal Code shall be submitted for review and approval if subdivision improvements are required. The drainage report shall address storm water quantity control and storm water quality treatment. In addition, easements shall be dedicated as needed;
 7. Upon submittal of a Development Engineering Plan application, an Erosion and Sediment Control Plan in compliance with the adopted Stormwater Quality Manual and the Infrastructure Design Criteria Manual shall be submitted for review and approval if subdivision improvements are required;
 8. Upon submittal of a Development Engineering Plan application, a cost estimate for any required subdivision improvements shall be submitted for review and approval;
 9. Prior to approval of the Development Engineering Plan application, engineering reports required for construction approval shall be accepted and agreements required for construction approval shall be executed. In addition, permits required for construction shall be approved and issued and construction plans shall be accepted in accordance with the Infrastructure Design Criteria Manual. All final engineering reports shall be signed and sealed by a Professional Engineer and contain a Certification Statement of Conformance with City Standards, as required by the Infrastructure Design Criteria Manual;
 10. Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements;
 11. Prior to submittal of a Final Plat application, the proposed Access and Utility Easement shall be recorded at the Register of Deed's Office as a miscellaneous document. In addition, the recording document number shall be shown on the Final Plat document;
 12. Prior to submittal of a Final Plat application, the plat document shall be revised to show the recording information for the previously vacated section line highway located along the north lot line of proposed Lot 21;
 13. Prior to submittal of a Final Plat application, the plat document shall be revised to show the correct year, "2019", on all applicable certificates. In addition, the plat shall be revised to show the "Community Planning & Development Services Director" as the "Community Development Director". The plat shall also be revised to add a timeline to the Register of Deed's Certificate;
 14. Upon submittal of a Final Plat application, an agreement shall be submitted for recording securing ownership and maintenance of the proposed Major Drainage Easement;
 15. 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,
 16. Prior to the City's acceptance of the public improvements, a warranty

surety shall be submitted for review and approval as required.

- 5. No. 19RZ034 - North of Tower Road
A request by Renner Associates, LLC for Roadside Outdoor Advertising, LLC to consider an application for a **Rezoning Request from Office Commercial District to Low Density Residential District II** for Lot 2 of the SE1/4 of Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located in Section 11, T1N, R7E.

Staff recommends approval of the Rezoning Request from Office Commercial District to Low Density Residential District II.

- 6. 19TP022 - 2020 Unified Planning Work Program – Final Report

Staff recommends approval of the 2020 Unified Planning Work Program – Final Report.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

- 7. No. 19OA005 - Ordinance Amendment Amending Section 17.50.400 of the Rapid City Municipal Code to Exempt Small Wireless Facilities from the Definition of Microcell Wireless Communication Facilities

A request by City of Rapid City to consider an application for an **Ordinance Amendment Amending Section 17.50.400 of the Rapid City Municipal Code to Exempt Small Wireless Facilities from the Definition of Microcell Wireless Communication Facilities.**

Cushman reviewed Rapid City’s regulation of cell facilities stating that the zoning code currently regulates micocell facilities. Cushman explained that the Federal Government and Federal Regulations treat small wireless facilities differently than other microcell wireless communication facilities and as such the City is amending how these facilities will be regulated within the City of Rapid City. Cushman stated that the City has opted to regulate these small wireless facilities through agreements with the providers rather than through zoning approval and this Ordinance Amendment clarifies this approach. Cushman noted that the antenna for these facilities are generally less than three square feet and the supporting cabinet less than 20 square feet. Additionally, Cushman stated, they often utilize street lights or traffic lights which are located in the right-of-way. Cushman stated that the City Council has recently approved an agreement with Verizon to enable its use of the City’s right-of-ways and properties and anticipates to do the same with other providers. Cushman explained that this Ordinance is to clarify that the small cell wireless Communication facilities will be managed by agreement, however, she noted that it leaves in place the language regulating Microcell facilities in the zoning code.

In response to a question from Braun whether these small wireless facilities will be along the line of a utility, Cushman stated that they are utilities noting that they will

pay the City for the use of the land and the tower. Cushman further noted that the Federal Government has limited how cities can regulate small cell facilities.

In response to a question from Braun on the public notice to the installation of these facilities, Cushman stated that the units are within the right-of-way eliminating requirement of notice, but that they are visible to the public eye so they would be aware of their existence.

In response to a question from Heikes on placement of a unit, Cushman reviewed the difference between City owned and Black Hills Power owned power poles, noting that the City does not regulate placement on Black Hills Power's poles. However, when a unit is requested to be placed on a City owned pole or light an application identifying the specific location, including structural information, will have to be submitted for review.

In response to Vidal's question on the length of term of the agreements, Cushman said they were for 10 years with an option to renew.

Staff recommends approval of Ordinance Amendment Amending Section 17.50.400 of the Rapid City Municipal Code to Exempt Small Wireless Facilities from the Definition of Microcell Wireless Communication Facilities. (8 to 0 with Arguello, Braun, Bulman, Caesar, Gollither, Heikes, Herr and Vidal voting yes and none voting no).

Young requested items #8 and #9 be taken together.

8. 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.**
9. 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.**

Young reviewed the history behind the proposed Ordinance Amendment and Resolution to adopt the Tax Increment Financing Policy, noting that staff has been working diligently on this project for at least 2 years and that over the last few months, staff has been reviewing, analyzing and revising the Policy per the input received. Young stated that he does not believe this amendment to be restrictive, noting that they have included changes drawn from input from staff's meeting with the financial and development community and from other municipalities, including Aberdeen and Sioux Falls. Young believes that the revised Policy provides numerous flexible and creative options. Young briefly reviewed the evaluation criteria and evaluation sheet that is part of the review process. Young also noted that there are a total of 28 points that can be achieved, with only 10 of those 28 possible needed as a minimum to be recommended for approval. Young indicated that there is less emphasis on target areas such as the Community Core as a

criteria for approval for Tax Increment Financing. Young noted that in reviewing existing tax increment districts most would be approved under the proposed Policy, reiterating that the proposed changes are not restrictive.

Young reviewed some of the reasons for the proposed changes including promoting infill economic development, affordable housing, transit-oriented development; greater guidance to applicants in the application and certification processes; improve and simplify staff efforts in the review and certification process and ensure that the tax increment financing public finance tool is used responsibly and when determined necessary. He briefly explained each reason.

Young noted that there have been numerous meetings to obtain input and review changes with the public and other municipalities, as well as questionnaires for additional input.

Young reviewed the general changes such as the tax increment financing chart description, updated verbiage throughout the policy and defined the base requirements that must be met to initiate a tax increment financing application and the added 28 point evaluation criteria.

Young listed the targeted uses to include development and redevelopment of infill and blight areas, new economic development and affordable and workforce housing, noting that these have been defined within the proposed amended policy. Young noted that meeting the objectives of the master plans such as the Plan Rapid City (the Rapid City Comprehensive Plan), the Downtown Master Plan, the Utility System Master Plan, the Capital Improvements Program and the Community Development Block Grant Consolidated Plan are also targeted uses.

Young noted that the Policy provides defined guiding principles and revised eligible costs and evaluation criteria. Young noted that staff would work with applicants to identify and meet these requirements as much as possible.

Young summarized the benefits of the revised Tax Increment Financing Policy and stated that staff recommends approval of both the Ordinance to Update the Tax Increment Financing District Review Process by Amending Chapter 3.26 of Rapid City Municipal Code and the Resolution Adopting the Rapid City Tax Increment Financing Policy.

Herr asked about the input from the School Districts. Horton noted that the School District had been involved, but did not have many comments. Horton stated that the current proposal includes informational presentations to both the School Board and Commission.

In response to a question from Heikes on the marketing analysis, Young stated this would be expected to be professionally prepared.

In response to Heikes' question on blight, Horton referenced the State's definition of blight, but stated that Rapid City has tightened this definition and explained how and why. Horton discussed previous issues with blight in the area.

Kent Hagg, Whitting, Hagg, Hagg, Dorsey and Hagg and Hagg Brothers Development, spoke to the round table that was held following the last time this item was before the Planning Commission. Hagg recognized that input from that meeting has been applied to the revised proposal, but he still believes that this amendment is too restrictive. Hagg indicated that he believes there was not enough input from the financial and development fields in regards to the design of this revision to the Policy. Hagg stated that the manner of the revision does not allow elected officials enough review and believes that codifying the Tax Increment Financing process is too restrictive and will limit the only economic development tool available to developers especially for smaller developers. He asked that the Planning Commission send this ordinance back to be reviewed and reworked with additional input from the developer and banking community.

Horton clarified that the Policy is adopted by a resolution and does not codify the process that the Ordinance is to acknowledge the Policy. In response to Braun's question of how a change to the Tax Increment Financing Policy would be achieved, Horton confirmed such changes would be by Resolution.

John Way, Bank West, noted that he has previously served on the Committee Reinvestment Authority of North Platt Nebraska, which was the Tax Increment Financing Board in North Platt and that he has been involved in the financing of Tax Increment Districts for numerous years. Way noted that the revisions show that staff had listened to the input from the meeting with the financial community. Way spoke to the repayment period noting that Tax Increment Financing are generally paid off within the proposed 10 year period, but would advise against restrictive repayment periods. Way stated that he believes Tax Increment Financing is a great tool and would not want it to be too restrictive.

In response to numerous questions from Bulman on language, intent and wording throughout the Policy, Horton addressed sprinkler requirements, noting the reason for them and acknowledged there were minor language changes to address her concerns as well as references to historic eligibility that would be addressed. Horton discussed the interest rate and reason for the restriction, including the desire to have the developer invested in the project rather than depend completely on tax increment financing.

Vidal stated that he believes that the review and the preparation of the amendment and the operation of Tax Increment Financing proposed Policy has been well thought out and presented, noting that there is an idea in the general public that the City approves the use of Tax Increment Financing too easily.

Caesar stated that one of the frustrations of serving on the Tax Increment Financing Review Committee has to do with the loosely defined terms such as affordable housing that have been strengthened and clarified with this revision and she feels this will help the Review Committee correctly identify projects that will help the community.

In response to a question from Caesar about infill development and how this policy

differs from the existing Tax Increment Financing Policy and practices, Young reviewed the defined boundaries and the redevelopment of existing development. In response to Caesar's request for specifics, Horton noted that an example could include redevelopment of property in the downtown area and drainage and sewer capacity constraint costs could be included as an eligible Tax Increment Financing expense. Young also listed infrastructure improvements, utility improvements and historic restoration as options for infill development that would fall within the targeted uses.

In response to Herr's concerns on the reduced timeline for Tax Increment Financing completion and its possible removal from the proposed policy, Young stated that requirement would be removed and the 20 year repayment period could be retained. Horton added that the Resolution adopts the Policy and the Ordinance changes the review and approval process.

Herr moved to continue the item to allow for revisions noted. Motion died due to lack of second.

Herr note that he is not comfortable voting on something he cannot see.

Vidal spoke to expediting the repayment of the TIF projects stating that he does not have a problem with the shortened repayment period.

Braun expressed concern on the restrictive payback period saying that the developers are subject to market so the shortened repayment appears shortsighted. Braun also commented on the interest rate cap suggesting that setting a rate at a percentage over the City' rate can add up fast in large project dollar amounts. Braun noted his concern with the change of approval process and that he would like to see an appeal option retained. Braun also noted that the available points and financing for infill or downtown redevelopment are limited and he doesn't see it offering much to assist development in that area and asked if more options for service and utility improvements could be offered as qualified costs for TIFs.

In response to Arquello's question of what drove the changes to the Policy, whether it was to reflect the Sioux Falls Policy or if it was driven by general issues identified with the current Policy, Young stated it was driven by the need for a more defined and streamlined policy. Young stated that the reasons for discussions with Sioux Falls was to both compare policies and procedures with another progressive municipality and to see what could be taken from their policy that would work with our needs. Young noted that Sioux Falls has additional requirements that staff chose not to include as they did not fulfill our goals. Horton noted that the sections included in the new policy from Sioux Falls include the financial analysis, legal review and the market analysis.

Young reviewed the comments made regarding the Planning Commission's concerns, stating that the discussed revisions can be made regarding the repayment period and the language notes discussed. He also supports the Planning Commission appeal option in order to keep the application review out of

the political arena. Young noted that Policy changes can be made through a resolution.

Discussion followed regarding the concerns the Planning Commission think need to be addressed including; addressing repayment period intended to maximum timeline allowed by State law; language to allow applicant the opportunity to appeal the Tax Increment Review Team’s evaluation scoring to the Planning Commission; addressing the proposed interest rate cap; clarification regarding incremental funded eligible infill costs; and language clarifications to address Bulman’s meeting comments.

Fisher requested a motion to continue the meeting past the 9:00 deadline.

Bulman moved, Caesar seconded and the Planning Commission unanimously carried to continue the Planning Commission meeting beyond 9:00. (8 to 0 with Arguello, Braun, Bulman, Caesar, Gollither, Heikes, Herr and Vidal voting yes and none voting no)

Braun stated that with all the changes that have been proposed he feels it would be best if the item were continue to allow all of the changes to be made and so they could be reviewed as a whole and see how the revised policy looks.

Bulman suggested that perhaps there should be an opportunity to allow interested parties from the financial or developer communities to offer input.

Vidal offered a Substitute Motion to continue the items to the October 24, Planning Commission meeting, but to allow staff to revise the Policy to address only those items addressed today. Motion failed for lack of second.

Vidal did comment that he did not believe further meetings with either the financial or developer community needed to be held noting that there is only one developer present to discuss the item.

In response to Caesar’s request for more qualifying options for infill development, Cushman noted that state law is very restrictive, but they will look at options.

**Bulman moved, Herr seconded and the Planning Commission continued the Ordinance to Update the Tax Increment Financing District Review Process by Amending Chapter 3.26 of Rapid City Municipal Code the October 24, 2019 Planning Commission meeting, and;
To continue the Tax Increment Review Team (TRT) recommends approving Resolution #2019-015 adopting the new Rapid City Tax Increment Financing Policy and Ordinance #6310 amending Chapter 3.26 of the Rapid City Municipal Code to the October 24, 2019 Planning Commission meeting. (8 to 0 with Arguello, Braun, Bulman, Caesar, Gollither, Heikes, Herr and Vidal voting yes and none voting no).**

- 10. Discussion Items
None

11. Staff Items

Fisher noted that the reappointment of the Planning Commissioners with terms expiring October 1, 2019 will be on the upcoming Public Works Committee and City Council meetings and she sees no obstruction to those reappointments. Fisher also reminded the Planning Commission that they would be electing officers at the October 10, 2019, Planning Commission meeting and to be thinking of who they would like to nominate.

12. Planning Commission Items

None

There being no further business, Golliher moved, Caesar seconded and unanimously carried to adjourn the meeting at 9:06 a.m. (8 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Heikes, Herr and Vidal voting yes and none voting no).