

MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
October 24, 2019

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

MEMBERS ABSENT: Eric Ottenbacher and Mike Quasney.

STAFF PRESENT: Ken Young, Vicki Fisher, Fletcher Lacock, John Green, Patsy Horton, Todd Peckosh, Ted Johnson, Wade Nyberg and Andrea Wolff.

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

1. Approval of the October 10, 2019 Zoning Board of Adjustment Meeting Minutes.

Caesar moved, Vidal seconded and the Zoning Board of Adjustment approved the minutes from the October 10, 2019 Zoning Board of Adjustment meeting.

2. Discussion Items
None

3. Staff Items
None

4. Zoning Board of Adjustment Items
None

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

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
October 24, 2019

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

MEMBERS ABSENT: Eric Ottenbacher and Mike Quasney.

STAFF PRESENT: Ken Young, Vicki Fisher, Fletcher Lacock, John Green, Patsy Horton, Todd Peckosh, Ted Johnson, 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 Gollhofer seconded by Caesar and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 5 in accordance with the staff recommendations. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollhofer, Heikes, Herr, Hoogestraat and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the October 10, 2019 Planning Commission Meeting Minutes.

2. No. 19PL085 - Dollar General Rapid City

A request by AAB Engineering, LLC for Rupe Helmer Group to consider an application for a **Preliminary Subdivision Plan** for proposed Lot 1 of Block 1 of Dollar General Rapid City, legally described as a portion of the NW1/4 of the NE1/4 less McMahon Industrial Park Subdivision #2 and right-of-way; the SW1/4 of the NE1/4 less Lot H3 and less right-of-way located in Section 24, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Haines Avenue, north of Kathryn Avenue.

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

1. **Upon submittal of a Development Engineering Plan application, the redline comments shall be addressed. In addition, the redline comments shall be returned with the Development Engineering Plan application.**
2. **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, 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;

3. Upon submittal of a Development Engineering Plan application, a letter or water design report and analysis prepared by a Registered Professional Engineer shall be submitted for review and approval in accordance with the Infrastructure Design Criteria Manual. The design report shall 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;
4. Upon submittal of a Development Engineering Plan application, a letter or sewer design report prepared by a Registered Professional Engineer in accordance with the Infrastructure Design Criteria Manual shall be submitted for review and approval. The design report shall 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;
5. Upon submittal of a Development Engineering Plan application, construction plans for Haines Avenue shall be submitted for review and approval showing the dedication of four additional feet of right-of-way and the installation of sidewalk and a sewer main along the full frontage of Haines Avenue 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;
6. Upon submittal of a Development Engineering Plan application, a drainage report and an erosion and sediment control plan shall be submitted for review and approval if subdivision improvements are required;
7. Upon submittal of a Development Engineering Plan application, a cost estimate for any required subdivision improvements shall be submitted for review and approval;
8. Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements;
9. Prior to approval of the Development Engineering Plan application, the water and sewer plans shall be approved by the South Dakota Department of Environment and Natural Resources;
10. Prior to submittal of a Final Plat application, the plat title shall be revised to show the name of the subdivision as "Dollar General Subdivision" in lieu of "Dollar General Rapid City";
11. 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,
12. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.

3. No. 19RZ035 - Dollar General Rapid City

A request by AAB Engineering, LLC for Rupe Helmer Group to consider an application for a **Rezoning request from General Agricultural District to General Commercial District** for a tract of land within part of the Southwest Quarter of the Northeast Quarter of Section 24, Township 2 North, Range 7 East of the Black Hills Meridian, City of Rapid City, Pennington County, South Dakota and more particularly described as follows: commencing at the center 1/4 corner of section 24; Thence S 89°50'15" E on the south line of the Southwest Quarter of the Northeast Quarter a distance of 38.48 feet to the northwest corner of Lot 1 of East Haines Subdivision said point being located on the south line of the Southwest Quarter of the Northeast Quarter; Thence S 89°50'15" E on the north line of said Lot 1 and the south line of the Southwest Quarter of the Northeast Quarter a distance of 5.72 feet to the east line Lot H2 also being the easterly right of way of Haines Avenue; Thence N 00°06'13" E on the east line of Lot H2 a distance of 222.00 feet to the Point Of Beginning; Thence continuing N 00°06'13" E on the east line of said LOT H2 a distance of 13.00 feet; Thence S 89°50'15" E a distance of 257.00 feet; Thence S 00°06'13" W a distance of 235.00 feet to a point on the north line of Lot 1 of East Haines Subdivision said point also being on the south line of the Southwest Quarter of the Northeast Quarter; Thence N 89°50'15" W on said north line of Lot 1 of East Haines Subdivision and the south line of the south line of the Southwest Quarter of the Northeast Quarter a distance of 75.00 feet; Thence N 00°06'13" E a distance of 222.00 feet; Thence N 89°50'15" W a distance of 182.00 feet to the point of beginning, more generally described as being located east of Haines Avenue just north of Kathryn Avenue.

Planning Commission recommended approval of the Rezoning request from General Agricultural District to General Commercial District.

4. No. 19RZ036 - Section 3, T1N, R8E

A request by KTM Design Solutions, Inc for G & G Investments, LLP to consider an application for a **Rezoning request from Office Commercial District to Medium Density Residential District** for a portion of N1/2 Govt. Lot 3, Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the North 1/4 corner of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota being monumented by a 1949 GLO brass cap; thence S52°35'21"W, a distance of 827.84 feet to the point of beginning; Thence first course: S28°18'17"E, a distance of 198.85 feet to a point on the south line of the N1/2 of said Govt. Lot 3, Thence second course: with said south line, N89°57'20"W, a distance of 759.29 feet to the southwest corner of the N 1/2 of aforementioned Govt. Lot 3; Thence third course: with the west line of the N1/2 of said Govt. Lot 3, N00°02'54"E, a distance of 175.00 feet; Thence fourth course: leaving said west line, S89°57'20"E, a distance of 664.86 feet to the point of beginning, more generally described as being located north of Degeest Drive.

Planning Commission recommended approval of the Rezoning request from Office Commercial District to Medium Density Residential District.

5. No. 19RZ037 - Section 3, T1N, R8E

A request by KTM Design Solutions, Inc for G & G Investments, LLP to consider an application for a **Rezoning request from General Commercial District to Medium Density Residential District** for a portion of N1/2 Govt. Lot 4, Section 3,

T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the North 1/4 corner of Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota being monumented by a 1949 GLO brass cap; thence S69°11'49"W, a distance of 1414.63 feet, being on the division line between Govt. Lots 3 and 4 and the point of beginning; Thence first course: with said division line, S00°02'54"W, a distance of 175.00 feet to a point on the southeast corner of the N1/2 of said Govt. Lot 4; Thence second course: with the south line of the N1/2 of said Govt. Lot 4, N89°57'20"W, a distance of 778.05; Thence third course: leaving said south line, N00°02'40"E, a distance of 175.00 feet; Thence fourth course: S89°57'20"E, a distance of 778.06 feet to the point of beginning, more generally described as being located north of Neel Street.

Planning Commission recommended approval of the Rezoning request from General Commercial District to Medium Density Residential District.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

6. No. 19DU001 - Determination of Use to allow an in-door dog park as a Conditional Use in the SC-2 Community Shopping Center District
A request by Jared Batman to consider an application for a **Determination of Use to allow an in-door dog park as a Conditional Use in the SC-2 Community Shopping Center.**

Fisher stated that there are two primary Shopping Center II Zoning Districts in Rapid City, which are the Rushmore Mall and Baken Park Shopping Center. Fisher explained that the permitted uses in this zoning district lean towards retail, recreation and restaurants or lounges. Fisher indicated that the Rushmore Mall is looking to diversify the types of uses to increase the use of the mall. Fisher clarified that this request is specific to the Rushmore Mall location. Fisher stated that the applicant is proposing a 4,253 square foot in-door dog park with a beer and wine bar and an off leash area. She stated that the applicant has provided an operation plan which shows there would be a maximum of 30 dogs to be under the control of their owners at all times, 2 to 3 employees on site at all times and that there is an external access from the parking lot and the dogs would not be able to access any other portion of the mall from this facility. Fisher explained that if the Planning Commission approved this Determination of Use that since the use is a Conditional Use and that they are also seeking to have on-sale alcohol, the applicant would then have to submit a Major Amendment to a Planned Development with a Conditional Use Permit to allow on-sale alcohol. Fisher stated that staff would then review criteria for a Conditional Use Permit, such as odor, noise, specific operation plan and compatibility of uses with existing uses in the mall. Fisher explained that if this were a standard Determination of Use then after approval by Planning Commission and City Council, staff would initiate an Ordinance Amendment to identify the approved use in the Zoning District. Fisher took a moment to explain why this was being requested specific to this request only to see if the use proves to be viable and good for the public welfare. Then should another similar use be requested, this could be reviewed as a basis to decide if it is viable or not and if so, at that time an Ordinance Amendment could be done to include it in the Shopping Center II District. Fisher stated that staff recommends

approval of the request for a Determination of Use to allow an in-door dog park as a Conditional Use in the Community Shopping Center-2 District for this specific request only.

In response to questions from Caesar regarding management of antisocial or aggressive dogs, the applicant, Jared Batman, outlined their three strike policy and explained that all owners would be required to complete an admission form accepting responsibility for their dogs and confirming vaccinations to be allowed access to the park.

In response to Bulman's question regarding approval of the Determination of Use, Fisher confirmed this is specifically for this request by Batman.

Fisher agreed that this is a unique request but it is an opportunity to improve the use of the Rushmore Mall and staff is prepared to work with them and other shopping centers in the city to remain strong markets within the city.

In response to question from Vidal, Batman explained how he came to propose this business venture.

In response to question from Arquello, Batman stated that the staff would be trained and animals will be required to meet temperament qualification.

In response to a question from Heikes regarding notification of the other tenants of the use, Sandy Brockhouse, Manager of the Rushmore Mall, stated that that no notice has been done yet as they were waiting for approval of the use before taking that action. Brockhouse noted that this will be a no bark zone stating that there had been a pet store that operated in Rushmore Mall previously and noise had not been an issue.

Caesar moved, Vidal seconded and the Planning Commission recommended approval of the request for a Determination of Use to allow an in-door dog park as a Conditional Use in the Community Shopping Center-2 District for this specific request only. (9 to 0 with Arquello, Braun, Bulman, Caesar, Gollhofer, Heikes, Herr, Hoogstraat and Vidal voting yes and none voting no)

*7. No. 19PD040 - Thompson Tower Subdivision

A request by Fisk Land Surveying & Consulting Engineers, Inc for Hughes Network Systems, LLC to consider an application for a **Major Amendment to a Planned Development to expand an existing communications facility** for Lot 1 of Thompson Tower Subdivision located in Section 14, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 3840 Tower Road.

Green presented the application and reviewed the associated slides. Green stated that there is already an existing dish on the property and this request is to add an additional dish to the property. Green addressed the location and size of the proposed dish noting that it is approximately 50% larger than the existing dish. Green noted the applicant is requesting Exceptions to allow a front yard setback of 3 feet in lieu of 35 feet required for an accessory structure and to allow a rear yard setback abutting a street of 30 feet in lieu of 35 feet for an accessory structure.

Green noted that due to the topography of the area and the excessive right-of-way allotted for Mount Rushmore Road, staff supports the Exception requests. Green pointed out that the existing trees in the area helps to screen the facility. Green stated that staff recommends approval of the Major Amendment to a Planned Development to expand an existing communications facility with stipulations.

In response to Heikes' question about the screening trees being or coniferous or deciduous, Green said that the majority of the screening trees are coniferous thus providing year-round screening.

In response to a question from Bulman regarding the designation of the front yard and back yard, Green confirmed that the applicant was allowed to make that determination. Green also clarified that the dishes are located on the ground and not on a tower.

Bulman moved, Gollither seconded and the Planning Commission approved the Major Amendment to the Planned Development Overlay to expand an existing communications facility with the following stipulations:

- 1. An Exception is hereby granted to allow a front yard setback of 3 feet in lieu of 35 feet required for an accessory structure;**
- 2. An Exception is hereby granted to allow a rear yard setback abutting a street of 30 feet in lieu of 35 feet for an accessory structure;**
- 3. The previously granted exception is hereby acknowledged to reduce the required front yard setback from Tower Road from 35 feet to 28 feet for the existing accessory structure;**
- 4. The previously granted exception is hereby acknowledged to reduce the required front yard setback from U.S. Highway 16 from 35 feet to 24 feet for the existing accessory structure;**
- 5. 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,**
- 6. The Major Amendment to a Planned Development Overlay shall allow an expansion of a communications facility on the property. Any change in use that is a permitted use in the General Agricultural District shall require a review and approval of a Minimal Amendment to the Planned Development Overlay. Any change in use that is a Conditional Use in the General Agricultural District shall require the review and approval of a Major Amendment to the Final Planned Development Overlay. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollither, Heikes, Herr, Hoogestraat 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.

Horton requested that 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.**

Horton stated that staff is requesting the items be continued to the November 21, 2019 Planning Commission meeting to allow staff to hold an additional public meeting scheduled on November 6, 2019 from 11:30 to 1:30 in the City Council Chambers. Horton stated that the Planning Commission members will be receiving an invitation.

In response to a question from Vidal whether there have been any questions or comments from the public since the last meeting, Horton stated that she has spoken with one TIF banker in town regarding the ten year repayment period. She noted that the Policy encourages a ten year or less repayment period, with an evaluation score of 12 out of 28 to exceed that timeframe.

In response to a question from Caesar regarding notice of the Open House Meeting, Horton stated that in addition to publishing notice of the Open House, a mailing will be sent.

9. No. - 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.**

Caesar moved, Heikes seconded and the Planning Commission continued the Ordinance #6310 amending Chapter 3.26 of the Rapid City Municipal Code to its November 21, 2019 Planning Commission meeting; and,

To continue the Resolution #2019-015 adopting the new Rapid City Tax Increment Financing Policy to its November 21, 2019 Planning Commission meeting. (9 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Heikes, Herr, Hoogestraat and Vidal voting yes and none voting no)

10. Discussion Items
None

11. Staff Items
Young noted that there will be a Coffee with Planners on November 6, 2019 in the City Council Chambers and urged the Planning Commission to attend.

12. Planning Commission Items

Planning Commission Minutes
October 24, 2019

None

There being no further business, Vidal moved, Caesar seconded and unanimously carried to adjourn the meeting at 7:30 a.m. (9 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Heikes, Herr, Hoogestraat and Vidal voting yes and none voting no).