

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
November 7, 2019

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

MEMBERS ABSENT: Kelly Arguello, Eirik Heikes.

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

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

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

Motion by Caesar seconded by Bulman and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 6 in accordance with the staff recommendations. (9 to 0 with Braun, Bulman, Caesar, Gollither, Herr, Hoogestraat, Ottenbacher, Quasney and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the October 24, 2019 Planning Commission Meeting Minutes.
2. No. 19PL082 - Marshall Subdivision
A request by KTM Design Solutions, Inc for Justin Henrichsen to consider an application for a **Preliminary Subdivision Plan** for proposed Lot D of Lot 3A and Lot D of Lot 3B of Marshall Subdivision, legally described as Lot D of Lot 3 of Marshall Subdivision, located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located northwest of the intersection of Glendale Street and Homestead Street.

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

1. **Prior to submittal of a Final Plat application, the plat document shall be revised to show the proposed lots as Lot A and B or Lots 1 and 2 of Marshall Subdivision #2.**
2. **If a turnaround is proposed along Glenside Drive, then it shall be located to the north lot line of proposed Lot D of Lot 3B, secured within an access easement and constructed in compliance with Figure 2-8 of the Infrastructure Design Criteria Manual;**
3. **Upon submittal of a Final Plat application, a Covenant Agreement shall be submitted for recording requiring that new residential structure(s) be fire sprinkler protected;**
4. **Upon submittal of a Final Plat application, the plat document shall**

show the dedication of 10 additional feet of right-of-way along Glenside Street and one additional foot of right-of-way along Homestead Street; and,

- 5. Upon submittal of a Final Plat application, a copy of the approved Exceptions shall be submitted.**

3. No. 19PL088 - Pioneer Subdivision No. 3

A request by Renner Associates, LLC for School House LLC to consider an application for a **Preliminary Subdivision Plan** for proposed Lots 1 and 2 of Pioneer Subdivision No. 3, legally described as a portion of the SE1/4 of the S1/4 of the SW1/4 of Section 31, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 9340 Clarkson Road.

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

- 1. Upon submittal of a Development Engineering Plan application, the plat document shall be revised to remove the proposed Vacation of Right-of-Way or the right-of-way shall be vacated through Pennington County and the recording number identified on the plat prior to submittal of a Final Plat application;**
- 2. Upon submittal of a Development Engineering Plan application, the plat document shall be revised to show the existing overhead powerline located within an existing easement or, including the recording information, or a utility easement shall be dedicated on the plat;**
- 3. Upon submittal of a Development Engineering Plan application, the property owner's certificate shall be revised to identify Larry Teuber signing as a member of School House, LLC;**
- 4. Upon submittal of a Final Plat, a signed covenant agreement for fire sprinkler protection shall be submitted for review and approval and recording with the Final Plat document; and,**
- 5. Upon submittal of a Final Plat, a Wildland Fuels Mitigation Plan shall be approved.**

4. No. 19PL089 - Dunham Estates

A request by Fisk Land Surveying & Consulting Engineers, Inc for Keiz Larson to consider an application for a **Preliminary Subdivision Plan** for proposed Lot 5 of Block 3 of Dunham Estates, legally described as a portion of the NE1/4 of the SE1/4 less Dunham Estates and less right-of-way located in Section 16, T1N, R7E, BHM, Rapid City Pennington County, South Dakota, more generally described as being located west of the intersection of Heidiway Court and Heidiway Lane.

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 Heidiway Lane shall be submitted for review and approval showing the street 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, 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;**
3. **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. 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;**
4. **Upon submittal of a Development Engineering Plan application, a cost estimate for any required subdivision improvements shall be submitted for review and approval;**
5. **Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements;**
6. **Prior to submittal of a Final Plat application, the property shall be rezoned to Low Density Residential District;**
7. **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,**
8. **Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.**

5. No. 19PL092 - Fountain Springs Business Park

A request by Renner Associates, LLC for Lilac Flowers LLC to consider an application for a **Preliminary Subdivision Plan** for proposed Tract T of Fountain Springs Business Park, legally described as a portion of the N1/2 of the SE1/4 and the SE1/4 of the NE1/4 of Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southwest of the intersection of North Plaza Boulevard and Wesleyan Boulevard.

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

1. **Prior to submittal of a Final Plat application, the plat document shall be revised to address redline comments. In addition, the redline comments shall be returned with the Final Plat application;**
2. **Prior to submittal of a Final Plat application, a revised Master Plan identifying street extensions and right-of-way dedications in accordance with the City's Major Street Plan shall be submitted for review and approval.**

6. No. 19RZ038 - Fountain Springs Business Park

A request by Renner Associates, LLC for Lilac Flowers LLC to consider an

application for a **Rezoning request from General Agricultural District to Light Industrial District** for a portion of the N1/2 of the SE1/4 and the SE1/4 of the NE1/4, Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Beginning at the southwesterly corner of Tract D of Fountain Springs Business Park, and the Point of Beginning, Thence first course: S 56°09'52" E, a distance of 251.49'; Thence second course: S 32°03'43" E, a distance of 169.51'; Thence third course: S 04°32'30" E, a distance of 169.74'; Thence fourth course: S 62°55'18" E, a distance of 179.74'; Thence fifth course: on a curve turning to the right with an arc length of 32.17', a delta angle of 6°53'37", a radius of 267.33 feet, a chord bearing of S 30°33'44" W, and a chord length of 32.15 feet; Thence sixth course: N 63°02'48" W, a distance of 196.47'; Thence seventh course: N 04°39'59" W, a distance of 180.17'; Thence eighth course: N 32°04'10" W, a distance of 47.44'; Thence ninth course: N 89°54'19" W, a distance of 120.86'; Thence tenth course: S 88°38'21" W, a distance of 245.45'; Thence eleventh course: S 88°37'37" W, a distance of 225.13'; Thence twelfth course: S 88°38'00" W, a distance of 239.16'; Thence thirteenth course: N 42°34'15" E, a distance of 338.25'; Thence fourteenth course: N 17°20'44" W, a distance of 174.67'; Thence fifteenth course: N 41°14'01" E, a distance of 500.71'; Thence sixteenth course: N 40°44'44" E, a distance of 19.29'; Thence seventeenth course: S 74°24'14" E, a distance of 27.68'; Thence eighteenth course: S 41°07'03" W, a distance of 130.03'; Thence nineteenth course: S 18°29'17" W, a distance of 149.59'; Thence twentieth course: S 17°45'25" E, a distance of 83.54'; Thence twenty first course: S 72°14'40" W, a distance of 70.05'; Thence twenty second course: S 06°52'15" W, a distance of 120.58'; Thence twenty third course: S 18°09'28" E, a distance of 50.19'; Thence twenty fourth course: N 72°17'04" E, a distance of 119.86'; Thence twenty fifth course: N 17°43'37" W, a distance of 159.88'; Thence twenty sixth course: N 72°18'45" E, a distance of 322.64'; Thence twenty seventh course: S 27°47'03" E, a distance of 245.73'; Thence twenty eighth course: S 62°13'42" W, a distance of 149.96'; Thence twenty ninth course: S 81°31'39" W, a distance of 140.00', to the said Point of Beginning, more generally described as being located southwest of the intersection of North Plaza Boulevard and Wesleyan Boulevard.

Staff recommends approval of the Rezoning request to rezone a parcel of land from General Agricultural District to Light Industrial District.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

*7. No. 19PD041 - Meadow View Subdivision

A request by FMG Engineering for Lloyd Companies to consider an application for an **Initial Planned Development Overlay to allow an apartment complex** for Tract A of Meadow View Subdivision, less Lots H1 and H2 and Tract B of Meadow View Subdivision, all located in Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1330 Catron Boulevard.

Lacock presented the application and reviewed the associated slides. Lacock stated that the applicant had held a neighborhood meeting to inform them of the proposed development and receive input and answer questions. Lacock stated

that the development proposes 168 units consisting of 2 three-story buildings, 4 two-story buildings, with amenities including a club house, dog walk area, swimming pool and a children's play area. Lacock noted that the applicant is requesting an Exception to reduce the number of landscaped parking lots islands from 5 to 2. The two proposed landscape islands will be a minimum of 500 square feet in size. The applicant is also requesting an Exception to waive the requirement to provide 50% of the landscaping within 20 feet of the parking lot. contingent upon a landscape plan being submitted with the Final Planned Development Overlay application identifying a landscape buffer along the south property line. Lacock stated that staff supports the Exception requests noting that the 2 proposed parking islands will be large enough to meet the actual square foot requirement, noting that there are additional peninsulas that help break up the parking, but are smaller than recognized parking islands and that due to the location of the parking the area available for landscaping is limited, so the landscaping is being proposed along the south lot line. Lacock pointed out that this is an Initial Planned Development Overlay and a Final Planned Development Overlay will still be required prior to the actual development of the property. Lacock noted that a Traffic Impact Study is not required as part of an Initial Planned Development Overlay but that the applicant has submitted one and that although staff has not had a chance to do a complete review of the Traffic Impact Study, they do note that one of the options presented in the Traffic Impact Study is a right turn in-lane off of Catron Boulevard. Lacock said that the applicant is available to answer any questions and that staff is recommending approval with stipulations.

Braun stated that Bulman would be recusing herself from the item due to a conflict of interest.

Quasney stated that he would also be recusing himself from the item due to a conflict of interest.

Mike Crane, Director of Affordable Housing for the Lloyd Companies, stated he would be available to answer any questions.

James Letner, 1204 West Boulevard, stated that he owns the adjacent property to the west and that he has an Initial Planned Development on that property to develop a 200 unit apartment complex. Letner stated that there is a hammer head access onto Catron Boulevard that serves both the properties and that this existing road structure will not support the traffic created by both developments. Due to this issue Letner requested that the item be delayed until the Traffic Impact Study has been reviewed and a feasible road structure is achieved.

Fisher reviewed the status of both of the Initial Planned Development Overlays and stated that, based on these associated developments, a Traffic Impact Study had been requested that should take into consideration both complexes. Fisher stated that the Traffic Impact Study had been submitted just recently and staff has not had time to review the information. Fisher further noted that this being an Initial Planned Development Overlay, these issues will be addressed prior to submittal of the Final Planned Development Overlay.

Crane agreed that the traffic issue is a concern and reviewed some of the proposed actions to address them including possibly widening the road from the service road

to Catron Boulevard and adding a possible left turn lane as well as a right turn lane off of Catron Boulevard. He did indicate that the intersection will not warrant a signal, but they will continue to work on options. He noted that they need to have the initial approval to move forward.

In response to Vidal's question Letner responded that the current road system to serve the approximately 400 apartments is not adequate. Letner also stated that he believes this will exceed the 40 housing unit limit.

Hoogestraat stated that he understands the concerns, but that the goal today is to set initial plans to allow more complete plans to be addressed. In response to his question regarding whose responsibility it is to make the improvements, Fisher stated that it would fall on the developer who needs it first.

Hoogestraat moved, Caesar seconded and the Planning Commission approved the Initial Planned Development Overlay to allow an apartment building be approved with the following stipulations:

- 1. An Exception is hereby granted to reduce the number of landscaped parking lots islands from 5 to 2 contingent upon the two proposed landscape islands being a minimum of 500 square feet in size;**
- 2. An Exception is hereby granted to waive the requirement to provide 50% of the landscaping within 20 feet of the parking lot contingent upon a landscape plan being submitted with the Final Planned Development Overlay application identifying a landscape buffer along the south property line;**
- 3. Prior to submittal of a Final Planned Development Overlay application, a street name for the access road shall be submitted to the Emergency Services Communications Center for review and approval. In addition, the site plan shall show the approved street name;**
- 4. Upon submittal of a Final Planned Development Overlay application, a Traffic Impact Study shall be submitted for review and approval or an Exception shall be obtained to waive the requirement;**
- 5. Upon submittal of a Final Planned Development Overlay application, address redline comments regarding water, sewer and access;**
- 6. Upon submittal of a Final Planned Development Overlay application, a sign package shall be submitted for review and approval;**
- 7. Prior to issuance of a Building Permit, a Developmental Lot Agreement or a Lot Line Consolidation Plat shall be approved; and,**
- 8. This Initial Planned Development Overlay shall allow a 168-unit apartment complex. Prior to issuance of a Building Permit, a Final Planned Development Overlay shall be submitted for review and approval. Any conditional use shall require the review and approval of a Final Planned Development Overlay. (7 to 0 to 2 with Braun, Caesar, Gollhofer, Herr, Hoogestraat, Ottenbacher, and Vidal voting yes and none voting no and Bulman and Quasney abstaining)**

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. 19OA007 - 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 reviewed the history of this Ordinance noting that a previous Ordinance Amendment on this issue had been approved by Planning Commission in 2018, but the City Council tabled it, requesting additional meetings both with the Public by holding an Open House and additional work sessions with City Council to address areas of concern. Hanzel noted that since that time an Affordable Housing Policy has been adopted by the City and staff has taken the input from those additional meetings and crafted the Ordinance Amendment before the Planning Commission today. Hanzel said that the City is aware that these types of dwellings and uses exist within the city, but that they fall outside of the existing Zoning Code and the goal of this ordinance is to bring them into the Zoning Code, making the existing units legal, and to enable new units to be developed. Hanzel clarified that these will not be required to be affordable housing but that they will help to create diversified housing as call for by our Comprehensive Plan.

Hanzel stated that the City has defined the criteria defining an Accessory Dwelling Units being that they have own eating, sleeping and sanitation facilities and that detached units are required to have a permanent foundation. These units can be detached, internal to existing residential structure or garage such as an attic or basement unit. Hanzel stated that they will be reviewed on a case-by-case basis, but that the basic requirements are that they be owner occupied; that they meet area regulations, which includes lot coverage, house to Accessory Dwelling Units size restrictions and location of Accessory Dwelling Units unit on a lot; that they maintain residential character with each unit having its own address numbers and that they meet parking requirements. Hanzel reviewed the registration process noting that existing units would not be required to meet all current Zoning Code or Building Code, but when future remodeling or construction is initiated those items being updated or constructed must then meet City Building Code. Hanzel noted that this will not address short term rentals that is part of a separate ordinance proposal that will be coming forward at a later date. Registering is designed to be simple with the applicant needing to supply to the Department of Community Development a site plan and a floor plan showing how it meets the requirement of Section O of the Accessory Dwelling Units Ordinance Amendment and a fee which will be set by resolution. The fee is intended to be nominal so as not to be a barrier to the registration of the units. There will be a two year grace period for registration. Hanzel stated that staff recommends approval of that the Ordinance Amendment to Allow for Accessory Dwelling Units in Residential Districts by Amending Title 17 of the Rapid City Municipal Code

In response to a question from Quasney if renting out individual rooms would fall into this qualification, Hanzel stated that that would not be categorized as an Accessory Dwelling Unit. Quasney stated that he worries about government intrusion into the use of an individual's home.

In response to question from Ottenbacher, regarding tiny homes which are

generally constructed on a wheel base, Hanzel stated that they would be required to be on a permanent foundation.

In response to question from Herr regarding covenants, Nyberg stated that the City does not enforce covenants. Nyberg explained that covenants are an agreement between the homeowner and the developer and the City is an outside party with no authority to that agreement. Nyberg further stated that the Zoning Code is our tool for requirements separate from any private agreement.

Herr stated that he feels Accessory Dwelling Units should require a Conditional Use Permit to ensure they meet all requirements and to control over occupation of houses and neighborhoods. Fisher reviewed how the Accessory Dwelling Units ordinance addresses these concerns and provides tools for control and review without burdening the applicant with Public Hearing meeting, mailings, signs at an additional cost and delay. Fisher noted that the Ordinance allows for the review of the license on a complaint basis and if it is found that it is creating a nuisance the Department of Community Development Director has the authority to suspend the license.

In response to a question from Braun whether this is tied to the property or to the property owner, Fisher stated that it is tied to the property and is affective as long as it is operated under the approved stipulations. Fisher reiterated that the ordinance allows the Director to suspend if it is found that the use is creating a nuisance.

In response to Braun's question regarding how homeowners will be made aware of this requirement and will about those being unaware, Fisher stated that the City plans to make numerous public notices and publications of this.

In response to a question from Bulman regarding separate utilities and the requirement for separate addresses and mail boxes, Hanzel noted that separate utility hook ups are not desired, but that separate addresses will be required to allow for Emergency Services noting this also why registration is important. Fisher noted that mail delivery and requirement for mail receptacles is managed by the Post Office.

In response to question on the separate addresses, Behlings noted that the Fire Department supports the Ordinance Amendment, noting it is better than some of the existing rental scenarios and that the Emergency Services would prefer to use an alphabetic system such as Unit A, Unit B, etc., rather than ½ numbers. Behlings noted that he always proposes sprinkling as an option, but understands that that in these cases is not a feasible requirement.

Bulman stated that she has issues with the Accessory Dwelling Units usage, stating that she believes a single family home should be just that, a single family home.

Fisher reviewed the requirements that are written into the Accessory Dwelling Units Ordinance noting that they will be reviewed upon registration with the option for those that do not meet those requirements to request a Variance to allow further review.

Vidal spoke to his support of the Accessory Dwelling Units Ordinance stating he thinks the Ordinance Amendment is well thought out and feels there is the need for such units.

In response to a question from Quasney regarding what signifies the difference between renting out a part of your house and an Accessory Dwelling Units, Fisher clarified that in order to qualify as an Accessory Dwelling Units there must be a separate entrance, sanitary facility and eating space and it that operates as a separate residence.

Fisher stated that should the Ordinance Amendment be approved, and once it has been in effect for period of time if it is noticed that there are issues that need to be addressed an Amendment can be submitted to address those issues.

Vidal moved, Caesar seconded, and Planning Commission approved the Ordinance Amendment to Allow for Accessory Dwelling Units in Residential Districts by Amending Title 17 of the Rapid City Municipal Code. (5 to 3 with Braun, Caesar, Gollither, Hoogestraat and Ottenbacher voting yes and Bulman, Herr and Quasney voting no)

9. Discussion Items
None

10. Staff Items

- A. Staff requests Planning Commission authorization to Amend the Comprehensive Plan to update Future Land Use map.

Brennan reviewed that earlier in the year staff had requested Planning Commission's sponsorship of an amendment to the Comprehensive Plan to address changes and corrections that were needed. Brennan noted that one of the recommendations of the Comprehensive Plan is to do periodic review and updates to the Comprehensive Plan and that per that recommendation, Brennan said staff is requesting Planning Commission's sponsorship of an Amendment to the Comprehensive Plan to address changes that are again needed to the Comprehensive Plan.

In response to a question from Braun regarding what the changes are, Brennan noted that the majority of them are changes to the Future Land Uses due to Rezoning requests done by the property. Brennan also clarified that the property owners will be notified of the proposed changes to the Future Land Use.

Bulman moved, Quasney seconded and the Planning Commission approved sponsorship of the Amendment to the Comprehensive Plan. **(9 to 0 with Braun, Bulman, Caesar, Gollither, Herr, Hoogestraat, Ottenbacher, Quasney and Vidal voting yes and none voting no)**

11. Planning Commission Items
None

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There being no further business, Hoogestraat moved, Caesar seconded and unanimously carried to adjourn the meeting at 8:14 a.m. (9 to 0 with Braun, Bulman, Caesar, Golliher, Herr, Hoogestraat, Ottenbacher, Quasney and Vidal voting yes and none voting no)