

MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
June 4, 2020

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

MEMBERS ABSENT: Galen Hoogestraat

STAFF PRESENT: Vicki Fisher, Fletcher Lacock, John Green Sarah Hanzel, Tim Behlings, Ted Johnson, Wade Nyberg and Andrea Wolff.

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

1. Approval of the May 7, 2020 Zoning Board of Adjustment Meeting Minutes.

Caesar moved, Bulman seconded and the Zoning Board of Adjustment approved the May 7, 2020 Zoning Board of Adjustment. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollhofer, Herr, Ottenbacher, Quasney and Vidal voting yes and none voting no)

2. No. 20VA004 - Airport Addition

A request by KLJ for Nick Tilsen of NDN Collective to consider an application for a **Variance request to reduce the required setback from 25 feet to 6.57 feet for a side yard abutting a street** for Block 7 less west 17.57 feet and less right-of-way, Airport Addition, located in Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 408 Knollwood Drive.

Green present the application and reviewed the associated slides stating that the applicant, NDN Collective, a Native-American focused non-profit group, is expanding the existing building. The expansion will include additional office and workshop space with a 3-bedroom apartment area on the second floor that is anticipated to function as overnight lodging for employees. Green stated that the side yard setbacks abutting a street require a 25 foot setback. However, Green stated that Interstate 90, which lays to the north of the property, does not function as a street being that it is an interstate corridor with 700 feet of right-of-way. The requested Variance would allow the addition to be built to the north of the building without causing any concerns as there is over 200 feet of right-of-way to the Interstate 90 on-ramp. Green further noted that the difference in elevation would minimize the impact of the addition to the ramp traffic. Green stated that staff believes granting the Variance will not be injurious to the neighborhood and recommends approval of the **Variance request to reduce the required setback from 25 feet to 6.57 feet for a side yard abutting a street.**

In response to a question from Ottenbacher about the use the apartment unit, Green stated that it is anticipated that it would be used occasionally for employees staying overnight rather than traveling which is an allowable use.

Fisher reviewed the language addressing caretakers units noting that as this use is on the second floor it is a legal use and no additional authorization is needed.

Heikes moved and Bulman seconded to approve the Variance request to reduce the required setback from 25 feet to 6.57 feet for a side yard abutting a street.

Fisher clarified that as there are nine voting Planning Commissioners present, subsequently, Heikes cannot make a motion as he is acting as an alternate. She stated that he could participate in discussion, but that he could not, as an alternate, make a motion or vote on a motion.

Heikes recalled his motion.

Vidal moved, Caesar seconded and the Zoning Board of Adjustment approval of the Variance request to reduce the required setback from 25 feet to 6.57 feet for a side yard abutting a street based on Criteria # 4 that it is not injurious to the neighborhood. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollither, Herr, Ottenbacher, Quasney and Vidal voting yes and none voting no)

3. Discussion Items
None
4. Staff Items
None
5. Zoning Board of Adjustment Items
None

There being no further business Braun adjourned the meeting at 7:11 a.m.

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
June 4, 2020

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

MEMBERS ABSENT: Galen Hoogestraat

STAFF PRESENT: Vicki Fisher, Fletcher Lacock, John Green, Sarah Hanzel, Tim Behlings, Ted Johnson, Wade Nyberg and Andrea Wolff.

Braun called the meeting to order at 7:11 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.

Staff requested that Items 3 be removed from the Consent Agenda for separate consideration.

Motion by Caesar moved seconded by Gollhofer and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 5 in accordance with the staff recommendations with the exception of Items 3. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollhofer, Herr, Ottenbacher, Quasney and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the May 21, 2020 Planning Commission Meeting Minutes.
2. No. 20AN002 - Section 10, T1N, R8E
A request by Cross Country Real Estate LLC to consider an application for a **Petition of De-Annexation** for a portion of the NW¼ of the SW¼ of Section 10, T1N, R8E, BHM, Pennington County, South Dakota more fully described as follows: Commencing at the Section ¼ Corner common to Sections 9 and 10, T1N, R8E, BHM, thence, S00°05'57"W, along the section line common to said Sections 9 and 10, a distance of 169.01 feet, thence, S89°54'03"E, a distance of 33.00 feet to a point on the easterly edge of Jolly Lane right-of-way, and the point of beginning; Thence, first course: S51°11'21"E, a distance of 388.65 feet; Thence, second course: S38°48'39"W, a distance of 190.00 feet, to a point on the northerly edge of E. Highway 44 right-of-way; Thence, third course: N51°11'21"W, along the northerly edge of said E. Highway 44 right-of-way, a distance of 190.24 feet; Thence, fourth course: N30°37'50"W, along the northerly edge of said E. Highway 44 right-of-way, a distance of 70.45 feet, to the easterly edge of said Jolly Lane right-of-way; Thence, fifth course: N00°05'57"E, along the easterly edge of said Jolly Lane right-of-way, a distance of 211.79 feet, to a point the point of beginning, more generally described as being located northeast of the intersection of Jolly Lane and E. Highway 44.

Planning Commission recommended approving the de-annexation request.

4. No. 20RZ032 - Original Town of Rapid City

A request by City of Rapid City to consider an application for a **Rezoning request from Office Commercial District to High Density Residential District** for Lots 22 thru 24 of Block 123 of Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 726 South Street.

Planning Commission recommended approving the Rezoning request from Office Commercial District to High Density Residential District.

5. No. 20PL034 - Diamond Ridge Subdivision

A request by KTM Design Solutions, Inc for Yasmeeen Dream 11, LLC to consider an application for a **Preliminary Subdivision** for proposed Lots 2 thru 28 of Block 3, Lots 2 thru 11 of Block 4, Lots 1 thru 16 of Block 7 of Diamond Ridge Subdivision, legally described as the east 312 feet of the SW1/4 of the NW1/4 less Diamond Ridge Subdivision and less right-of-way, all located in Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of Diamond Ridge Subdivision.

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

1. **Prior to submittal of a Development Engineering Plan application, an alternate street name for "Crystal Avenue" shall be submitted to the Emergency Services Communication Center for review and approval. In addition, the plat document and construction plans shall show the approved street name;**
2. **Prior to submittal of a Development Engineering Plan application, an Exception to Section 2.6 of the Infrastructure Design Criteria Manual shall be obtained from the City Council to allow 53 lots with one point of access in lieu of a maximum of 40 lots or the plat document shall be revised reducing the number of proposed lots or providing a second street connection. 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 Diamond Ridge Boulevard and Crystal Avenue, local streets, shall be submitted for review and approval showing the streets located in a minimum 52-foot wide right-of-way and constructed pursuant to Figure 2-1 of the Infrastructure Design Criteria Manual or shall meet criteria for obtaining an Exception. 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 and the Rapid Valley Sanitary District. 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;
5. Upon submittal of a Development Engineering Plan application, a sewer design report prepared by a Registered Professional Engineer in accordance with the Infrastructure Design Criteria Manual and the Rapid Valley Sanitary District 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;
 7. 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. The drainage report shall address storm water quantity control to pre-developed, historic rates and provide storm water quality treatment. In addition, easements shall be dedicated as needed;
 8. 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;
 9. Upon submittal of a Development Engineering Plan application, the construction plans shall show the correct labeling of an adjacent proposed street currently identified as “Future Valley Drive Extension”;
 10. Upon submittal of a Development Engineering Plan application, a cost estimate for any required subdivision improvements shall be submitted for review and approval;
 11. 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;
 12. Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements;
 13. Prior to submittal of a Final Plat application, that portion of the property zoned General Agriculture District shall be rezoned to Medium Density Residential District or Low Density Residential District II in compliance with the City’s Future Land Use Plan;
 14. Prior to submittal of a Final Plat application, a Final Plat shall be recorded securing the right-of-way for that portion of Diamond Ridge Boulevard and Homestead Street located south of the subject property or the street right(s)-of-way shall be included in the Final Plat for this phase of the development;
 15. Upon submittal of a Final Plat application, surety for any required subdivision improvements that have not been completed shall be

16. **posted and the subdivision inspection fees shall be paid; and, Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.**

---END OF CONSENT CALENDAR---

3. No. 20RZ031 - North Valley Park Subdivision
A request by KTM Design Solutions, Inc for BH Capital 4, LLC to consider an application for a **Rezoning request from General Agricultural District to Light Industrial District** for a portion of the S1/2NE1/4 less Menard Subdivision less North Valley Park Subdivision, located in Section 32, Township 2 North, Range 8 East, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the Northeast corner of the S1/2NE1/4 Less Menard Subdivision Less North Valley Park Subdivision, in Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota; the point of beginning: Thence (1) North 88°02'12" West, 910.77 feet to a point of non-tangency; Thence (2) South 56°07'17" East, 428.39 feet to a point of non-tangency; Thence (3) South 88°02'48" East, 546.84 feet to a point of non-tangency; Thence (4) North 2°03'05" East, 66.45 feet to a point; Thence (5) North 2°02'07" East, 159.93 feet to the point of beginning, more generally described as being located southeast of the intersection of N. Creek Drive and Eglin Street.

Fisher stated that staff's recommendation is for continuation to the June 25, 2020 Planning Commission Meeting to allow staff to work with the applicant on water issues, and that is what the Project Report and Agenda Item reads, but that the on-line agenda showed the recommendation to be approved. In order to avoid confusion, Fisher clarified that the item is being continued to the June 25, 2020 Planning Commission be approved.

Quasney moved, Bulman seconded and the Planning Commission continued the Rezoning request from General Agricultural District to Light Industrial District be continued to the June 25th Planning Commission meeting. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollhofer, Herr, Ottenbacher, Quasney and Vidal voting yes and none voting no)

---BEGINNING OF REGULAR AGENDA ITEMS---

6. No. 200A002 - Ordinance to Clarify the Retail Sales Component for Microbreweries as Conditional Uses in the Light Industrial District by Amending Section 17.22.030N of the Rapid City Municipal Code
A request by City of Rapid City to consider an application for an **Ordinance to Clarify the Retail Sales Component for Microbreweries as Conditional Uses in the Light Industrial District by Amending Section 17.22.030N of the Rapid City Municipal Code.**

Lacock presented the application stating that there have been changes to state law regarding micro-breweries, which prompted staff to modify the City Ordinance regarding micro-breweries to reflect changes to South Dakota Codified Law. Lacock noted that the Zoning Ordinance spells out specific quantities or limits. The Ordinance Amendment will reference the section of South Dakota Codified Law, which will allow the Ordinance to change along with the State law. Lacock stated

they are also adding language to monitor the on-sale portion of micro-breweries, limiting it to 20 percent of the overall floor area, to maintain the brewery as the primary portion of an operation. Finally, it will allow for the sale of other breweries' product through a Conditional Use Permit. Lacock stated that these changes should allow for a controlled growth of the micro-brewery market within the Light Industrial District and staff recommends approval of the Ordinance Amendment.

In response to a question from Ottenbacher on how the 20% was decided on as threshold, Fisher stated that as a general basis a 20% change either in use or area or operation is a level where the overall look or use of a property is changed and therefore triggers review.

In response to a question from Heikes regarding sampling, Fletcher confirmed that South Dakota Codified Law has specific limits on samples and or tastings which is why the on-sale is being addressed to allow more seating and the sale of their beer.

In response to a question from Arguello regarding how marketing and distribution agreements would affect a micro-breweries licensing and status, Lacock stated that would be regulated by the State.

In response to Braun's question on the State's limit of barrels for micro-brewery classification, Lacock stated that he believes it is currently 30,000 barrels a year with ours being 5,000 barrels. Lacock said he had not reviewed what the State requirements would be to change from a Micro-Brewery License to Brewery License.

In response to a question from Herr if these requirements are specific to the Light Industrial District, Lacock confirmed this amendment is, stating that other districts will be addressed separately. Lacock further noted that this amendment was specifically being done separately as the Light Industrial District does not allow on-sale, whereas other districts do. In response to Herr's further question whether State law allows on-sale in all districts or if they consider it a Conditional Use, Fisher clarified the State oversees the operation and amount and that the City determines what zoning the use should be permitted or conditional. Fisher clarified that because each zoning district is addressed as a separate Section number within the Municipal Code, each district will require a separate Ordinance Amendment, this will allow for tracking changes to specific districts as the State records Ordinance Amendments by number.

Golliher moved, Caesar seconded and the Planning Commission recommended approval of the Ordinance Amendment to amend subsection 17.22.030N of the Rapid City Municipal Code to clarify the retail sales component for microbreweries as conditional uses in the Light Industrial District. (9 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Herr, Ottenbacher, Quasney and Vidal voting yes and none voting no)

7. No. 20RZ030 - Section 19, T1N, R8E
A request by City of Rapid City to consider an application for a **Rezoning request from Office Commercial District to Medium Density Residential District** for Government Lot 2, located west of Shelby Avenue and lying north of Lot 1B and

Lot 3 of North 80 Subdivision, located in Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of the intersection of East Stumer Road and Shelby Avenue.

Lacock presented the application and reviewed the associated slides. Lacock noted that this is a City sponsored application submitted at the request of the property owner in association with the recent Ordinance Amendment (20OA002) modifying the Office Commercial District to remove single family, townhome and duplexes as permitted uses in the district. Lacock said that the City anticipates changing the Future Land Use designation from Employment to Urban Neighborhood in the near future. Lacock stated that staff had received a letter of opposition from a neighboring property owner who has a tenant who has a stipulation that requires that they not be adjacent to residential properties. Lacock explained that the residential uses were previously allowed in the Office Commercial District and stated that the City does not enforce private agreements such as a lease. Lacock noted that the party who made the complaint was not present. Lacock stated that staff is recommending approval of the Rezoning request from Office Commercial District to Medium Density Residential District.

In response to a question from Vidal on the letter of opposition, Lacock identified that the letter was from a property manager of a neighboring business.

In response to Bulman's question whether the developer would be required to provide separation or buffering based on the location of this Medium Density Residential District next to the General Commercial District, Lacock stated that the car wash under construction already has the required fence, but that the additional responsibility will be on the developer not the existing Commercial District.

In response to a question from Braun about different zonings within a single parcel and if there are any setbacks required between different districts on the same parcel, Fisher explained that there is no set back between zoning districts on a single property, noting that in speculative development this happens more often than expected.

Bulman moved, Gohollier seconded and the Planning Commission recommended approving the Rezoning request from Office Commercial District to Medium Density Residential District. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollither, Herr, Ottenbacher, Quasney and Vidal voting yes and none voting no)

8. Discussion Items

Fisher stated that Kelly Arguello, who is our three-mile representative, will be moving and will no longer be able to serve on the Planning Commission as the 3-mile representative. Fisher explained that as his position is for the 3-mile representative neither of the alternates can move up to fill his vacancy. Fisher thanked Arquello for his service and dedication.

9. Staff Items

None

10. Planning Commission Items

Planning Commission Minutes
June 4, 2020

None

There being no further business Golliher moved and Bulman seconded to adjourn the meeting at 7:44 a.m. (9 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Herr, Ottenbacher, Quasney and Vidal voting yes and none voting no)