

MINUTES OF THE  
RAPID CITY ZONING BOARD OF ADJUSTMENT  
March 4, 2021

MEMBERS PRESENT: Kelly Arguello, Erik Braun, Karen Bulman, Racheal Caesar, Mike Gollither, Eirik Heikes, John Herr, Haven Stuck, Eric Ottenbacher, Mike Quasney and Vince Vidal.

MEMBERS ABSENT: Bill Evans, Council Liaison was absent.

STAFF PRESENT: Ken Young, Vicki Fisher, Fletcher Lacock, Marty Gillies, Kelly Brennan, Tim Behlings, Todd Peckosh and Andrea Wolff.

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

1. Approval of the January 7, 2021 Zoning Board of Adjustment Minutes.

**Bulman moved, Caesar seconded and the Zoning Board of Adjustment unanimously approved of the January 7, 2021 Zoning Board of Adjustment Minutes. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollither, Herr, Quasney, Stuck and Vidal voting yes and none voting no)**

2. Discussion Items  
None

3. Staff Items  
None

4. Zoning Board of Adjustment Items  
None

**There being no further business, Caesar moved, Vince seconded and unanimously carried to adjourn the meeting at 7:02 a.m. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollither, Herr, Quasney, Stuck and Vidal voting yes and none voting no)**

MINUTES OF THE  
RAPID CITY PLANNING COMMISSION  
March 4, 2021

MEMBERS PRESENT: Kelly Arguello, Erik Braun, Karen Bulman, Racheal Caesar, Mike Gollhofer, Eirik Heikes, John Herr, Eric Ottenbacher, Mike Quasney, Haven Stuck and Vince Vidal.

MEMBERS ABSENT: Bill Evans, Council Liaison was absent.

STAFF PRESENT: Ken Young, Vicki Fisher, Fletcher Lacock, Marty Gillies, Kelly Brennan, Tim Behlings, Todd Peckosh, Wade Nyberg and Andrea Wolff.

Braun called the meeting to order at 7:02 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.**

**Argullo and Ottenbacher requested that Items 2 and 3 be removed from the Consent Agenda for separate consideration.**

**Motion by Vidal seconded by Caesar and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 4 in accordance with the staff recommendations with the exception of Items 2 and 3. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollhofer, Herr, Quasney, Stuck and Vidal voting yes and none voting no)**

**---CONSENT CALENDAR---**

1. Approval of the February 18, 2021 Planning Commission Meeting Minutes.

4. No. 21PL009 - Hilltop Business Park

A request by KTM Design Solutions, Inc for Duane Pankratz to consider an application for a **Preliminary Subdivision Plan** for proposed Lot 2 of Block 2 of Hilltop Business Park Subdivision, legally described as Government Lot 1 less the west 660 feet less Shortcut Subdivision and less Lots H2 and H5; the SE1/4 of the NE1/4 less the west 660 feet of the north 1081.18 feet less Lots H2, H3 , less Rushmore Regional Industrial Park and less Hilltop Business Park Subdivision, located in Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southwest of the intersection of East Anamosa Street and Elk Vale Road.

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

1. **Upon submittal of a Final Plat application, the Certificates shall be revised to show Certificates for a Final Plat in lieu of a Minor Plat. In addition, two signature lines shall be added to the Certificate of Highway or Street Authority to allow for signature by the Rapid City Public Works Department and the South Dakota Department of Transportation; and,**

2. **Upon submittal of a Final Plat application, the plat shall be revised to show “N. Elk Vale Road“ as “Elk Vale Road”.**

---END OF CONSENT CALENDAR---

\*2. No. 21PD002 - Diamond Ridge Subdivision

A request by KTM Design Solutions, Inc for Western Housing Enterprises LLC to consider an application for a **Final Planned Development Overlay to allow an apartment complex** for Lot A of Diamond Ridge Subdivision, located in Section 4, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1050 Valley Drive.

Arguello spoke to his concerns regarding the design of the project in regards to the relationship between the design and the tenants. Arguello stated that he understands that the design meets all stipulations and requirements, but noted that he does not see any common space such as playgrounds, picnic area or walk ways. Arguello said he feels that developments need to consider including these spaces in the design of the projects for the benefit of both the tenants and the City and it is hard for him to support these continued developments with this design.

Bulman stated that she agreed with Arguello’s comments stating that she had noted the same. Bulman noted that the current development designs have removed the community feel to housing and developments and although they meet current criteria maybe our rules and standards needed to be reviewed to encourage more community space.

Heikes stated that he too agrees and suggested a book titled “*Parks are for People*” that supports this idea and offers ratios of common use as it affects quality of life and agrees it is something that needs to be considered.

Vidal spoke to the issue identifying a development on the south side that was designed by and built for the Air Force that was developed along this design style and when it became available to the general public was highly popular due mostly in part to the open space design.

Lacock thanked the Planning Commission for the discussion and stated that this issue is one that is anticipated to be discussed at the next Coffee with Planners and they look forward to having the discussion and potentially bringing forward an ordinance amendment.

Fisher reviewed the history of including such uses noting that it did not manifest at that time, but she is looking forward to reviewing these options again and hopes that the Planning Commission will be active and supportive in the discussions.

**Bulman moved, Caesar seconded and the Planning Commission recommended that the Final Planned Development Overlay to allow an apartment complex be approved with the following stipulations:**

1. **Prior to issuance of a Certificate of Occupancy, the 12-inch water main shall be constructed, functioning, and accepted by Rapid Valley Sanitary District;**
2. **All signage shall comply with the requirements of the Rapid City Sign**

**Code.** No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Final Planned Development Overlay. The addition of electronic or LED signage shall require a Major Amendment to the Planned Development. A sign permit is required for any new signs; and,

3. This Final Planned Development Overlay shall allow a 90-unit apartment complex. Any permitted use in the Medium Density Residential District in compliance with the Parking Ordinance shall require a Minimal Amendment. Any conditional use shall require the review and approval of a Major Amendment to the Planned Development Overlay. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollither, Herr, Quasney Stuck 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.***

3. No. 21PL008 - Ridgeland Heights No. 2 Subdivision

A request by Fisk Land Surveying & Consulting Engineers, Inc for Ian Estes and Bradley Estes to consider an application for a **Preliminary Subdivision Plan** for proposed Lots A, B and C of Lot 1 of Ridgeland Heights No. 2 Subdivision, legally described as Lot 1 of Ridgeland Heights No. 2 Subdivision, located in Section 35, T2N, R6E, Pennington County, South Dakota, more generally described as being located at 500 Ridgeland Loop.

In response to a question from Ottenbacher about jurisdictional authorities for properties within the 3-mile platting jurisdiction, Fisher explained that by State law the City has platting authority for land surrounding the city and the airport. However, the County has land use authority. Fisher stated that when Platting applications for properties in these areas are received they are routed to County Departments including Planning, Fire and Highway for review. Fisher stated that the stipulations are required to be met whether those stipulations are for the City or the County and that is what the Planning Commission is approving.

Caesar spoke to her concerns with the high number of lots in a high fire danger area. Behlings reviewed how the Fire Department address these issues, including fuel mitigation, fire sprinkling, and provisions on exterior materials such as siding, roofing and plantings. Behlings noted that these requirements are what is called a design for survival rather than for defense. Behlings did note that the 40-unit dwelling limit is still considered as a good threshold, but older developments are harder to enforce as they already exist.

Fisher noted that the requirement for fire control issues would not be enforceable if not for the 40 dwelling unit limit and having it allows the ability to enforce the fire suppression which is a good thing.

Stuck stated that he lives adjacent to this property but does not have an objection to the request.

In response to a question from Ottenbacher about the number of structures allowed on this property with the County zoning district and City Future Land Use, Fisher reviewed the zoning allows a single-family residence per parcel.

**Golliher moved, Caesar seconded and the Planning Commission recommended that the Preliminary Subdivision Plan be approved with the following stipulations:**

- 1. Prior to submittal of a Final Plat application, a Variance shall be obtained from Pennington County to allow more than 40 dwelling units on a dead-end road system;**
- 2. Prior to submittal of a Final Plat application, the portion of the property currently zoned General Agriculture District shall be rezoned with Pennington County to Ranchette District to support the proposed lot sizes;**
- 3. Prior to submittal of a Final Plat application, a Conditional Use Permit shall be obtained from Pennington County to allow an accessory structure (shed) on proposed Lot C prior to the location of a residence;**
- 4. Prior to submittal of a Final Plat application, a Variance shall be obtained from the City Council to waive the requirement to construct sidewalk along Ridgeland Loop and the Section Line Highway or construction plans shall be submitted for sidewalk along the two rights-of-way;**
- 5. Prior to submittal of a Final Plat application, an Exception shall be obtained from City Council to allow 77 dwelling units in lieu of a maximum of 40 dwelling units with one point of access;**
- 6. Prior to submittal of a Final Plat application, the applicant shall enter into a Wild Fire Mitigation Plan for the property if needed. In addition, a copy of the approved plan shall be submitted with the Final Plat application or written documentation from the Fire Department shall be submitted indicating that a plan is not needed; and,**
- 7. Upon submittal of a Final Plat application, a Covenant Agreement shall be entered into with the City to ensure that fire suppression systems are installed in any new residential structures or expansions to the existing residence that results in the expansion of the fire flow calculation area as defined by the International Fire Code. The system design and installation shall meet the system requirements of NFPA 13, 13R and 13D, as applicable; and,**
- 8. Upon submittal of a Final Plat application, a Covenant Agreement shall be entered into with the City to ensure that exterior building construction materials, building separations and landscaping provision are in conformance with the best practices established by the Rapid City Fire Department Survivable Space Initiative; fire suppression systems are installed in any new residential structures or significant alterations to the existing residential structure that results in the expansion of the fire flow calculation area as defined by the International Fire Code. The system design and installation shall meet the system requirements of NFPA 13, 13R and 13D, as applicable. (9 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Herr, Quasney Stuck and Vidal voting yes and none voting no)**

**---BEGINNING OF REGULAR AGENDA ITEMS---**

\*5. No. 21PD003 - Rushmore Mall

A request by Jared Batman to consider an application for a **Major Amendment to a Planned Development to allow an indoor dog park with on-sale liquor** for Tract A and B of Lot 2 (also in Section 30, T2N, R8E) of Rushmore Mall, located in Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2200 North Maple Street, Suite 309.

Gillies presented the application noting that the applicant currently operates this business in another area of the Rushmore Mall, which was approved by a Determination of Use (19DU001) in December 2019 and is looking to move the existing operation to another area in the Rushmore Mall. Gillies noted that the area itself is a smaller footprint, but that the indoor play area is larger which the reason the applicant is moving. Gillies reviewed the layout noting the separate entrances for humans and animals, the operation plan remains the same with the exception that the operational hours are being reduced to those hours that have been identified as most active, Tuesday thru Friday from 1:00pm to 8:00pm, Saturday from 1:00pm to 6:00pm and Sunday from 11:00am to 4:00pm. Gillies stated that staff recommends approval of the Major Amendment to a Planned Development to allow an indoor dog park with on-sale liquor with stipulations as outlined in the Project Report.

In response to Stuck's question of why this needed review and approval as it is the same plan within the same building, Fisher stated that the original stipulations required that any changes would require approval and that the move of the on-sale requires approval.

In response to a question from Ottenbacher about the controls for on-sale, Fisher noted that the applicant provides a separate bar for the sale of liquor and Mall Security provides additional support. Additionally, Fisher stated that the operator has managed this type of use successfully in the other location and it is anticipated to continue to do so in this location.

In response to a question from Heikes if there are any known complaints, Fisher stated that there are no known reports of incidents.

**Vidal moved, Gollhofer seconded and the Planning Commission approved of the Major Amendment to the Planned Development Overlay to allow an indoor dog park with on-sale liquor with the following stipulations:**

- 1. Upon submittal of a Building Permit, the site plan shall be revised to show installation plans for sound-attenuating or soundproofing panels to mitigate the impact of noise to surrounding businesses. These panels shall be constructed of a fire-resistant, non-combustible material which is approved to be used within an assembly occupancy;**
- 2. Upon submittal of a Building Permit, the site plan shall be revised to ensure that all gating and fencing maintains conformance with fire and building code criteria and does not restrict egress from the suite;**
- 3. All signage shall continually conform to the Sign Code. No electronic signs are being approved as a part of this Major Amendment to the 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,
4. The Major Amendment to the Planned Development Overlay shall allow for an indoor dog park with on-sale liquor operated in compliance with the applicant's operational plan. Any change in use or expansion of use that is permitted in the Community Shopping Center-2 District shall require review and approval of a Minimal Amendment to the Planned Development Overlay. Any change in use or expansion of use that is a Conditional Use in the Community Shopping Center-2 District shall require review and approval of a Major Amendment to the Final Planned Development Overlay. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollhofer, Herr, Quasney Stuck 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.***

6. 21TP004 - Rapid City Year End 2020 Population Estimate

Brennan reviewed the processes that are used to obtain the Population Estimate each year noting the increase in population for the City. Brennan reviewed some of the interesting points on the document.

Bulman thanked Brennan for the form and style of the information provided stating that it makes it easy to understand.

In response to Stuck's question on what the Planning Commission is approving, Brennan stated that this is being provided solely for informational reasons only because the Planning Commission has previously shown interest.

In response to a question from Quasney on trigger number that changes Planning processes, Brennan stated that the major numbers that the Metropolitan Planning Organization watches is that 200,000 people creates one level and over 200,000 is another, but that we are a long way off from that number. Brennan also noted that the Public Works Department use the population numbers to see where infrastructure might be needed and business owners use them to identify where commercial development would be most beneficial. Brennan confirmed that these numbers are for the City proper and that the Social Economical Study includes surrounding areas outside the city limits. Fisher reviewed the numbers that allow the City platting authority.

7. Discussion Items  
None

8. Staff Items

Fisher noted that this is Ken Young's last meeting as he will be taking a new position and wished him well.

Young stated that Fisher will be taking the position as Interim Director for the Community Development Department. Young spoke to his enjoyment of his time here, but that he has the opportunity to return to his home state of Utah and looks forward to the opportunity to be part of the booming growth in that area and to be closer to family. Planning Commission thanked Young for his time and efforts and wished him the best.

In response to a question from Arguello about the other divisions that review applications, Fisher noted that numerous entities including, Police, County, State Transportation and others are included in the routing depending on the item and the associated issues

9. Planning Commission Items

None

**There being no further business, Golliher moved, Caesar seconded and unanimously carried to adjourn the meeting at 7:51 a.m. (9 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Herr, Quasney Stuck and Vidal voting yes and none voting no)**