

MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
April 8, 2021

MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Golliher, Haven Stuck, Mike Quasney and Vince Vidal.

MEMBERS ABSENT: Kelly Arguello, Eirik Heikes, John Herr, Eric Ottenbacher. Bill Evans, Council Liaison was also absent.

STAFF PRESENT: Vicki Fisher, Marty Gillies, Kip Harrington, Tim Behlings, Todd Peckosh, Wade Nyberg and Andrea Wolff.

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

1. No. 21VA001 - Brookside #2

A request by Sam Deschamp to consider an application for a **Variance to reduce the front yard setback from 20 feet to 13.1 feet and to reduce the side yard setback from 8 feet to 0.3 feet** for Lot 15 of Block 12 of Brookside #2, located in Section 4, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 628 43rd Court.

Fisher presented the application and reviewed the associated slides. Fisher noted that an error by staff allowed the Building Permit for the carport to be issued and that the applicant purchased the supplies and are unable to return them. Staff then identified that there was an issue with setbacks that would not allow the carport to be placed where requested. Fisher stated that staff error or cost are not permitted reasons to grant a Variance. Fisher noted that there is a 25 foot setback on the plat that must be vacated prior to actual construction of the carport prior to the Building Permit being legally granted. Fisher noted that although staff feels remorse about the initial error it is their duty to address the additional information that brought the error to light and the issues its construction could create including potential fire danger. Fisher noted that due to the fire concerns staff is recommending to deny the request for the Variance to reduce the front yard setback from 20 feet to 13.1 feet and to reduce the side yard setback from 8 feet to 0.3 feet.

Fisher stated that Tim Behlings of the Fire Department was present to discuss his concerns regarding the issue of fire danger. Tim Behlings, Division Chief for the Rapid City Fire Department, noted that although staff feels bad for the applicant, he stated that the area in which they wish to build the carport is already a congested area and construction of the carport in the requested location with the reduced setbacks and additional fuel makes the fire danger too strong for the Fire Department for support the request.

Kevin Larson, 638 43rd Court, stated that they are requesting the carport to protect their vehicles, stating that they have had numerous issues with hail damaged vehicles. Larson noted that the acquisition of his wife's father's truck which they wish to protect and preserve is one of the driving reasons behind requesting the carport. Larson stated that the materials for the carport have been

purchased and are specific to the proposed carport design and are unable to be returned.

Debra Larson, 638 43rd Court, stated that they purchased the supplies under the understanding that they had approval and that they have done everything that was requested including getting the Building Permit, getting a survey and requesting the Variance all of which have had costs and delays and they just want to build their carport. She stated that since the initial Building Permit was granted they should be able to build their carport.

In response to a question from Vidal about the carport design, Larson confirmed it is open sided and the roof is metal. Behlings stated the materials are fire mitigating, but that the constricted space and the known pattern of enclosed or contained heat created by such structures that would encourage horizontal spread. Vidal further asked about the program called Junk to Junipers and Behlings discussed the program, but didn't believe that this property fit that program.

In response to a question from Bulman if the carport could be reduced in size, Larson stated it would render the driveway unusable. Fisher stated that it is an option to shift the carport to the south which is closer to the front door since the material is already purchased. Bulman stated that she would like options to enable the carport to be used.

Behlings stated that the use of Fire Resistance material on the wall closest to the structure might help mitigate the fire danger.

Sam Deschamp, Deschamp Construction, stated that moving the carport to the front of the building, would make the aesthetics of the house suffer and would only allow for a single car. Deschamp stated that the materials are the highest grade and is designed to allow the span of the carport without center posts. Deschamp stated that they would be willing to make an enclosed metal soffit.

Braun stated that as it appears the thought is to possibly redesign the carport, it might be viable to continue the item to allow discussions with staff.

Quasney stated that the concern is not only for the applicant's property but the effect on the neighboring properties safety and that it is the Zoning Board of Adjustment's job to prevent issues prior to issues becoming issues.

In response to a question from Stuck regarding what changes could be made without further requests or authorization, Fisher stated that the approval would be specifically for the carport as designed and approved, any change to the structure would require an additional Variance.

In response to a question from Caesar whether the placement of the carport creates an impediment to fire suppression access for the rear of the property, Behlings stated that it would, but they would then use the other side. Behlings also stated that the difference in heights does create a fire danger.

In response to Vidal's question about sprinkling, Behlings stated that although he

appreciates the consideration it would be extremely cost prohibitive.

Further discussion on options and design followed.

Bulman moved, Quasney seconded and the Zoning Board of Adjustment continued the Variance to reduce the front yard setback from 20 feet to 13.1 feet and to reduce the side yard setback from 8 feet to 0.3 feet to the April 22, 2021 Zoning Board of Adjustment Meeting to allow further review by staff and the applicant. (7 to 0 with Braun, Bulman, Caesar, Golliher, 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 Vidal moved, Caesar seconded and unanimously carried to adjourn the meeting at 7:35 a.m. (7 to 0 with Braun, Bulman, Caesar, Golliher, Quasney, Stuck and Vidal voting yes and none voting no)

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
April 8, 2021

MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Golliher Mike Quasney, Haven Stuck and Vince Vidal.

MEMBERS ABSENT: Kelly Arguello, Eirik Heikes, John Herr and Eric Ottenbacher. Bill Evans, Council Liaison was also present.

STAFF PRESENT: Vicki Fisher, Marty Gillies, Kip Harrington, Tim Behlings, Todd Peckosh, Wade Nyberg and Andrea Wolff.

Braun called the meeting to order at 7:35 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 Vidal seconded by Golliher and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 5 in accordance with the staff recommendations. (7 to 0 with Braun, Bulman, Caesar, Golliher, Quasney, Stuck and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approved the March 25, 2021 Planning Commission Meeting Minutes.
2. No. 21PL018 - Garden Lane Subdivision
A request by Renner Associates, LLC for Bobby Sundby to consider an application for a **Preliminary Subdivision Plan** for proposed Lots 1 and 2 of Garden Lane Subdivision, legally described as Lot B of Lot 2, less the south 175 feet of Lot B of Lot 2 in the SW1/4 of the NW1/4 of Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2905 Garden Lane.

Planning Commission recommended 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 dedication of 16 additional feet of right-of-way along Garden Lane or shall meet criteria for obtaining an Exception. If Exception(s) are obtained, a copy of the approved document(s) shall be submitted with the Final Plat application; and,**
2. **Prior to 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 structure 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. In addition, the Covenant Agreement shall**

ensure that a fire apparatus turnaround will be provided on Lot 2 since the driveway length appears to be in excess of 150 feet; and,

3. **Prior to submittal of a Final Plat application, a Variance from the Zoning Board of Adjustment shall be obtained to reduce the front yard setback from 20 feet to 8 feet as a result of dedicating the additional right-of-way along Garden Lane.**

3. No. 21PL019 - Copper Oaks #3 Subdivision

A request by Renner Associates, LLC for Paul H H Reinke Family Trust to consider an application for a **Preliminary Subdivision Plan** for proposed Lot 10R of Block 2 and Lot 7R of Block 3 of Copper Oaks #3 Subdivision, legally described as Lot 10 of Block 2 and Lot 7 of Block 3 of Copper Oaks #3 and a portion of the NE1/4 of Section 7, T1S, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 23614 and 23620 Wilderness Canyon Road.

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

1. **Upon submittal of a Development Engineering Plan application, construction plans for sidewalk along Wilderness Canyon Road and Wild Turkey Way shall be submitted for review and approval or a Variance shall be obtained from the City Council to waive the requirement;**
2. **Upon submittal of a Development Engineering Plan application, a cost estimate for the required subdivision improvements shall be submitted for review and approval;**
3. **Upon submittal of a Development Engineering Plan application, construction plans for Wilderness Canyon Road shall be submitted for review and approval pursuant to Figure 2-1 of the Infrastructure Design Criteria Manual for a local street or shall meet criteria for obtaining an Exception. If Exception(s) are obtained, a copy of the approved document(s) shall be submitted with the Development Engineering Plan application;**
4. **Prior to approval of the Development Engineering Plan application, engineering design reports (in part to include water, sewer, drainage, and pavement) required for construction approval shall be accepted and agreements required for construction approval shall be executed pursuant to Chapter 1.15 of the Infrastructure Design Criteria Manual. 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;**
5. **Prior to submittal of a Final Plat application, proposed Lot 7R shall be rezoned from Rural Residential District to Suburban Residential District with Pennington County.**
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**

7. **submitted indicating that a plan is not needed;**
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;**
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;**
9. **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,**
10. **Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.**

4. No. 21PL020 - Reflection Ridge Subdivision

A request by Renner Associates, LLC for Paul H H Reinke Family Trust to consider an application for a **Preliminary Subdivision Plan** for proposed Tract 1 of Reflection Ridge Subdivision, legally described as a portion of the SE1/4 of the NE1/4 of Section 7 and a portion of the SW1/4 of the NW1/4 (also of Section 8) T1S, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 23652 Wilderness Canyon Road.

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

1. **Upon submittal of a Development Engineering Plan application, construction plans for sidewalk along 47th Avenue, Wilderness Canyon Road, Wild Turkey Way, and Reflection Ridge Road shall be submitted for review and approval or a Variance shall be obtained from the City Council to waive the requirement;**
2. **Upon submittal of a Development Engineering Plan application, a cost estimate for the required subdivision improvements shall be submitted for review and approval;**
3. **Upon submittal of a Development Engineering Plan application, construction plans for water main and sidewalks on Wilderness Canyon Road shall be submitted for review and approval or an Exception shall be obtained to waive the requirement. If Exception(s) are obtained, a copy of the approved document(s) shall be submitted with the Development Engineering Plan application;**
4. **Upon submittal of a Development Engineering Plan application, construction plans for Reflection Ridge Road / Section Line showing water main and a 20-foot wide paved surface shall be submitted for review and approval or an Exception must be obtained to waive the requirement. If Exception(s) are obtained, a copy of the approved document(s) shall be submitted with the Development Engineering Plan application;**
5. **Upon submittal of a Development Engineering Plan application, the plat**

- shall be revised to show the dedication of 52 feet of right-of-way for the Section Line or the Section Line shall be vacated through Pennington County or shall meet the criteria for obtaining an Exception. If Exception(s) are obtained, a copy of the approved document(s) shall be submitted with the Development Engineering Plan application;
6. Upon submittal of a Development Engineering Plan application, the plat shall be revised to show the dedication of 52 feet of right-of-way for Reflection Ridge Road or an Exception shall be obtained to waive the requirement. If Exception(s) are obtained, a copy of the approved document(s) shall be submitted with the Development Engineering Plan application;
 7. Upon submittal of a Development Engineering Plan application, confirmation must be submitted from Copper Oaks private water system that the lots can be served;
 8. Prior to approval of the Development Engineering Plan application, engineering design reports (in part to include water, sewer, drainage, and pavement) required for construction approval shall be accepted and agreements required for construction approval shall be executed pursuant to Chapter 1.15 of the Infrastructure Design Criteria Manual. 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;
 9. Prior to submittal of a Final Plat application, proposed Tract 1 shall be rezoned from Suburban Residential District to Agriculture District with Pennington County.
 10. 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;
 11. 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;
 12. 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;
 13. 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,
 14. Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.

*5. No. 21UR005 - Arches Addition

A request by KTM Design Solutions, Inc for Moyle Petroleum Co. to consider an application for a **Major Amendment to a Conditional Use Permit to expand a car wash** for Tract 2 of Arches Addition, located in Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2640 Mt. Rushmore Road.

Planning Commission approved the Major Amendment to a Conditional Use Permit to expand a carwash with the following stipulation(s):

- 1. Prior to the issuance of a Building Permit, the applicant shall provide a landscaping plan that provides a minimum of 51, 758 landscape points; and,**
- 2. The Conditional Use Permit shall allow for a 2,833 square-foot tunnel carwash to be built in place of the existing carwash. Any further expansion of the carwash shall require a Major Amendment to the Conditional Use Permit. All uses permitted in the General Commercial District shall be permitted, contingent upon sufficient parking being provided and an approved Building Permit. Any change in use that is a Conditional Use in the General Commercial District shall require the review and approval of a Major Amendment to the Conditional Use Permit.**

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.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

*6. No. 21PD010 - Orchard Meadows

A request by KTM Design Solutions for Moyle Petroleum Co. to consider an application for a **Major Amendment to a Planned Development Overlay to allow an on-sale liquor establishment in conjunction with a casino** for Tract BR of Orchard Meadows, located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3501 E. Highway 44.

Gillies presented the application and reviewed the associated slides noting that the property currently contains the Inferno Restaurant, a convenience store and car wash and is a bustling business at a major intersection. Gillies reviewed the layout showing that the expansion will include a casino and package liquor store on the northwestern end of the current structure. Gillies stated the applicant is requesting an Exception to reduce the required amount of off-street parking on the property from 161 spaces to 155 spaces noting that the varying peak use hours should mitigate the reduced parking and is not anticipated to create a parking issue and as such staff recommends granting the Exception. Gillies noted that the applicant is also requesting an Exception to waive the requirement to provide three planter islands in the off-street parking area, contingent upon the provision of a landscaping

plan including at least 125,000 landscape points and the planting of trees along the property's north lot line, in proximity to East S.D. Highway 44. Gillies noted that this will allow for easier maintenance and the addition of trees along East S. D. Highway 44 would provide for screening and recommends granting the Exception. Gillies stated that staff is recommending approval of the Major Amendment to a Planned Development Overlay to allow an on-sale liquor establishment in conjunction with a casino with stipulations.

In response to a question from Quasney about the different peak hours, Gillies stated that although there is overlap of use hours it is not considered to be enough to create any parking shortage. Fisher further discussed that history shows that the minimal reduction is a viable option to allow the expansion. In response to Quasney's concerns regarding congestion, Fisher noted the ample separation between the building parking and the gas pumps. Traffic flow of the property was discussed.

In response to Stuck's question about access to carwash and the distance between the new structure and the existing carwash, Brian Newman of Moyle Petroleum, stated that there is 46 feet between the proposed building to the back of the parking. Newman also reviewed the traffic flow of the carwash. Fisher further noted that the distance and construction of the casino has been reviewed by both the Fire Department and the Building Division and neither had any concerns.

Braun asked about the proposed planting along the East S.D. Highway 44 right-of-way noting that an abandoned railroad right-of-way is located in that area and that the trees cannot be planted in the right-of-way and it looks as if they are already built up to the right-of-way. Fisher said that the intent is to have the trees be planted so they are visible from East S.D. Highway 44 as staff is aware that they may have to rework some of the hard surface to make this possible. Newman stated that there is area along the north for the planting.

Caesar moved, Bulman seconded and the Planning Commission approved the Major Amendment to the Planned Development Overlay with the following stipulations:

- 1. The requested Exception to reduce the required amount of off-street parking on the property from 161 spaces to 155 spaces is hereby granted;**
- 2. The requested Exception to waive the requirement to provide three planter islands in the off-street parking area is hereby granted, contingent upon the provision of a landscaping plan including at least 125,000 landscape points and the planting of trees along the property's north lot line, in proximity to East S.D. Highway 44;**
- 3. All signage shall comply with the requirements of the Rapid City Sign Code. No Light Emitting Diode (LED) message centers are being approved as a part of this request. The inclusion or addition of any LED message centers on the property shall require a Major Amendment to the Planned Development Overlay. A sign permit shall be obtained for each sign; and,**
- 4. This Major Amendment to the Planned Development Overlay shall allow for the expansion of an existing on-sale liquor establishment in conjunction with a casino. All uses permitted within the General**

Commercial District shall be permitted contingent upon issuance of a building permit and provision of sufficient parking. All conditional uses in the General Commercial District or any uses which result in an increase in the required amount of parking shall require a Major Amendment to the Planned Development Overlay. All requirements of the General Commercial District shall be continually met unless specifically authorized as a stipulation of this Major Amendment or a subsequent Major Amendment to the Planned Development Overlay. (7 to 0 with Braun, Bulman, Caesar, Golliher, 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.

*7. No. 21UR003 - Roush Subdivision

A request by Hoang Thuy Quyen Nguyen to consider an application for a **Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a salon** for Tract A of Roush Subdivision, located in Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2255 Haines Avenue.

Gillies presented the application and reviewed the associated slides stating the applicant is requesting to supply complementary beer and wine as part of a premium manicure package. He reviewed the business plan stating that all customers will be carded with a limit of two beverages being offered. Gillies stated that staff recommends approval of the Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a salon with the stipulations outlined in the Project Report.

In response to Quasney's concern that customers might become impaired with two drinks and if there were controls that could be enacted, Fisher noted that the regulation goes to the license and that Planning Commission is reviewing the Conditional Use Permit. She further reminded the Planning Commission that there have been no known issues with previous approvals for similar requests.

Golliher moved, Vidal seconded and the Planning Commission approved the Conditional Use Permit to allow on-sale liquor use in conjunction with a nail salon with the following stipulation(s):

- 1. Any future signage shall meet the requirements of the Rapid City Sign Code. A sign permit shall be obtained for each sign; The inclusion or addition of any LED message centers shall require a Major Amendment to the Conditional Use Permit; and,**
- 2. The Conditional Use Permit shall allow on-sale liquor in conjunction with a nail salon, as per the applicant's operational plan. Any expansion or change in the proposed on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Any change in use that is a permitted use in the General Commercial District shall require the review and approval of a Building Permit. Any change in use or expansion of**

use that is a Conditional Use shall require the review and approval of a Major Amendment to the Conditional Use Permit. (7 to 0 with Braun, Bulman, Caesar, Gollither, 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.

*8. No. 21UR004 - Mann Subdivision No. 2

A request by Robert Heckel to consider an application for a **Major Amendment to a Conditional Use Permit to expand an on-sale liquor establishment** for Lot 1 and Lot 3 of Mann Subdivision No. 2, located in Section 33, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 3468 Sturgis Road.

Gillies presented the application and reviewed the associated slides stating that the applicant is looking to expand the existing use with both indoor and outdoor dining and entrainment and that the site plan shows that parking is being expanded to meet the parking requirement. Gillies noted that the surrounding properties are zoned General Commercial District, but that there is residential uses located approximately a block and half away and as such one of the stipulations is that the live music entertainment be required to be indoors to mitigate noise. Gillies stated that staff recommends approval of the Major Amendment to a Conditional Use Permit to expand an on-sale liquor establishment with the stipulations outlined in the Project Report.

Caesar stated she supports neighborhood bars and restaurants, but asked if the church located to the north is located too close. Gillies stated that the barrier created by both a road and topography differences assist with the separation.

In response to a question from Caesar if there was a way to allow for outdoor entertainment, Robert Heckel, the owner, stated that he would propose outdoor entertainment such as Friday and Saturday night. Fisher stated that due to issues with monitoring and policing the use limits the outdoor music as it may cause a noise nuisance to the residential development within close proximity to the property. In response to the option to allow acoustic music outdoors, Fisher stated that would be left to the Planning Commission.

Quasney stated he understand the desire, but noted that it is hard to monitor such actives. He complimented the venue and the proposed growth but believes that the outdoor venue doesn't fit the area. Heckel stated that the residences are a distance away and the existing noise level of the area would reduce the impact.

Fisher suggested that if the Planning Commission is looking to allow outdoor music that the item could be continued to the April 22nd Planning Commission to allow the applicant to provide an operation plan for review. Heckel stated that the delay would be a problem and requested that the request be approved or denied as is.

In response to a question from Braun if they approved as is, could an amendment to allow the outdoor music be submitted and if so would it be a Minimal or Major Amendment, Fisher said it would be a Major Amendment, but it would allow construction to start.

Quasney congratulated the applicant on their growth stating that they want to work with him, but noted the need to protect the community as a whole

Vidal moved, Caesar seconded and the Planning Commission approved the Major Amendment to the Conditional Use Permit to allow on-sale liquor use in conjunction with a casino with the following stipulations:

- 1. No Light Emitting Diode (LED) message centers are being approved as a part of this request. The inclusion or addition of any LED message centers shall require a Major Amendment to the Conditional Use Permit. All signage shall meet the requirements of the Rapid City Sign Code. A sign permit shall be obtained for each sign;**
- 2. The proposed on-sale liquor establishment may host live music but, in the interest of mitigating noise, shall not allow these live music events to perform in the outdoor seating area. All live music shall be performed indoors;**
- 3. Prior to issuance of a Building Permit, the applicant shall enter into a Developmental Lot Agreement;**
- 4. The proposed on-sale liquor establishment shall operate in compliance with the submitted operations plan and all approved plans. Changes in the operator or operation of this facility shall require a Major Amendment to the Conditional Use Permit; and,**
- 5. The Conditional Use Permit shall allow the expansion of an existing on-sale liquor establishment on the first floor of "The Iron PHNX", storage on the second floor, a 1,700 square-foot outdoor seating area, and a 254 square-foot food kiosk. Any further expansion of the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Permitted uses within the General Commercial District in compliance with the Parking Ordinance shall be allowed with a Building Permit. Any conditional use shall require the review and approval of a Major Amendment to the Conditional Use Permit. All requirements of the General Commercial District shall be continually maintained. Any permitted use in the General Commercial District shall be allowed with a Building Permit. (7 to 0 with Braun, Bulman, Caesar, Golliher, 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.

*9. No. 21UR006 - Skyline Pines Subdivision

A request by Anthony and Kori Downs to consider an application for a **Conditional Use Permit to allow an oversized garage** for Lot 10 of Block 3 of Skyline Pines Subdivision, located in Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1474 Pevans

Parkway.

Gillies presented the application and reviewed the associated slides noting that the applicant is requesting a second access to the garage, which was approved by the City Council. Gillies noted that the Exception to allow a combined attached and detached over-sized garage totaling 2,480 square feet in size, in lieu of the maximum allowed 1,500 square feet is supported by staff as the topography minimizes the impact and support the requested exception to height as well. Gillies stated that staff recommends approval of the Conditional Use Permit to allow an oversized garage with stipulations.

In response to a question Bulman asked about the second access, Todd Peckosh confirmed that the lot frontage allowed the two approaches.

In response to a question from Stuck about covenants, Gillies stated that there are none that the City is a party to. Anthony Downs, 1474 Pevans Parkway, noted that there are covenants that were reviewed and that this structure would not violate those covenants.

Bulman moved, Gollither seconded and the Planning Commission approved the Conditional Use Permit to allow an over-sized garage with the following stipulation:

- 1. An Exception is hereby granted to allow a combined attached and detached over-sized garage totaling 2,480 square feet in size, in lieu of the maximum allowed 1,500 square feet;**
- 2. Prior to submittal of a Building Permit, the site plan shall be revised to show property line sidewalk along Pevans Parkway or a Variance shall be obtained from the City Council;**
- 3. All outdoor lighting shall continually be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind;**
- 4. The proposed over-sized garage shall be constructed with the same design elements as shown on the applicant's submitted elevations. Any changes to the design of the garage not compatible with the existing dwelling shall require a Major Amendment to the Conditional Use Permit; and,**
- 5. The Conditional Use Permit shall allow for an over-sized garage on the property. The garage shall not be used for commercial purposes or as a second residence. In addition, the structure shall not be used as a rental unit. Any change in use that is a permitted use in the Low Density Residential District shall require a Building Permit. Any change in use that is a Conditional Use in the Low Density Residential District shall require the review and approval of a Major Amendment to the Conditional Use Permit. (7 to 0 with Braun, Bulman, Caesar, Gollither, 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.

10. Discussion Items
None

11. Staff Items
None

12. Planning Commission Items
Braun thanked the Fire Department for the amazing effort in fighting the recent fire stating that he was one of those who was affected as where many others and noted that the fire mitigation that has been promoted by the Fire Department and Planning showed its value.

There being no further business, Bulman moved, Golliher seconded and unanimously carried to adjourn the meeting at 8:24 a.m. (7 to 0 with Braun, Bulman, Caesar, Golliher, Quasney Stuck and Vidal voting yes and none voting no)