

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

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

MEMBERS ABSENT: None

STAFF PRESENT: Vicki Fisher, Karl Bauer, Kip Harrington, Sarah Hanzel, Tim Behlings, Todd Peckosh, Wade Nyberg and Andrea Wolff.

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

Caesar entered the meeting at 7:04

1. Approval of the June 24, 2021 Zoning Board of Adjustment Minutes

**Bulman moved, Vidal seconded and the Zoning Board of Adjustment approved the June 24, 2021 Zoning Board of Adjustment Minutes. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollhofer, Herr, Quasney Stuck and Vidal voting yes and none voting no)**

2. No. 21VA006 - Riverside Addition

A request by Moyle Petroleum Company to consider an application for a **Variance to reduce the front yard setback from 25 feet to 17.4 feet and to reduce the side yard abutting a street setback from 25 feet to 2.6 feet to replace an existing canopy** for Lots 14 thru 16 of Block 3 of Riverside Addition, located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1129 Omaha Street.

Bauer presented the application and reviewed the associated slides noting that the Variance is to replace an existing canopy that had been damaged by weather and its existing non-conforming status requires a Variance to allow replacement. Bauer noted that the replacement canopy will be 30 feet in width which is smaller than the previous canopy that was 32 feet in width. Bauer noted that staff recommends approval with the stipulation the Variance applies to the canopy only.

Fisher clarified that the criteria justifying the approval of the Variance would be that the existing location of the pumps and the need to provide a canopy for customer protection creates a special circumstance.

**Vidal moved, Herr seconded the Variance to reduce the front yard setback from 25 feet to 17.4 feet and to reduce the side yard abutting a street setback from 25 feet to 2.6 feet to replace an existing canopy only based on Criteria # 3. (9 to 0 with Arguello, Braun, Bulman, Caesar, Gollhofer, Herr, Quasney Stuck and Vidal voting yes and none voting no)**

3. No. 21VA007 - Section 6, T1N, R8E

A request by Central States Fair, Inc. to consider an application for a **Variance to allow an 89.44 square foot LED sign in lieu of a maximum 60 square foot sign** for the SW1/4 of the NE1/4 and the west 10 acres of the SE1/4 of the NE1/4, the north 1080 feet and east 30 acres of the SE1/4 of the NE1/4, located in Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Cambell Street between San Francisco Street and Centre Street.

Stuck stated that he would be abstaining from this item due to a conflict of interest.

Hanzel reviewed the application noting that there is a companion application on the Planning Commission Meeting which will be heard separately if this item is approved. She then reviewed the associated slides. Hanzel reviewed the site plan which shows the sign which is located on the Pennington County Fairgrounds along Cambell Street, noting that the sign is to provide information to the public as well as on events held at the Fairgrounds and the Event Center. Hanzel noted that the sign is located along a high speed road with heavy traffic with more than 1,000 feet of street frontage. Hanzel reviewed the specifics of the existing sign noting that there are three separate signs with one being the LED sign. Hanzel reviewed the difference from the previously approved LED reader board sign which was approved by Conditional Use Permit in 2020 (20UR016). That Conditional Use Permit approved a 51 square foot LED reader board sign and this sign is 89.44 square feet. Hanzel indicated that the existing sign poles will be used for the new LED reader board and the sign company said this is the smallest sign that will fit the sign poles. Hanzel reviewed what was considered during review of the application including, land use, sign use, design and operation and noting that this is considered the minimal adjustment to allow the use. Hanzel stated that staff recommends approval of the Variance to allow an 89.44 square foot LED sign in lieu of a maximum 60 square foot sign.

Ottenbacher commented that he passes the sign often and believes that the current sign is easy to see and read and feels there is no need to increase the sign. Hanzel stated that the request is also for technology upgrade.

Heikes stated that he feels the sign is appropriate for the Cambell area and assists the traveling public with locating the fairgrounds.

Quasney commented on the ongoing conflict with signs including the Civic Center or The Monument sign. He feels signs need to meet the City requirements and he will not be supporting this request.

In response to a question from Arguello on the sign graphics, Hanzel stated they must be static and that is a standard city-wide.

In response to a question from Bulman, Fisher confirmed Braun's comment that the sign exists and the request is to allow the LED area to expand from the previously approved 51 square feet to 89.44 square feet as the framing, which was previously a black frame area, now must be expanded to the poles in order

to anchor the new sign.

In response to a question from Bulman if this will create an increase in oversized LED signage, Fisher stated this does not change the Municipal Code and reviewed the existing requirement that any LED sign over 60 square feet allowed by Rapid City Municipal Ordinance would require review and approval by the Planning Commission or Zoning Board of Adjustment. Bulman stated that she does not support oversized signage and worries that this will set a precedent.

John Kaiser, Central States Fair, reviewed the history of the sign stating that the sign itself is at least 15 years old. Kaiser stated the LED upgrade was more recent and that when this replacement was ordered their options were limited by Daktronics to the size requested. Kaiser reviewed the economic impact the Fairground and Event Center provides to the area much of which is allowed by this signage.

Nyberg reviewed the precedent issue stating that each application needs to be based on individual review of each circumstance and that granting one Variance does not create a precedent or requirement for approval of any other request.

Quasney spoke again on his concerns of allowing oversized signs and that sign companies need to meet our requirements rather than modifying our standards.

Ottenbacher stated that he believes that the City needs to enforce the standards and moved to deny the request.

In response to Herr's question if the item is appealable, Fisher clarified the applicant can appeal the item to Circuit Court and that if not approved, the associated Conditional Use Permit on the Planning Commission agenda cannot be approved.

Vidal commented on the use of the existing size rather than wasted sign area and feels the progress and use of this sign for public service overrides the obstacles.

**Ottenbacher moved, Quasney seconded and the Zoning Board of Adjustment Denied the Variance request to allow an 89.44 square foot LED sign in lieu of a maximum 60 square foot sign based on Criteria #1 [Roll Call Vote] (6 to 3 to 1 with Braun, Bulman, Caesar, Herr, Ottenbacher and Quasney voting yes and Arguello, Gollhofer and Vidal voting no and Stuck abstaining)**

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

Zoning Board of Adjustment Minutes  
July 8, 2021

**There being no further business Bulman moved, Vidal seconded and unanimously carried to adjourn the meeting at 7:38 a.m.**

MINUTES OF THE  
RAPID CITY PLANNING COMMISSION  
July 8, 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. Bill Evans, Council Liaison was also present.

MEMBERS ABSENT: None

STAFF PRESENT: Vicki Fisher, Karl Bauer, Kip Harrington, Sarah Hanzel, Tim Behlings, Todd Peckosh, Wade Nyberg and Andrea Wolff.

Braun called the meeting to order at 7:38 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 Bulman, seconded by Caesar and unanimously carried to recommend approval of the Consent Agenda Item 1 in accordance with the staff recommendations. (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 June 24, 2021 Planning Commission Meeting Minutes.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

- \*2. No. 21PD022 - Stoney Creek South Subdivision  
A request by Buell Consulting, Inc for Verizon Wireless to consider an application for a **Major Amendment to a Planned Development Overlay to allow a cellular communication tower** for Lot 4 of Block 3 of Stoney Creek South Subdivision, located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 5615 Nugget Gulch Road.

Fisher stated that the applicant submitted a withdrawal of the Major Amendment to a Planned Development Overlay to allow a cellular communication tower, but since the item had been continued at the June 10, 2021 Planning Commission Meeting, it had to be included on the agenda. Fisher noted that as the item has been withdrawn no comments other than acknowledging the withdrawal can be accepted and requests that Planning Commission acknowledge the withdrawal.

**Vidal moved, Caesar seconded and the Planning Commission acknowledged the applicant's withdrawal of the Major Amendment to a Planned Development Overlay to allow a cellular communication tower. 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.***

\*3. No. 21UR009 - Big Sky Business Park

A request by Kennedy Design Group, Inc for Wyngard Pot-O-Gold Casino Inc. to consider an application for a **Conditional Use Permit to allow on-sale liquor establishment in conjunction with a casino** for Lot 1B of Block 4 of Big Sky Business Park, located in Section 3, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 840 Timmons Boulevard.

Bauer presented the application and reviewed the associated slides noting that a strip mall is proposed on the property with the casino being one of the tenants. Bauer stated that a Planned Development Designation was revoked in 2020. Bauer reviewed the proposed sign package and the operational plan for the casino. Bauer stated that staff recommends approval of the Conditional Use Permit to allow on-sale liquor establishment in conjunction with a casino with stipulations outlined in the Project Report.

Fisher clarified that casinos are not regulated by the municipal code, only the on-sale use which requires 500 foot separation from any residential district, church or public park and that this location meets those criteria.

In response to Braun's question on the stipulation regarding the Traffic Impact Study, Harrington stated that anything that generates 100 peak hour trips triggers a Traffic Impact Study. Harrington further explained that the casino does not trigger this; however a coffee or donut shop is identified as a business that does generate that number of trips, thus the stipulation.

Ottenbacher asked about saturation of liquor licenses, Fisher clarified the process for issuance of license and that it is based on population.

In response to a Planning Commissioner's questions regarding limit saturation and limits of liquor licenses, Nyberg stated that full or hard liquor has a set limit based on population, but beer and wine does not. Nyberg further stated there is a limit on the number of casinos is allowed, which is controlled by the City Council, but that we have not reached that number.

Harrington explained that the Population Estimate that is prepared by Long Range Planning annually allows the review the casino license numbers and that it works both for casino and liquor license management.

Fisher clarified that State law requires a liquor license in order to operate a casino, which is why these items come before the Planning Commission for review. Nyberg also clarified that the City is limited in what they can do restrict casinos.

Tim Wald, 6502 Seminole Lane, stated he owns and operates a Black Hills Pediatric Therapy and Badlands Therapy practice and plans to build on the lot to the northeast of the proposed site and he would like to operate an outdoor play area for his clientele and spoke to his concerns with having liquor sales so close and spoke against the request.

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

- 1. Prior to issuance of a building permit, the site plan shall be revised to provide one landscape island or one proposed parking space shall be removed eliminating the requirement to provide a landscape island, or a Variance shall be obtained to waive the requirement to provide a landscape island with 50 parking spaces;**
- 2. Prior to issuance of a Building Permit, all redline comments shall be addressed;**
- 3. 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;**
- 4. The addition of a donut shop to the strip mall shall require a Traffic Impact Study to be submitted for review and approval upon submittal of a building permit for the use; and;**
- 5. The Conditional Use Permit shall allow on-sale liquor in conjunction with a casino, 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. (8 to 1 with Arquello, Braun, Bulman, Caesar, Golliher, Herr, Stuck, and Vidal voting yes and Quasney 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.***

\*4. No. 21UR010 - Section 6, T1N, R8E

A request by Central States Fair, Inc. to consider an application for a **Major Amendment to a Conditional Use Permit to revise an existing LED sign** for the SW1/4 of the NE1/4 and the west 10 acres of the SE1/4 of the NE1/4, the north 1080 feet and east 30 acres of the SE1/4 of the NE1/4, located in Section 6, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of Cambell Street between San Francisco Street and Centre Street.

Hanzel stated that the applicant has withdrawn the application.

**Bulman moved, Caesar seconded and the Planning Commission acknowledged to the applicants withdrawal of Major Amendment to a Conditional Use Permit to revise an existing LED sign. (9 to 0 to 1 with Arguello, Braun, Bulman, Caesar, Golliher, Herr, Ottenbacher, Quasney and Vidal voting yes and none voting no and Stuck 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.***

5. Discussion Items

Fisher presented an update on the Coffee with Planners stating that she is anticipating to see updates to the Landscaping Ordinance and an Ordinance on Medical Cannabis in the near future.

Behlings introduced a new member of the Fire and Life Safety Team of the Rapid City Fire Department, Chip Remus from Watertown, who will be the Chief Deputy Fire Marshall.

Harrington noted that the State Transportation Improvement Program Public Meeting will be held at the Ramkota, July 15<sup>th</sup> at 7:00 p.m. hosted by the SDDOT where they will present their proposed projects for the next 4 to 5 years and he encourages everyone to attend.

6. Staff Items

None

7. Planning Commission Items

None

**There being no further business, Vidal moved, Bulman seconded and unanimously carried to adjourn the meeting at 7:59 a.m. (9 to 0 with Arguello, Braun, Bulman, Caesar, Golliher, Herr, Quasney Stuck and Vidal voting yes and none voting no)**