MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Golliher, Eirik Heikes, John Herr, Mike Quasney, Haven Stuck and Vince Vidal. Ron Weifenbach, Council Liaison, was also present.

MEMBERS ABSENT: Kelly Arguello, Eric Ottenbacher


Braun called the meeting to order at 7:27 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 2, 3 and 4 be removed from the Consent Agenda for separate consideration.

Motion by Caesar seconded by Bulman 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, 3 and 4. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, Herr, Quasney, Stuck and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Planning Commission approved the August 26, 2021 Planning Commission Meeting Minutes.

---END OF CONSENT CALENDAR---

2. No. 21AN001 - Highpointe Ranch Subdivision
A request by KTM Design Solutions, Inc for Watershed Development, LLC to consider an application for a Petition of Annexation for located in portions of the NE1/4, and the SE1/4, Section 20, T1N, R7E, BHM, Pennington County, South Dakota, commencing at the Northeast corner of Section 20, T1N, R7E, being monumented by a 1 inch iron pipe and being the point of beginning; Thence (1) with the north line of said Section 20, North 89°46’17” West, 1,156.64 feet; Thence (2) leaving said north line of Section 20, South 0°10’16” East, 1,322.94 feet; Thence (3) North 89°45’37” West, 822.36 feet; Thence (4) South 16°17’46” West, 102.05 feet; Thence (5) South 0°02’34” West, 222.42 feet; Thence (6) South 30°17’54” West, 187.39 feet; Thence (7) South 61°07’59” West, 150.61 feet; Thence (8) South 8°02’38” West, 291.70 feet; Thence (9) South 13°52’34” East, 198.33 feet; Thence (10) South 0°02’45” West, 136.86 feet; Thence (11) South 24°12’42” West, 162.57 feet; Thence (12) North 89°44’57” West, 174.38 feet; Thence (13) South 0°12’27” East, 1,454.15 feet; Thence (14) North 89°47’44” East,
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823.62 feet to a point on the westerly line of the present City annexation boundary; Thence (15) with said annexation boundary, North 0°12'47" West, 124.89 feet; Thence (16) continuing with said annexation boundary, South 89°51'13" East, 329.43 feet; Thence (17) continuing with said annexation boundary, South 89°48'07" East, 1,318.31 feet; Thence (18) leaving said annexation boundary, with the easterly boundary of aforementioned Section 20, North 0°13'36" West, 1,320.91 feet to the east ¼ corner of said Section 20; Thence (19) continuing with said easterly boundary of Section 20, North 0°08'06" West, 2,646.31 feet to the point of beginning, more generally described as being located north of the current terminus of Cloud Peak Drive.

Hanzel presented the application and reviewed the associated slides. Hanzel stated that the property meets the State and City requirements for annexation and is being annexed in preparation for future development. Hanzel stated that staff recommends approval of the Petition of Annexation.

Steve Beardsley, 4461 West Glen Place, stated he is speaking on behalf of a number of residents in the West Glen area and spoke to their concerns about the development of the area in regards to the fire danger and increased traffic. Beardsley stated that there is no exit or fire hydrants for the area which creates an increased danger to the existing residence. Beardsley quoted from the Zoning Statutes “the proposed amendment shall not adversely affect any other part of the City nor shall any direct or indirect adverse effects result from the amendment”. Beardsley stated that he did not believe that these safety concerns had been taken into consideration when accepting and recommending approval of this request.

In response to a question from Heikes regarding fire mitigation requirements, Fisher stated that in addition to the Annexation and Rezoning request, there are two Preliminary Subdivision Plan applications that show the proposed access and platting plan to create large estate lots in the northern portion of the property and another development that will be an extension of Highpointe Ranch with 178 residences in the southern portion. Fisher explained that as a part of the platting process they will be required to provide a Wild Fire Mitigation Plan and that the developer, recognizing the restrictions to the property, has agreed to place covenants on the property requiring construction materials to be fire retardant and all structures be fire sprinkler protected. Fisher noted that the development will remove fuels that currently exist actually helping to reduce the fire dangers in the area as well as water being extended into the area and hydrants being installed in the area.

In response to a request from Caesar to review of the development process from start to finish, Fisher reviewed the process starting with Annexation, to Rezoning and Platting of the property noting that due to the large number of lots, a Traffic Impact Study was required and is being reviewed by staff. Fisher noted that the applicant will work with staff to meet all requirements. This review includes review of the development by numerous City Departments including the Fire Department and Public Works Department.

In response to a question Caesar regarding the impact to schools, Fisher stated schools are informed of all applications that impact them directly or indirectly to allow them to plan. Fisher further noted that there are pending plans for
addressing the additional needs created by this another development in the area.

Numerous comments followed regarding traffic, access and development of the property. Braun pointed out that several items of discussion should be addressed with the review of the Preliminary Subdivision Plans that will be presented at the upcoming September 23, 2021 Planning Commission Meeting and called the discussion back to the item at hand.

Behlings spoke to the Fire Department’s excitement in the opportunity to address such a large area, it allows the Fire Department the ability to work cooperatively with the property owner and developer in mitigation of fire hazards as this area further develops. Behlings stated that they are already reviewing and working on and will continue to work on plans to address the wild fire mitigation by managing the fuel thinning, the use of fire resisting construction materials and fire sprinkling protection of all residential structures. Behlings explained how this that will benefit both the existing and proposed properties.

Beardsley spoke to his concerns that the annexation and development of this property will create traffic constrains and possibly trap residents should a fire start, as he believes there is not adequate access and egress.

Caesar stated that the issue before the Planning Commission currently is the Annexation request and she believes that those issues associated to the Preliminary Subdivision Plan should be discussed at that time as they are presented to the Planning Commission.

Caesar moved, Bulman seconded and the Planning Commission recommended that the Petition for Annexation be approved. (9 to 0 with Braun, Bulman, Caesar, Gollifer, Heikes, Herr, Quasney Stuck and Vidal voting yes and none voting no.

3. No. 21RZ019 - Highpointe Ranch Subdivision
A request by KTM Design Solutions, Inc for Watershed II, LLC to consider an application for a Rezoning request from No Use District to Low Density Residential District II for portions of the NE1/4, and the SE1/4, Section 20, T1N, R7E, BHM, Pennington County, South Dakota, commencing at the East 1/4 corner of Section 20, T1N, R7E, being monumented by a 8"x6"x6" granite stone, and being the point of beginning; Thence (1) with the east boundary of said Section 20, North 0°08'06" West, 841.48 feet; Thence (2) North 57°53'10" West, 911.33 feet; Thence (3) North 38°30'50" West, 620.65 feet; Thence (4) South 0°10'16" East, 483.60 feet; Thence (5) North 89°45'37" West, 822.36 feet; Thence (6) South 16°17'46" West, 102.05 feet; Thence (7) South 0°02'34" West, 222.42 feet; Thence (8) South 30°17'54" West, 187.39 feet; Thence (9) South 61°07'59" West, 150.61 feet; Thence (10) South 8°02'38" West, 291.70 feet; Thence (11) South 13°52'34" East, 198.33 feet; Thence (12) South 0°02'45" West, 136.86 feet; Thence (13) South 24°12'42" West, 162.57 feet; Thence (14) North 89°44'57" West, 174.38 feet; Thence (15) South 0°12'27" East, 1,454.15 feet; Thence (16) North 89°47'44" East, 823.62 feet; Thence (17) North 0°12'47" West, 124.89 feet; Thence (18) South 89°51'13" East, 329.43 feet; Thence (19) South 89°48'07" East, 1,318.31 feet to a point on the east boundary of aforementioned Section 20; Thence (20) with the east boundary of said Section 20, North 0°13'36" West, 1,320.91 feet to the point of
beginning, more generally described as being located north of terminus of Cloud Peak Drive.

Braun read in the item in noting the staff recommendation is to continue to the September 23, 2021 Planning Commission Meeting.

Caesar moved, Golliher seconded and the Planning Commission continued the request to Rezone property from No Use District to Low Density Residential District II be continued to the September 23, 2021 Planning Commission meeting due to an advertising error. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, Herr, Quasney Stuck and Vidal voting yes and none voting no.

4. **No. 21RZ020 - Highpointe Ranch Subdivision**

A request by KTM Design Solutions, Inc for Watershed II, LLC to consider an application for a **Rezoning request from No Use District to Park Forest District** for a portion of the NE1/4, Section 20, T1N, R7E, BHM, Pennington County, South Dakota, commencing at the Northeast corner of Section 20, T1N, R7E, being monumented by a 1 inch iron pipe and being the point of beginning; Thence (1) with the north line of said Section 20, North 89°46'17" West, 1,156.64 feet; Thence (2) leaving said north line of Section 20, South 0°10'16" East, 839.34 feet; Thence (3) South 38°30'50" East, 620.65 feet; Thence (4) South 57°53'10" East, 911.33 feet to a point on the easterly boundary of aforementioned Section 20; Thence (5) with the east boundary of said Section 20, North 0°08'06" West, 1,804.83 feet to the point of beginning, more generally described as being located north of terminus of Cloud Peak Drive.

Fisher clarified that this rezone request addresses the portion of the development that will take access off of Carriage Hills Drive and described that the Park Forest Zoning District allows for larger lots no smaller than 3 acres. Fisher stated that staff recommends approval of the application.

Andy Scull, 2665 Cavern Road, thanked the Planning Commission for their thorough discussion on the application before them as well as the pending Preliminary Subdivision Plans stating that as a previous Planning Commission member he understands their concerns. Scull stated that it is their goal to develop this area responsibly with consideration for their neighboring properties. Scull stated that that there is a housing need in Rapid City, including in the higher price range, and this should help address that need.

Golliher moved, Vidal seconded and the Planning Commission recommended that the Rezoning from No Use District to Park Forest District be approved contingent on approval of the petition for annexation. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, Herr, Quasney Stuck and Vidal voting yes and none voting no.
---BEGINNING OF REGULAR AGENDA ITEMS---

5. No. 21UR016 - Wisdom Subdivision
A request by Kennedy Design Group, Inc for Wisdom Inc. to consider an application for a Major Amendment to a Conditional Use Permit to expand an on-sale liquor establishment to include an outdoor patio for Lot 1 Revised of Wisdom Subdivision, located in Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2321 North Lacrosse Street.

Bauer presented the application and reviewed the associated slides stating that the applicant is proposing to construct a 1,607 square feet patio onto the existing restaurant and that access to the patio will be taken from inside with emergency exits on the patio to allow exit should it be needed. Bauer noted that the restaurant shares parking with the adjacent hotel and that even with the seven parking spots that will be lost for the patio they meet the minimum parking requirement. Bauer stated that the hours of operation will be from 11:00am to 9:00pm Sunday thru Thursday and from 11:00 am to 10:00 pm on Friday and Saturday and that no live music or other entertainment will be provided. Bauer presented staff's recommendation to approve the Major Amendment to a Conditional Use Permit to expand an on-sale liquor establishment to include an outdoor patio with stipulations.

Vidal moved, Bulman seconded and the Planning Commission the Conditional Use Permit to allow on-sale liquor use in conjunction with a casino be approved with the following stipulation(s):
1. Prior to issuance of a Building Permit, all redline comments shall be addressed;
2. 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;
3. The Conditional Use Permit shall allow for the expansion of an on-sale liquor establishment in conjunction with a restaurant to include an outdoor patio, 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, provided sufficient parking is being provided. 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. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, 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. **No. 21TI001 - Multiple**

A request by KTM Design Solutions, Inc for SSST, LLC and Zandstra Real Estate Holdings, LLC to consider an application for a **Reallocation of Project Plan Costs for Minnesota Street TID No. 65** for Tract 1 of the E1/2 of Section 16 less Elks Country Estates and the SW1/4 of Section 16 less Plum Creek Subdivision, all located in Section 16, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota; and the N1/2/NE1/4NW1/4 and the N1/2N1/2NE1/4NW1/4 and the E1/2NE1/4, all located in Section 21, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south and west of Elks Country Estates and east of Elk Vale Road.

Fisher and Harrington left the meeting at this time.

Hanzel presented the application stating that the request is to reallocate costs of TID No. 65 and approve the resolution to adopt the second Project Plan associated with this district. Hanzel noting that the Tax Increment Committee reviewed this request on August 18, 2021 and are recommending approval. Hanzel stated that TID No. 65 was created in 2007 to assist with the development of east of Elk Vale – Plum Creek Subdivision area. However, Hanzel did state that some of the proposed improvement were not constructed and therefore the initial $34 million amount is actually much less being around approximately $6 million. Hanzel reviewed the line items changes. Hanzel stated that staff recommends approval of the Reallocation of Project Plan Costs for Minnesota Street TID No. 65.

In response to a question from Braun on the certification timeline, Hanzel said they encourage them to be certified as soon as possible, but noted that there was an agreement regarding funds which created a delay.

**Bulman moved, Vidal seconded and the Planning Commission recommended approving the requested cost reallocation and the Second Project Plan Revision. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, Herr, Quasney Stuck and Vidal voting yes and none voting no.**

7. **No. 21TI002 - Walpole Heights Subdivision and Arches Addition**

A request by Brian E. Bangs Skyline Pines East, LLP for Bruce E. Schreiner Skyline Pines East, LLP to consider an application for a **Reallocation of Projects Plan Costs for Tower Road TID No. 47** for N1/2 SE1/4 less Walpole Heights Subdivision and less right-of-way; and, Lots A-B of SE1/4 SE1/4, Lots B-C of SW1/4 SE1/4, Lot 1 of SE1/4 SW1/4; and all of Tower Road right-of-way located in the SE1/4 and SW1/4 all located in Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located on Tower Road west of U.S. Highway 16.

Fisher and Harrington returned to the meeting at this time.

Hanzel reviewed the application stating it is to reallocate cost for TID No. 47 which was created to help with the construction of Tower Road with a cost of $5 million. Hanzel stated that TID No. 47 was created in 2004 and the Project Plan was approved in 2006. Hanzel noted this will be the third amendment to the Project Plan. Hanzel noted that this reallocation of funds is to allow final certification of the
TID. Hanzel reviewed the reallocation of capital costs to financing which is less than the initial amount identified for financing. Hanzel stated that staff recommends approval of Reallocation of Projects Plan Costs for Tower Road TID No. 47.

Vidal moved, Bulman seconded and the Planning Commission recommended that the Third Revised Project Plan for Tax Increment District #47 - Tower Road be approved. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, Herr, Quasney Stuck and Vidal voting yes and none voting no.

No. 21OA003 - Ordinance Amendment to Chapter 17 for Medical Cannabis
A request by City of Rapid City to consider an application for an Ordinance Amendment to Chapter 17 for Medical.

Fisher presented the application stating that the State is still working on the regulations for medical cannabis establishment for the state of South Dakota and staff is working on both the licensing and zoning aspect to be prepared to move forward once those are in place. Fisher stated that this is to address the time, place, manner and number of establishments allowed by each jurisdiction. She noted that staff has had a Working Session with Council on the Zoning aspect and have discussed the issue at a Coffee with Planners Event using the spreadsheet that outlines and defines the uses including cultivation, manufacturing, testing and dispensaries for medical cannabis and the zoning maps that show the areas where uses are or are not allowed within the City's zoning districts. Fisher stated that Kit Jefferies, of Dakota Cannabis Consulting, who has worked with numerous other states to initiate cannabis legislation, was instrumental in assisting staff to navigate this process. Fisher explained how they came to the define the zoning requirements, stating that they are addressing dispensaries as they do a pharmacy as they operate in the same general idea. Fisher noted that per draft State regulations all Medical Cannabis facilities regardless of function, must be 1000 feet from a school either public or private and so that was automatically included in the City’s requirements. Fisher explained that in reviewing the zoning districts where retail is allowed including Central Business, Urban Commercial, General Commercial, Light Industrial, Heavy Industrial, and Shopping Center I and II and that this would be the same as for where dispensaries would be allowed considering surrounding uses including the 1,000 feet to schools. Fisher stated that in order to avoid negatively impacting some uses, separations have been included in the regulations, such as 500 feet from churches, childcare centers, parks or residential districts. In particular, Fisher noted that if you meet these criteria, then all it would require for a Dispensary is a Building Permit, but should you be in an allowable zoning district, outside the 1000 feet from a school, but closer than 500 feet to a church, childcare center, park or residential district you would submit for a Conditional Use Permit and be heard by the Planning Commission. Fisher noted that Testing Facilities, which generally function much like a medical lab, do not generally affect the area and these facilities will be allowed in General Commercial, Light Industrial, Heavy Industrial, and Shopping Center I and II zoning districts long as they meet the 1,000-foot separation from a school it is a permitted use. Fisher noted that Manufacturing and Cultivation are allowed in Light Industrial and Heavy industrial, but due to the mitigation factors these uses have been identified as always requiring a Conditional Use Permit to allow the review and management of waste and odor, security and operation. Fisher stated that to avoid duplication, language requires they meet state operational requirements. Fisher further defined
that applications will require operational plans, and management plans that will allow review by staff so as to address effect on surrounding properties. Fisher reviewed the zoning maps that identifies areas that will support these uses noting that in addition to those that allow the use, it shows the areas that have the potential for Conditional Use allowing for the required separation from schools, and churches, childcare centers, parks and residential districts. Fisher noted that due to the State deadlines it is important to meet the meeting schedules set by Planning Commission, Legal Finance Committee and City Council.

Caesar moved, Bulman seconded to continue the Planning Commission Meeting past the 9:00 deadline. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, Herr, Quasney Stuck and Vidal voting yes and none voting no.

In response to a question from Stuck on inspection and enforcement, Fisher clarified that the exterior would be the responsibility of the City, while the interior will be regulated by the State.

Stuck also inquired as to the fees and number of facilities, Fisher stated that Council is on track to address those issues.

Caesar expressed concerns that the zoning restrictions creates a lack of access for those who need to receive medical cannabis and asked about the association of recreational cannabis verses medical cannabis. Fisher stated that access should be easily accessible just like any other pharmacy. Fisher further stated that recreational and medical will be addressed separately, but this was considered as this ordinance has set forth guidelines should recreational cannabis be allowed.

Kit Jefferies addressed the identified medical conditions that qualify noting that there is the option in place to request additional conditions.

Heikes said he believes this is a good solid plan and thanked staff for all the thought put into this ordinance. Heikes spoke to the strength behind the cultivation and manufacturing aspect stating that this is the actual financial sector which the plan addresses this in a positive way.

In response to Heikes’ question regarding financial aspects, stating that historically banks have been restricted in the financing of these types of businesses and also the tax tracking of these funds as they affect the City and State, Wade stated that there have been a loosening of banking funds and regulations with more and more states legalizing cannabis and, as such, some institutions have begun to provide some financing for these establishments and businesses. In regards to the taxing issue, Nyberg stated that the Department of Revenue will be licensing these establishments, so the information that is received on these is report based and is more on an industry level than per individual business.

Bulman suggested that the zoning district identification in the ordinance should call out Heavy Industrial rather than as its Chapter-17.24 as all others are and that the reference to Director should be identified as Planning Director. Fisher stated that in another section of the Municipal Ordinance Code Chapter 17.50 where it identifies that any reference to “Director” shall mean the Planning Director and doesn’t think it is necessary to reiterate. Fisher stated they will address the identification of all
Zoning Districts.

In response to question from Vidal on residential growing, Fisher reviewed that this ordinance addresses the commercial uses, the State allows and addresses the private growing and use. Wade confirmed that the State does allow card holders to grow a limited number of plants for their own private use.

In response to Caesars earlier comment on access, Harrington stated that many of the proposed locations are located along transit lines and plans are in place to extend service and hours.

Ron Weifenbach, introduced himself as the City Council Liaison and reviewed how the Council approached the review of this Ordinance to provide for the community as well as providing protection for the community without being heavy handed, to allow simplicity on the City level and leaving the managing and enforcement to the State. He also touched on the tracking of the revenue stating that there is a program called Seed to Sale which lies with the State and not the City. Wiefenbach noted that the City is looking to keep the Ordinance to a zoning issue.

Kit Jefferies, Cannabis Consultants, reviewed the need for waste and odor control plans, he discussed financing and funding of cannabis per the FDIC regulations and the tracking of products and earnings and taxes. Jefferies stated that the requirements are highly regulated. Jefferies offered suggestions for language to identify restrictive uses as existing to avoid future issues.

In response to a question from Braun on odor control, Fisher reviewed that the brunt of this falls on the State.

Stuck noted his surprise at the lack of public input and involvement in this discussion.

Caesar moved, Vidal seconded the Planning Commission recommended that Ordinance 21OA003 to adopt comprehensive zoning regulations for Medical Cannabis Establishments by amending Title 17 of the Rapid City Municipal Code be approved with the proposed changes. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, Herr, Quasney Stuck and Vidal voting yes and none voting no.

9. **Discussion Items**
   None

10. **Staff Items**
    Harrington introduced Brian Hurskainen as the new Current Planner.

11. **Planning Commission Items**
    Braun welcomed Wiefenbach as Council Liaison to the Planning Commission.

    Caesar thanked staff for all the work they do and the information provided.

    Heikes extended an invitation to the West Boulevard Block Party, Saturday,
There being no further business, Golliher moved, Vidal seconded and unanimously carried to adjourn the meeting at 9:26 a.m. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, Herr, Quasney Stuck and Vidal voting yes and none voting no.)