MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
October 21, 2021

MEMBERS PRESENT: Kelly Arguello, Erik Braun, Racheal Caesar, Mike Golliher, Haven Stuck, Eric Ottenbacher, and Vince Vidal.

MEMBERS ABSENT: Karen Bulman, Eirik Heikes, John Herr, Mike Quasney. Ron Wiefenbach, Council Liaison was also absent.


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

1. Approval of the September 23, 2021 Zoning Board of Adjustment Minutes

   Caesar moved, Stuck seconded and the Zoning Board of Adjustment approved the September 23, 2021 Zoning Board of Adjustment Minutes. (7 to 0 with Arguello, Braun, Caesar, Golliher, Ottenbacher, Stuck and Vidal voting yes and none voting no)

2. No. 21VA008 - Highpointe Ranch Subdivision

   A request by Boom Construction, Inc. to consider an application for a Variance request to reduce a portion of the side yard setback from 8 feet to 5.5 feet Lot 15 of Block 4 of Highpointe Ranch Subdivision, located in Section 20, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 3936 Cloud Peak.

   Hanzel requested that the item be continued to the November 4, 2021 Zoning Board of Adjustment meeting to allow a republication of the item due to an error.

   Caesar moved, Stuck seconded and the Zoning Board of Adjustment continued the Variance to reduce a portion of the side yard setback from 8 feet to 5.5 to the November 4, 2021 Zoning Board of Adjustment Meeting. (7 to 0 with Arguello, Braun, Caesar, Golliher, Ottenbacher, Stuck and Vidal voting yes and none voting no)

3. No. 21VA009 - Section 21, T2N, R7E

   A request by Texas Republic Signs, LLC to consider an application for a Variance to allow an 85 foot high on-premise sign in lieu of maximum allowed 45 foot sign for Lot 1 of the E1/2 of the SE1/4 less Lots H-1 and H2, located in Section 21, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 2783 Deadwood Avenue.

   Bauer presented the application and reviewed the associated slides noting that the sign is an existing non-conforming sign for the property known as the Pilot Travel Center, A.K.A., the Wind Mill Truck Stop. Bauer reviewed the existing sign noting it is 84 ½ feet tall with 313.7 square feet on both sides with three sections to the existing sign one being the Pilot sign, second being an LED sign showing
fuel prices and the third being the Subway sign. Bauer stated that sign being proposed is a single pole sign over 85 feet high with 418.75 square feet on each side. The applicant has indicated that the sign is being replaced due to structural issues, of which Bauer showed photos. The applicant stated that the 85 foot sign would be needed to be seen over the surrounding tree line from the Interstate. Bauer stated that staff is recommending denial of the request stating that the 45 foot height would not deny reasonable use of the land, that there is no special circumstances to the property and is not the minimal adjustment necessary or in conformance with the comprehensive plan.

Fisher clarified that discussions were held regarding the repair of the sign and that an engineer’s report is needed to determine if the sign is repairable. Fisher also noted that this sign was built in the County and later annexed into the City so it is not conforming to City Standards. Fisher noted that the need for sign identification is different today than it was when the sign was designed with the use of GPS.

In response to Arquello’s question on the design and assessment of the sign by a structural engineer, Fisher confirmed that the requirement to provide the information lays with the applicant.

In response to a question from Stuck as to whether they can use the existing pole and replace the sign facing, Fisher stated that they could as long as the existing poles are not replaced and the sign facing cannot exceed the existing size.

Michael Everett, representative for Texas Republic Signs, reviewed the repair and life of steel stating that this sign has surpassed this time noting the repairs that have been done to the pole are not engineered and need to be replaced. Everett stated that they hoped the City would work with them to replace this sign. Everett further stated that the use of GPS is generally used for destination travel and Pilot feels they are not a destination but a last moment or need stop and that the price needs to be visible to avoid loss of revenue for Pilot. Everett also spoke to the cost of the sign stating that Pilot believes this sign and its height is extremely important to the potential for revenue of this site.

Ottenbacher spoke to the reasonable use and asked about the trees and if they could be managed or removed to increase visibility. Fisher stated that the owner could speak with the SDDOT to see if this was an option. Ottenbacher spoke to the reasoning for the ordinances and maintaining the beauty of the Black Hills.

Vidal stated that he understands the need for the sign, but believes there are options to the 85 foot sign.

In response to a question from Stuck whether there are other signs on the interstate that do not conform to the sign height, Fisher stated that there are other non-conforming signs and spoke to the replacement or repair of such signs which must be in compliance with the City’s sign code.

In response to a Golliher’s inquiry about moving the sign location for better visibility, Everett stated that there is no benefit to move the sign on the property.
and there is not space to do so without creating a circulation issue.

Caesar stated that this request does not meet any criteria for a Variance.

In response to Everett’s request if a compromise could be considered, Braun stated that the Planning Commission could not redesign from the dais. Fisher stated that they could continue to allow options to be reviewed.

Caesar stated that she didn’t believe that reviewing options would change the lack of meeting criteria.

**Caesar moved, Vidal seconded and the Zoning Board of Adjustment denied the Variance to allow an 85-foot high sign in lieu of a maximum allowed 45-foot sign based on Criteria #1, 2, 3 and 4.** (7 to 0 with Arguello, Braun, Caesar, Golliher, Ottenbacher, Stuck and Vidal voting yes and none voting no)

4. **Discussion Items**

5. **Staff Items**

6. **Zoning Board of Adjustment Items**

There being no further business Vidal moved, Caesar seconded and unanimously carried to adjourn the meeting at 7:34 a.m. (7 to 0 with Arguello, Braun, Caesar, Golliher, Ottenbacher, Stuck and Vidal voting yes and none voting no)
MEMBERS PRESENT: Kelly Arguello, Erik Braun, Rachael Caesar, Mike Golliher, Eric Ottenbacher, Haven Stuck and Vince Vidal.

MEMBERS ABSENT: Karen Bulman, Eirik Heikes, John Herr, Mike Quasney. Ron Weifenbach, Council Liaison was also absent.


Braun called the meeting to order at 7:34 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 Ottenbacher and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 5 in accordance with the staff recommendations. (7 to 0 with Arguello, Braun, Caesar, Golliher, Ottenbacher, Stuck and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the October 7, 2021 Planning Commission Meeting Minutes.

2. No. 21PL102 - Palmer Subdivision Addition No. 2
   A request by KTM Design Solutions, Inc for Casey and Cristy Davis to consider an application for a Preliminary Subdivision Plan for proposed Lots A and B of Palmer Subdivision No. 2, legally described as Lot 6 of Block 1 of Palmer Subdivision Addition and the NW1/4 of the SE1/4 of Section 14, T2N, R6E, all located in Section 14, T2N, R6E, BHM, Pennington County, South Dakota, more generally described as being located 22540 and 22544 Palmer Road.

   The Planning Commission recommended that the Preliminary Subdivision Plan be approved with the following stipulations;
   1. Prior to submittal of a Final Plat application, the applicant shall enter into a Wild Fire Mitigation Plan for the property. In addition, a copy of the approved plan shall be submitted with the Final Plat application;
   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 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. In addition, a copy of the executed agreement shall be submitted with the Final Plat application;
   3. Prior to 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. In addition, a copy of the executed agreement shall be submitted with the Final Plat application;

4. Prior to submittal of a Final Plat application, an Approach Permit shall be filed with the Pennington County Highway Department for the existing approach on proposed Lot A. In addition, a copy of the Approach Permit shall be submitted with the Final Plat application; and,

5. Prior to submittal of a Final Plat application, the plat document shall be revised to show Palmer Drive as Palmer Road.

3. No. 21RZ021 - Shepherd Hills Subdivision
A request by KTM Design Solutions, Inc for Yasmin to consider an application for a Rezoning request from General Agricultural District to Low Density Residential II District for a portion of the SE1/4SE1/4, Section 32, T2N, R8E, B.H.M., Rapid City, Pennington County, South Dakota, Commencing at the Southeast 1/16th corner of Section 32, T2N, R8E, being monumented by a 1 1/4 inch aluminum cap LS5014 and being the point of beginning; Thence (1) with the south 1/16th line of said Section 32, South 87°57'12" East, 89.46 feet; Thence (2) leaving said south 1/16th line, South 75°08'23" West, 93.42 feet to a point on the east 1/16th line of said Section 32; Thence (3) with said east 1/16th line, North 01°52'57" East, 27.17 feet to the point of beginning, more generally described as being located southeast of the intersection of E. Philadelphia Street and E. Anamosa Street.

The Planning Commission recommended that the Rezoning from General Agricultural District to Low Density Residential District II be approved.

4. No. 21RZ022 - Big Sky Business Park
A request by Indigo Design, LLC for Dakota Heartland, Inc. to consider an application for a Rezoning request from General Commercial District to Office Commercial District for a portion of Lot 3C, Block 1, Big Sky Business Park, Rapid City, Pennington County, South Dakota, more fully described as follow: commencing at the northeast corner of Lot 3C, Block 1, Big Sky Business Park, Rapid City, Pennington County, South Dakota being monumented by an iron pin holding a registration number of 9961 which is also point of beginning: Thence first course: South 2°11'02" West, 188.07 feet to a point beginning the southwest corner of Lot 6, Block 1, Big Sky Business Park; Thence second course: South 2°11'02" West, 186.46 feet to a point being the southwest corner of Lot 5, Block 1, Big Sky Business Park; Thence third curse: South 2°11'02" West, 130.00 feet to a point; Thence fourth course: North 87°50'03" West, 5.00 feet to a point: Thence fifth course: North 2°11'02" East 130 feet to a point; Thence sixth course: North 87°50'03" West, 5.00 feet to a point; Thence seventh course: North 2°11'02" East, 374.52 feet to a point; Thence eighth course: South 87°11'13" East, 10.00 feet to the point of beginning, more generally described as being located north of the intersection of Timmons Boulevard and Bernice Street.

The Planning Commission recommended that the Rezoning from General Commercial District to Office Commercial District be approved.
5. **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 District for property generally described as being located north of terminus of Cloud Peak Drive.

   The Planning Commission recommended that the request to Rezone property from No-Use District to Low Density Residential District II be continued to the November 4, 2021 Planning Commission meeting to allow staff time to review a Traffic Impact Study.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

*6 **No. 21UR019 - Greenway Tract**
   A request by Kristy Lintz, City of Rapid City Parks and Recreation to consider an application for a **Major Amendment to a Conditional Use Permit to expand on-sale liquor in conjunction with a golf course** for Tract 4 and the north 27 feet of vacated Flormann Street right-of-way (also located in Section 10, T1N, R7E) located in Section 9, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2331 Arrowhead Drive.

   Bauer presented the application and reviewed the associated slides noting that this item had been continued from the October 7, 2021 Planning Commission Meeting to allow staff to further review the application. Bauer said specifically research on when the beverage cart had begun operation, which appears to be around 2002. As such, action on the Conditional Use Permit is required and staff is recommending approval of the Major Amendment to a Conditional Use Permit to expand on-sale liquor in conjunction with a golf course with the stipulation outlined in the Project Report to bring the cart into conformance.

   In response to a question from Ottenbacher regarding the operational plan proposed to ensure minors are not receiving these beverages, Fisher stated although there are customers of all ages only of-age adults will be allowed to purchase alcoholic beverage from the cart and that she would believe that they would be required to be carded to do so.

   Kristy Lintz, Golf Operations Manager. Recreations Program Specialist for Rapid City Parks and Recreation Department agreed that only of age customers would be sold alcoholic beverage, which would consist of beer, wine, seltzer and cider style beverages. Lintz also stated that the license for the club house is currently under Platinum Restaurant Group, Inc. and they will retain the liquor license in the club house and the City will manage the on course liquor sales.

   In response to a question from Ottenbacher regarding the management of behavior for golf course patrons, Lintz reviewed procedure in place stating that offenders are currently and will continue to be removed from the course.

   In response to a question from Stuck whether there will be separate licenses for the club house and the golf course, Lintz confirmed that there will be and is the reason
for the request for the Major Amendment to the Conditional Use Permit.

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

1. This Major Amendment to a Conditional Use Permit shall allow the expansion of on-sale liquor use of beer and wine in conjunction with a golf course, 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 Flood Hazard District, Park Forest District, or Low Density Residential District I, respectively, 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. (6 to 1 with Arguello, Braun, Caesar, Golliher, Stuck and Vidal voting yes and Ottenbacher 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. 21PD034 - Woodridge Subdivision
A request by Gary Dow to consider an application for a Major Amendment to a Planned Development to reduce the rear yard setback from 5 feet to 2 feet and to reduce the side yard setback from 8 feet to 2.5 feet and to allow a 7 foot high retaining wall and deck within the setback for Lot 41 of Woodridge Subdivision, located in Section 11, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1190 Parkwood Road.

Bauer presented the application and reviewed the associated slides stating that the property is located within a large Planned Development that was initiated in the early 1970s and these changes require a Major Amendment to the Planned Development. Bauer reviewed the applicant’s plans for the deck and retaining wall noting that it maintains the style of surrounding properties. Bauer reviewed the photos which show the property pins, noting that the usable space is limited due to the topography, noting that the property backs up to a ravine.

In response to a question from Braun about the surrounding open space, Bauer confirmed the open space is forested area.

Gary Dow, 1190 Parkwood Road, property owner, thanked the staff for being helpful in working through this process. Dow stated that he believes the changes will be an improvement.

In response to a question from Ottenbacher whether this would create any drainage issues, Todd Peckosh, Project Engineer, stated that he does not believe there are any issues.
In response to Arguello’s question on what requires engineered plans for retaining walls, Peckosh stated that any wall over 4 feet in height requires engineered plans.

Golliher moved Vidal seconded and the Planning Commission recommended approval of the Final Planned Development Overlay with the following stipulations:
1. An Exception is hereby granted to allow a rear yard setback of two feet for a retaining wall and a deck;
2. An Exception is hereby granted to allow a side yard setback of 2.5 feet for a retaining wall and a deck; and,
3. This Major Amendment to a Planned Development Overlay shall allow a deck and retaining wall only to be constructed within the required setback as per the submitted site plan. Any use that is permitted in the Low Density Residential District I shall be allowed with an approved Building permit contingent on all regulations being met. (7 to 0 with Arguello, Braun, Caesar, Golliher, Ottenbacher, 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. 21PD035 - Cambell Square Addition
A request by Kent Kennedy for Steve Wynia to consider an application for a Major Amendment to a Planned Development Overlay to allow an on-sale liquor expansion in conjunction with a casino for Lot 7 of Cambell Square Addition, located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 530 Cambell Street.

Bauer present the application and reviewed the associated slides reviewing the operation of an expanded casino, which will be located directly next to the existing casino with 10 new machines and that the hours of operation will be 7:00am to 11:00pm Monday through Sat 10:00am to 9:00pm on Sunday. Bauer noted there would be no new staff, signage or structures with this expansion. Bauer stated that staff recommends approval of the Major Amendment to a Planned Development Overlay to allow an on-sale liquor expansion in conjunction with a casino with stipulations as outlined in the Project Report.

In response to a question from Stuck if this is just an area expansion of existing Conditional Use Permit, Fisher confirmed that it is and that this type of usage promotes larger casinos in fewer locations.

Ottenbhacher moved Vidal seconded and the Planning Commission recommended approval of the Major Amendment to the Planned Development Overlay with the following stipulations:
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 Planned Development Overlay;
2. This Major Amendment to a Planned Development Overlay shall allow on-sale liquor in conjunction with the expansion of 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 Planned Development Overlay. Any use that is permitted within the General Commercial District shall be allowed with an approved Building Permit contingent upon parking requirements being met. (7 to 0 with Arguello, Braun, Caesar, Golliher, Ottenbacher, 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. Discussion Items

10. Staff Items

Fisher introduced Chip Premus stating that he is taking on more of Tim Behiling's duties. Premus stated that he hails from Watertown and said he is enjoying his time here and appreciates the Board's knowledge and manner of handling items.

11. Planning Commission Items

There being no further business, Vidal moved, Stuck seconded and unanimously carried to adjourn the meeting at 8:04 a.m. (7 to 0 with Arguello, Braun, Caesar, Golliher, Ottenbacher, Stuck and Vidal voting yes and none voting no)