

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
February 10, 2022

MEMBERS PRESENT: Erik Braun, Karen Bulman, Rachael Caesar, Mike Golliher, Eirik Heikes, John Herr, Eric Ottenbacher, Haven Stuck and Vince Vidal.

MEMBERS ABSENT: Kelly Arguello, Mike Quasney. Ron Weifenbach, Council Liaison was also absent.

STAFF PRESENT: Vicki Fisher, Kip Harrington, Sarah Hanzel, Kelly Brennan, Tanner Halonen, Marlo Kapsa, Michelle Shuelke, Tim Behlings, Chip Premus, Todd Peckosh, Joel Landeen, Kinsley Groote and Andrea Wolff.

Braun called the meeting to order at 7:00 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 Caesar and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 3 in accordance with the staff recommendations. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, Herr, Ottenbacher, Stuck and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the January 27, 2022 Planning Commission Meeting Minutes.

*2. No. 21PD047 - Section 9, T1N, R8E

A request by Joseph Mailander of Clearwell Engineering for SDRC Terra Kennedy MHP 2, LLC to consider an application for an **Initial Planned Development Overlay to allow the expansion of an existing mobile home park** Lot 3A of Lot 3 of the SW1/4 of the NW1/4 and the balance of Lot 3 of the SW1/4 of the NW1/4, located in Section 9, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2412 S. Valley Drive.

Planning Commission continued the Initial Planned Development Overlay to allow the expansion of an existing mobile home park to the March 10, 2022 Planning Commission meeting.

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. 22PD002 - Shepherd Hills Subdivision

A request by KTM Design Solutions, Inc for Samuelson Development LLC to consider an application for a **Final Planned Development Overlay to expand an existing apartment complex** for all of Lot A3 of Block 2 and the easterly 4 feet of

Lot A2 of Block 2 of Shepherd Hills Subdivision and the southerly termination being 4 feet west of the angle point common to said lots, all located in Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of E. Anamosa Street and north of E. Philadelphia Street.

Planning Commission approved the Final Planned Development Overlay with the following stipulations:

1. **Acknowledge the previously granted Exception to allow a 4-story, 56-foot high apartment development in lieu of a maximum 3-story, 35-foot high structure with the stipulation that the final design of the apartment structures include elements keeping in character with the Black Hills, such as earth tone colors, wood and stone accents and a peaked shingled roof;**
2. **Prior to issuance of a Building Permit, a developmental lot agreement shall be entered into and recorded to allow the drive aisles along property lines to be shared;**
3. **Prior to issuance of a Certificate of Occupancy, all necessary sewer mains and water mains currently under construction to serve the property shall be accepted by the City;**
4. **Prior to issuance of a Building Permit, all plans for water, sewer, storm sewer shall be signed and sealed by a Professional Engineer;**
5. **Prior to issuance of a Building Permit, an Erosion and Sediment Control Plan specifically for this project (not for the grading permit as work limits and time frames are different) shall be submitted for review and approval;**
6. **Prior to issuance of a Building Permit, all redline comments shall be addressed;**
7. **Landscaping, parking and open space shall be provided pursuant to the plans approved as a part of this Final Planned Development Overlay application;**
8. **All provisions of the Medium Density Residential District shall be met unless otherwise specifically authorized as a stipulation of the Final Planned Development Overlay; and,**
9. **This Final Planned Development Overlay shall allow for the expansion of an apartment development in compliance with a previously reviewed and approved Master Plan. Future expansion of the apartment development and/or change in use shall require a Major Amendment to the Final Planned Development Overlay.**

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---

- *4. No. 22UR001 - Market Square Subdivision

A request by Dana Giesey for MG Oil Company to consider an application for a **Major Amendment to a Conditional Use Permit to expand an existing on-sale liquor use in conjunction with a casino** for Lot 4 of Market Square Subdivision, located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1624 E. St Patrick Street, Suite 105 and 106.

Harrington presented the application and reviewed the associated slides noting that the applicant is proposing to expand the existing casino into unused suites within the building. Harrington noted that the on-sale for Pauly's Sub located in the same building is separate. Harrington reviewed available parking noting that there is sufficient parking and staff recommends approval of the Major Amendment to a Conditional Use Permit to expand an existing on-sale liquor use in conjunction with a casino with stipulations.

In response to questions from Heikes regarding parking, Harrington reviewed the parking calculations noting that although there are a multiple users of the parking area, there is sufficient parking for this use.

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, 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; and**
- 3. This Major Amendment to a Conditional Use Permit 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 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. (9 to 0 with Braun, Bulman, Caesar, Golliver, Heikes, Herr, 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.

*5. No. 22UR002 - Watersedge Subdivision

A request by Jacob Thomas Johnson to consider an application for a **Conditional Use Permit to allow a medical cannabis cultivation establishment** for Lot 2 of Watersedge Subdivision, located in Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1820 Rand Road.

Braun noted that Stuck abstaining from this item due to a conflict of interest.

Fisher provided an overview between a Medical Cannabis Dispensary and a Cultivation facility reviewing that Dispensaries were allowed in various zoning designations if they meet the State required 1000 feet separation from schools and the City required separations of 500 feet from churches, childcare, residential uses or City park and could be approved by a Conditional Use Permit if they meet the zoning and State required school separation, but not the City required separation. Fisher stated, Cultivation and Manufacturing facilities however, are always a Conditional Use, are only allowed in Heavy Industrial District and Light Industrial District and must meet all separations. Fisher stated that review for these types of applications is for the plan and meeting operation regulations.

Brennan reviewed the application reviewing that the surrounding uses are auto repair facilities. Brennan reviewed the signage which is identified as a wall sign only to identify the building but will not be for advertising as the building is not open to the public. Brennan noted they meet landscaping requirements, parking requirements with required ADA parking and that it is an existing industrial building in an industrial area. Brennan noted that the applicant is in the audience if there are any questions. Brennan stated that staff recommends approval of the Conditional Use Permit to allow a medical cannabis cultivation establishment with stipulations outlined in the Project Report.

Fisher reviewed the stipulations addressing the issues that might be of concern including odor control, waste management and security. Fisher noted that requirements for these are clearly defined and will be carefully monitored. She further noted that they are a condition for closure if not maintained.

In response to a question from Vidal on security, Brennan briefly reviewed the security plan submitted, which includes 24-hour security guards on-site and camera surveillance inside and outside. Brennan reviewed some of the State Security requirements which is mirrored by the City.

Jake Johnson, BHCC 3913 Ridgemoore Drive, spoke to the security noting that the building is a former GSA building with a high end existing security system and they have hired Intelapro for security services.

In response to a question from Ottenbacher regarding vacant lots in the area if this would deter any plans for future use, Fisher stated that other uses approved for this zoning would not be effected by this use.

In response to a question from Heikes regarding future building and landscaping, Brennan noted that the site plan showing "future building" is due to the original design plans being used for this application and actually references the existing building, no further building is planned. In response to the landscaping, Brennan noted that the landscaping, has been reviewed and approved by the Fire Department. Heikes complemented the use of landscaping for security.

In response to a question from Braun on permitting control and review, Fisher reviewed the process stating that communication would continue between the State

and the City and that any notice of issues affecting the Conditional Use Permit would come before the Planning Commission. Fisher clarified that the State would be the reviewing and notifying body and City Code Enforcement Department would be the acting entity.

In response to Ottenbacher's question regarding the handling of cash considering this a closed facility, Brennan explained that the cultivation facility would not sell Medical Cannabis, but would only grow, package, and transfer to dispensaries to sell.

Heikes, Vidal, Planning Commission approved the Conditional Use Permit with the following stipulation(s):

- 1. Prior to issuance of a certificate of occupancy, a medical cannabis cultivation establishment license shall be secured from the South Dakota Department of Health. Failure to obtain a registration certificate, or revocation of a registration certificate, shall disqualify the establishment as a permitted use and shall be sufficient cause for revocation of a Conditional Use Permit;**
- 2. Prior to issuance of a building permit, the applicant shall coordinate with the Rapid City Fire Department Fire and Life Safety Division to establish a plan with acceptable time frames to provide an approved fire sprinkler protection and associated fire alarm systems designed and installed as per NFPA 13 and NFPA 72, respectively, and shall be provided throughout the building containing the cannabis related activity. Where applicable, a covenant agreement addressing the fire protection system installation, shall be entered into prior to issuance of a certificate of occupancy;**
- 3. The waste management plan shall be continually monitored to ensure the security of waste handling;**
- 4. The security plan shall be continually monitored to ensure that all areas and operation of the medical cannabis cultivation establishment are provided 24/7 surveillance and recovery of video shall be provided as needed;**
- 5. The odor control plan shall be continually monitored to ensure that all ventilation, odor abatement, and any other measures are taken to prevent nuisances. The premises shall be properly ventilated and the exhaust air filtered or treated to neutralize the odor from cannabis so that the odor cannot be detected by a person with a normal sense of smell at the property line of the premises or on any adjoining property;**
- 6. All signage shall meet the requirements of the Rapid City Sign Code. A sign permit shall be obtained for each sign. 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 and,**
- 7. The Conditional Use Permit shall allow a medical cannabis cultivation establishment at the location proposed. The medical cannabis cultivation establishment shall be operated in compliance with the approved operational plan and in compliance with all City and State regulations. Any expansion of the medical cannabis cultivation establishment shall require a Major Amendment to the Conditional Use Permit. Permitted uses within the Light Industrial District, which are in**

compliance with the Parking Ordinance, shall be allowed with a building permit. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, Herr, 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.

6. No. 22TI001 - Original Town of Rapid City

A request by C.R. Lloyd Associates, Inc for Block 5, LLC to consider an application for a **Resolution to create a Tax Increment District and approve a Project Plan for the Block 5 Project** for Tract A and the vacated east 13 feet of Sixth Street and the vacated south 3½ feet of Saint Joseph Street, and the vacated west 1 foot of Fifth Street adjacent to said Tract A, Block 95, Original Town of Rapid City, and adjacent Saint Joseph Street right-of-way, adjacent 6th Street right-of-way, and adjacent alley right-of-way, all located in the N½ of the NW¼ of Section 1, Township 1 North, Range 7 East, Black Hills Meridian, Rapid City, Pennington County, South Dakota, more generally described as being located at 525 St. Joseph Street.

Braun stated he would be abstaining and stepped down from the dais, handing the gavel to Caesar.

Hanzel noted that the Tax Increment is associated with the Initial Planned Development Overlay (21PD038) which was reviewed at the November 24, 2021 Planning Commission Meeting, noting that the Tax Increment Financing Committee recommended approval for the application to move forward through the approval process. Hanzel reviewed the process for use of Tax Increment Financing and creation of Tax Increment Districts. Hanzel reviewed the associated slides noting that the property is owned by the City of Rapid City and used for lease parking. Hanzel noted that current lease holders are being offered the option to lease parking in other areas in the downtown area. Hanzel reviewed the background on this property and its development, noting that an RFP was released in April of 2019 by Elevate and of the three proposals received this was the accepted proposal. Hanzel reviewed the proposed uses including a 10-story mixed used building with 8,000 square feet of commercial space on the ground floor, 130 apartments, 117 room hotel with conference center and a parking component with 330 spaces in a parking garage. Hanzel noted the Final Planned Development would be reviewed by the Planning Commission. Hanzel reviewed the breakdown of the proposed project costs of approximately \$14 million dollars, including site prep, cleaning and mediation of contaminated soils and excavation, design, engineering and legal fees, relocation of utilities, portions of the parking structure, streetscaping and street construction. Hanzel reviewed that the applicant is anticipating a gap of \$8,750,000 for which Tax Increment Financing dollars would be used and are requesting approximately \$5.9 million in financing at 4.5 percent with a cap of \$14 million dollars, but noted that these numbers are based on a 20 year payback period. Hanzel stated the Tax Increment Districts may not take 20 years to pay off. Tax Increment Districts rarely extend the full 20 years. She pointed out that this Tax Increment Financing is proposed to be designed as an economic development

grant, which is a new option, but many of the costs fall under the traditional Tax Increment Financing policy. Hanzel reviewed the base valuation and payoff calculations stating that the applicant anticipates a 2024 build out date which would affect the amortization projection included in the Tax Increment Financing proposal. Hanzel also reviewed the State statutes and policies for Tax Increment Financing noting that this proposal meets these. Hanzel spoke to how the proposed development conforms to the City's Comprehensive Plan and the Downtown Master Plan and that Tax Increment Finance Committee recommended approval.

In response to question from Caesar regarding base evaluation of zero Hanzel clarified that all City property has a base value of zero. In response to Caesar's follow-up question regarding the value of the property located on the other half of the block, Harrington stated that estimated value is approximately Eight Hundred Thousand dollars.

In response to Caesar's question, Landeen reviewed how the Council decided on an RFP rather than to sell the property, stating that the City desired to retain some say in the development of the property and to receive more use and value for the land, further noting that all proposals received by Elevate contained gifting of the land and use of Tax Increment Financing to develop the property.

In response to a question from Caesar on soil mediation and how this is different than other development, Landeen discussed how this is more of an economic development Tax Increment Financing rather than a blight driven Tax Increment Financing project. Landeen reviewed the history of the property.

In response to a question from Caesar regarding including the private use parking structure as part of TID, Landeen reviewed this is associated with the grant structure of the TID and reviewed the use of the funds for development of the property. Landeen stated based on previous attempts to force public parking into the private development of the property the City did not see forcing it in this development.

In response to a question from Stuck on relocating parking for current users, Fisher stated that Anna Gilligan, Parking Enforcement Division Manager, is working to relocate these users, but that there is no single location identified but rather they are being dispersed around the downtown area.

In response to a question from Stuck on notification of surrounding property owner, Hanzel confirmed that notification was made to all surrounding properties owners and publication was made.

Heikes stated that he believes this will create economic growth and revitalization of the downtown area, noting that these same conversations were discussed when proposing Downtown Square and pointed out what a great boon that has been for the entire city.

In response to an inquiry by Heikes on anticipated price of the apartments, Luke Jessen, Vice President of Development for Lloyd Companies, 201 Main Street, said they anticipate units ranging from upper \$800 to \$2,000 plus a month with options from studio to 2-bedroom units.

Vidal spoke of his support of the proposal.

Bulman spoke to the history of the property when there were businesses that once existed on this property, the previous failed Tax Increment Financing and disappointment of the flat parking lot that was settled on. Bulman stated that there will always be parking concerns and these needs will continue to be considered.

Bulman inquired about historic review, Hanzel said the Historic Preservation Committee reviewed this two weeks ago, after the State Historic Preservation Office requested a Case Report. Hanzel noted that after thorough vetting they recommended to approve. Hanzel noted that the City Council may have to take action for final Historic Review.

In response to a question from Bulman on the legal description, Hanzel stated that the graphic is accurate and that the legal description would be revised to include the adjacent 5th Street right-of-way at the direction of the Planning Commission.

In response to a question from Herr on the relocation of power lines, Jessen confirmed they are working with Black Hills Power and other utilities to put them underground.

In response to a question from Stuck on the approval process following Planning Commission's review and approval, Hanzel reviewed the process stating that it will continue on to Council for review and approval, including approval of a Development Agreement.

Jessen thanked the staff and Planning Commission for working with them on this project. He stated they understand the parking need in the downtown area which is one of the reasons they wanted to create parking for their project, so as not to place additional burden on existing parking since the Central Business District has no parking minimum.

Caesar stated that she is not against the project, but against the use of Tax Increment funds to fund the project.

Vidal moved, Herr seconded and the Planning Commission recommended approval of the resolutions to create the proposed tax increment district and the associated project plan to construct a mixed-use development in Downtown Rapid City as identified in the Project Plan. (8 to 1 with Braun, Bulman, Gollhofer, Heikes, Herr, Ottenbacher, Stuck and Vidal voting yes and Caesar voting no)

7. Discussion Items

8. Staff Items

Harrington introduced Marlo Kapsa and Tanner Holenen as the new Current Planners who have joined staff.

Fisher thanked the Planning Commission for their thorough vetting of the Cultivation application.

9. Planning Commission Items

In response to a question from Vidal on Ex-Parta Communication between themselves and a Council member, Groote stated it is dependent on status of what is discussed and timing noting that if discussions are held they should be disclosed. Groote stated she would be presenting an Ex-Parta session at one of the upcoming Planning Commission meetings.

There being no further business, Golliher moved, Bulman seconded and unanimously carried to adjourn the meeting at 8:20 a.m. (9 to 0 with Braun, Bulman, Caesar, Golliher, Heikes, Herr, Ottenbacher, Stuck and Vidal voting yes and none voting no)