MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
March 10, 2022

MEMBERS PRESENT: Erik Braun, Racheal Caesar, Mike Golliher, Eirik Heikes, Haven Stuck, Eric Ottenbacher, Mike Quasney and

MEMBERS ABSENT: Kelly Arguello, Karen Bulman, John Herr and Vince Vidal. Ron Wiefenbach, Council Liaison was also absent.

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

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

1. Approval of the February 24, 2022 Zoning Board of Adjustment Minutes

   Caesar moved, Golliher seconded and the Zoning Board of Adjustment approved the February 24, 2022 Zoning Board of Adjustment Minutes.

2. No. 22VA001 - Nowlin and Wood Addition
   A request by Steve and Dorothy Wilkison to consider an application for a Variance to reduce the minimum lot size for a 2-family structure from 8,000 square feet to 5,850 square feet for Lot 12 thru 13 of Block 25 of Nowlin and Wood Addition, located in Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 211 and 211 1/2 E. Custer Street.

   Hanzel presented the application and reviewed the associated slides. Hanzel noted that the use is supported by the zoning and does not impact traffic or parking. Hanzel noted that the structure has been a 2-family use for some time, but due to a recent remodel they lost their legal non-conforming status and are therefore requesting the Variance. Hanzel noted that the property has parking to the rear off of the alley. Hanzel discussed staff’s review noting that as the lot was platted prior to current zoning code the lot size is a special circumstance, that the use is in harmony with the neighborhood and the Comprehensive Plan and that this is the minimal adjustment. Hanzel stated that staff recommends approval of the Variance to reduce the minimum lot size for a 2-family structure from 8,000 square feet to 5,850 square feet.

   In response to a question from Ottenbacher on when the structure was built, Hanzel confirmed the basement building was built in 1949 and added to in 1958. In response to Ottenbacher comment that it looks newer, Hanzel stated that the remodel is the reason it looks newer and why they are asking for a Variance.

   In response to Ottenbacher’s question as to use of property as a duplex, Hanzel stated it has been 2 family structure since 1958. Fisher reviewed the history of the property and why they are requesting the Variance.

   Heikes spoke to how this is a good use of housing and providing alternative
housing inventory.

Quasney spoke to his support for both the improvement to properties and the availability of affordable housing.

Caesar spoke to how although the request is to allow a smaller lot size it is not increasing the footprint just allowing an existing use to continue and she is in support of the request.

Quasney moved, Heikes seconded and the Zoning Board of Adjustment approved the Variance to reduce the minimum lot size for a 2-family structure from 8,000 square feet to 5,850 square feet based on Criteria #4 minimal adjustment.

3. Discussion Items
   None

4. Staff Items
   None

5. Zoning Board of Adjustment Items
   None

There being no further business Caesar moved, Quasney seconded and unanimously carried to adjourn the meeting at 7:10 a.m. (7 to 0 with Braun, Caesar, Golliher, Heikes, Ottenbacher, Quasney and Stuck voting yes and none voting no)
MEMBERS PRESENT: Erik Braun, Rachael Caesar, Mike Golliher, Eirik Heikes, Eric Ottenbacher, Mike Quasney and Haven Stuck.

MEMBERS ABSENT: Karen Bulman, Kelly Arguello, John Herr and Vince Vidal. Ron Weifenbach, Council Liaison was also absent.

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

Braun called the meeting to order at 7:10 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 Golliher, seconded by Ottenbacher and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 2 in accordance with the staff recommendations (7 to 0 with Braun, Caesar, Golliher, Heikes, Ottenbacher, Quasney and Stuck voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the February 24, 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 for 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 24, 2022 Planning Commission Meeting. (7 to 0 with Braun, Caesar, Golliher, Heikes, Ottenbacher, Quasney and Stuck 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.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---
*3. No. 22PD005 - Riverside Addition
A request by FMG Engineering for Dean Kurtz Construction Company to consider an application for a **Major Amendment to a Planned Development Overlay to allow retail and physical therapy uses** for Lot 29 thru 31 less Lots H1 of Block 2, Tract A of Lot 32 thru 35 less Lots H1 and H2 and RU-107A of Block 2 of Riverside Addition, located in Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1130 West Omaha Street.

Halonen presented the application and reviewed the associated slides noting that the use is a permitted use in the zoning. Halonen reviewed the site showing that access will be taken from Executive Drive and noting that the applicant is requesting an Exception to reduce the minimum parking required from 25 spaces to 21 spaces noting the unique use supports this request and staff recommends approving the Exception. Halonen stated that staff recommends approval of the Major Amendment to a Planned Development Overlay to allow retail and physical therapy uses with the Exception being granted and the exceptions outlined in the Project Report.

Fisher stated that staff is excited to find a reuse for this property referring to how in the expansion of Omaha Street the State Department of Transportation severely reduced this property including removing the on-site parking for right-of-way and that the type of uses are a good fit for this special circumstances of this location.

In response to a question from Stuck on where access will be taken, Halonen confirmed that access will be from Executive Drive. Fisher reviewed access is anticipated to be minimal and is not anticipated to create a traffic impact to the intersection.

In response to a question from Ottenbacher if there was an association with the neighboring physical therapy clinic that would allow for shared parking, Fisher stated that they were not aware of an association, but noted it does not appear to be designed for shared parking and that the design of the road does not allow for on street parking.

Goliher moved, Heikes seconded and the Planning Commission approved that the Major Amendment to a Planned Development to allow retail and physical therapy uses be approved with the following stipulations:

1. An Exception is hereby granted to reduce the minimum parking required from 25 spaces to 21 spaces;
2. Acknowledge the previously granted Exceptions to allow a zero yard setback along Twelfth Street and Executive Street and allow an unloading area within the Executive Street right-of-way directly north of the property; and
3. The Major Amendment to the Planned Development shall allow for retail and physical therapy uses. Any expansion or change in use that is permitted in the General Commercial District and meets the requirements of the Parking Regulations shall require the review and approval of a Building Permit. Conditional Uses will require the review and approval of a Major Amendment to the Planned Development. (7 to
0 with Braun, Caesar, Golliher, Heikes, Ottenbacher, Quasney and Stuck 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.

*4. No. 22PD006 - Eastbrooke Subdivision
A request by CommonBond Communities to consider an application for a Final Planned Development Overlay to allow an apartment complex for Lot 3A of Eastbrooke Subdivision, located in Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 121 N. LaCrosse Street.

Kapsa presented the application and reviewed the associated slides noting the development will include affordable and market value housing and staff is excited to see this option being made available with the outstanding need for housing. Kapsa reviewed the surrounding zoning noting that the use is supported by the zoning and will not trigger a traffic impact study, further noting it is close to transit access. Kapsa noted that a mix of indoor/outdoor open space has been provided with areas including playground, community room, paths and a picnic area. Kapsa stated that there will be on-site property management and support services. That the structure is proposed to be 3-stories with 42 units and is within the maximum allowable height. Kapsa stated that access will be taken from Racine Street. Kapsa stated that staff recommends approval of the Final Planned Development Overlay to allow an apartment complex with stipulations.

In response to a question from Quasney regarding floodplain, Kapsa stated there is a section of the property in the 500 year floodplain but that is limited to the area in the southeast corner outside of the construction area. Fisher stated staff has no authority for development of 500 year floodplain, only 100 year floodplain.

Heikes applauded the open space use and asked about the landscaping. Jerry Eisenbraun of Upper Deck Architects, clarified there will be newer seeded landscaping around the play area with the existing foliage also being used for landscaping.

Braun spoke to his excitement to have Commonbond developing in the city, stating that he strongly supports this developer and their mission.

In response to questions from Braun on drainage noted in the Project Report, Peckosh reviewed the design and the use of tying into the drainage pipe along LaCrosse Street.

Sally Rabban with Commonbond introduced herself and stated that they are excited to be here in Rapid city. Sally reviewed their mission noting they are a non-profit affordable housing developer, noting one of their goals is to pair affordable housing with on-site services to all residents such as financial literacy, ESL classes and after school study buddy program. Fisher stated they have worked on this project
for two years with a very thorough team who work to provide for the needs of and work towards a goal to enable, teach, and improve the lives of their tenants.

Golliher moved, Quasney seconded and the Planning Commission approved approval of the Final Planned Development Overlay with the following stipulations:

1. A minimum of 91,223 points of landscaping shall be provided. The type and location shall be in compliance with the City’s Landscape Regulations and shall be maintained in a live vegetative fashion;

2. A minimum of 63 parking spaces shall be provided. In addition, 3 spaces shall be ADA accessible with at least one of the three being “Van” accessible;

3. Upon submittal of a building permit application, a revised landscape plan shall be submitted for review and approval showing a minimum of one tree with shrubs and ground cover within the landscape island;

4. Upon submittal of a building permit application, the following executed and recorded access and utility easements shall be provided:
   - A drainage utility easement with the landowner of the property directly to the southeast of the subject property (Parcel 38-06-132-002), running from the southern property boundary of the subject property through the aforementioned neighboring property to East Omaha Street.
   - An access easement with the landowner of the property located directly west of the subject property (Parcel 21-31-379-004) for a small portion of curb and gutter that crosses into the aforementioned neighboring property boundary.
   - An access and utility easement with the landowner of the property located directly south of the subject property (Parcel 38-06-132-001); and,

5. This Final Planned Development shall allow a 42-unit apartment development. Any change in use that is a permitted use in the Medium Density Residential District and complies with the Parking Ordinance shall require the review and approval of a building permit. Any change in use that is a conditional use within the Medium Density Residential District shall require the review and approval of a Major Amendment to the Planned Development. (7 to 0 with Braun, Caesar, Golliher, Heikes, Ottenbacher, Quasney and Stuck 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. Discussion Items
   None

6. Staff Items
   A. Due Process and Ex Parte Communications for Land Use Decisions
Groote presented a presentation reviewing Due Process and Exparte Communications as it relates to land Use Decisions noting this is the standard presentation with a little extra to specify it to Planning Commission and its quasi-judicial status.

Questions were asked on specific status of bias and how to conduct one's self. Fisher reviewed examples of how previous actions were handled stating that Planning Commission does a good job of following Ex Parte and disclosure.

Fisher stated that the sign information she had proposed to bring forward to this meeting will be delayed as the Sign Code Official was unavailable due to training and that she will bring it forward at a future meeting.

In response to Braun’s comment on upcoming Coffee with Planners, Fisher reviewed it will be March 17, 2022 in the Community Room and requested the Planners to present their items.

Harrington stated he will be reviewing the Cambell Street Structure Replacement Study Update looking at the replacement of the bridge over railroad on Cambell along with other alternatives for the corridor.

Hanzel stated that she will be providing an overview of Tax Increment Financing uses, criteria, general process and comprehensive discussion.

Fisher stated that Anna Gilligan, Division Manager of Parking Enforcement, will be presenting on how to get the most out of Downtown Parking.

7. Planning Commission Items
   None

There being no further business, Caesar moved, Quasney seconded and the Planning Commission unanimously carried to adjourn the meeting at 8:25 a.m. (7 to 0 with Braun, Caesar, Golliher, Heikes, Ottenbacher, Quasney and Stuck voting yes and none voting no)