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

MEMBERS ABSENT: Kelly Arguello, John Herr. Ron Wiefenbach, Council Liaison was also absent.

STAFF PRESENT: Vicki Fisher, Sarah Hanzel, Kip Harrington, Tanner Halonen, Marlo Kapsa, Chip Premus, Todd Peckosh, Kinsley Groote and Rebel VanLoh.

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

1. Approval of the June 9, 2022 Zoning Board of Adjustment Minutes

   Bulman moved, Vidal seconded and the Zoning Board of Adjustment recommends approval of the June 9, 2022 Zoning Board of Adjustment Minutes. (8 to 0 with Braun, Bulman, Golliher, Heikes, Ottenbacher, Quasney, Stuck and Vidal voting yes and none voting no)

2. No. 22VA007 - South Belleview Addition

   A request by Andrea Young to consider an application for a Variance to allow a two-story, 20.5 foot high accessory structure in lieu of the maximum height of 15 feet for Lot 2 of South Bellview Addition, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 141 Belleview Drive.

   Hanzel noted the application will need to be continued to July 7, 2022 meeting to meet publication requirements.

   Vidal moved, Bulman seconded and the Zoning Board of Adjustment approved that the Variance request continued to the July 7, 2022 Zoning Board of Adjustment. (8 to 0 with Braun, Bulman, Golliher, Heikes, Ottenbacher, Quasney, Stuck and Vidal voting yes and none voting no)

3. No. 22VA008 - Sioux Park Addition

   A request by Jory Beck to consider an application for a Variance to allow a 6 foot high fence in lieu of a maximum 4 foot high fence in a side yard abutting a street for Lot 23 less Lot H1 of Block 4 of Sioux Park Addition, located in Section 3, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1701 Tepee Street.

   Hanzel presented the application and reviewed the associated slides noting that the applicant is requesting a 6 foot high cedar fence to be located along the sidewalk rather than a 4 foot high fence or setting the fence back the required 10 feet for a side yard abutting a street. Hanzel noted the site plan submitted by the applicant shows the loss of the side yard if the fence were set back 10 feet and that the proposed fence does not create a sight triangle obstruction. Hanzel reviewed the criteria for granting
or denying a Variance. Hanzel stated that staff recommend to deny based on criteria of reasonable use or minimal adjustment.

Jory Beck, applicant, spoke to their reasons for requesting the privacy fence stating that the lot orientation, heavy traffic and lighting associated to a sign in the area that shines into his home create special circumstance and he believes it is in harmony with the neighborhood.

Discussion regarding fence requirements and options followed.

Beck answered more questions regarding the fence.

Fisher explained the fencing ordinance explaining why it set up as it is, and acknowledging that there are special circumstances and legal non-conforming situations.

Discussion continued.

Fisher reminded the Zoning Board they must specify which criteria by which they would approve the fence, noting that if they approve the request they should identify the special circumstance of being in a mixed use area along an arterial street that justifies granting the request.

Quasney moved, Heikes seconded and the Zoning Board of Adjustment approved the Variance to allow a 6 foot high fence in lieu of a maximum 4 foot high fence in a side yard abutting a street based on Criteria # 2. (8 to 0 with Braun, Bulman, Golliher, Heikes, Ottenbacher, Quasney, Stuck and Vidal voting yes and none voting no)

4. No. 22VA009 - Deadwood Avenue Tract
A request by Matt Neibauer for Prairie Supply to consider an application for a Variance to allow an 8 foot 4 inch and an 11 foot north side yard setbacks and a 22 foot south side yard setback in lieu of required 25 foot side yard setbacks for Lot 6 of Track E of Deadwood Avenue Tract, located in Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2801 Plant Street.

Halonen presented the application and reviewed the associated slides explaining that the property was developed when the General Commercial District zoning allowed for lesser setbacks and the proposed improvements to the property require that it be brought into compliance or obtain a Variance. Halonen stated that staff is in support of the Variance based on the criteria #1 that allowing the Variance ensures reasonable use of the property can continue for the existing structures which creates a special circumstance.

Fisher reviewed setbacks and the reasons for them in each zoning district.

Bulman moved, Golliher seconded and the Zoning Board of Adjustment approved the Variance to allow an 8 foot 4 inch and an 11 foot north side yard setbacks and a 22 foot south side yard setback in lieu of required 25 foot side yard setbacks base on Criteria # 1 and # 2. (8 to 0 with Braun, Bulman, Golliher,
No. 22VA010 - Deadwood Avenue Tract
A request by Towey Design Group, Inc for Magic Canyon Limited Partnership to consider an application for a Variance to waive the requirement to pave a portion of the circulation, loading/unloading and parking areas and reduce rear yard setback to 9 feet in lieu of required 25 feet for Tract A Revised of Deadwood Avenue Tract, located in Section 34, T2N, R7E, Rapid City, Pennington County, South Dakota, more generally described as being located at 704 Industrial Avenue.

Halonen presented the application and reviewed the associated slides noting the applicant is proposing to change the use of the southern warehouse triggering the requirement for hard surfacing of all parking and loading facilities, the applicant is requesting to use asphalt millings, which are not considered a hard surface material, on a 26-foot wide section located between the north and south warehouses. Halonen further noted that in reviewing the application it was noted that the rear yard setback did not conform to the required 25 foot and are requesting a Variance to reduce this setback to 9 feet to bring it into conformity. Halonen stated that staff recommends to approve based the criteria #2 that paving the subject area could lead to damage and deterioration and the setback is an existing condition which creates a special circumstance.

Quasney moved and Ottenbacher seconded and the Zoning Board of Adjustment approved the Variance to waive the requirement to pave a portion of the circulation, loading/unloading and parking areas and reduce rear yard setback to 9 feet in lieu of required 25 feet based on Criteria #2. (8 to 0 with Braun, Bulman, Golliher, Heikes, Ottenbacher, Quasney, Stuck and Vidal voting yes and none voting no)

6. Staff and Zoning Board of Adjustment Discussion Items

None

There being no further business Vidal moved, Golliher seconded and unanimously carried to adjourn the meeting at 7:49 a.m. (8 to 0 with Braun, Bulman, Golliher, Heikes, Ottenbacher, Quasney, Stuck and Vidal voting yes and none voting no)
MINUTES OF THE
RAPID CITY PLANNING COMMISSION
June 23, 2022

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

MEMBERS ABSENT: Kelly Arguello, John Herr. Ron Wiefenbach, Council Liaison was also absent.

STAFF PRESENT: Vicki Fisher, Sarah Hanzel, Kip Harrington, Tanner Halonen, Marlo Kapsa, Chip Premus, Todd Peckosh, Kinsley Groote and Rebel VanLoh.

Braun called the meeting to order at 7:49 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.

Stuck requested that Item 4 be removed from the Consent Agenda for separate consideration.

Motion by Vidal seconded by Golliher and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 4 in accordance with the staff recommendations with the exception of Item 4. (8 to 0 with Braun, Bulman, Golliher, Heikes, Ottenbacher, Quasney, Stuck and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the June 9, 2022 Planning Commission Meeting Minutes.

2. No. 22PL055 - Ladd Subdivision
A request by Kevin Quinn to consider an application for a Preliminary Subdivision Plan for proposed Lot 3R and Lot 5 of Ladd Subdivision, legally described as Lot 3 of Ladd Subdivision located in Section 18, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 6620 W. Highway 44.

Planning Commission recommended that the Preliminary Subdivision Plan be approved with the following stipulations:
1. Upon submittal of the Development Engineering Plan application, construction plans for the proposed access road to Lot 5 located within a section line highway shall be submitted for review and approval in compliance with Pennington County Ordinance 14 or shall meet criteria to obtain an Exception from the Pennington County Highway Department. If an Exception is obtained, a copy of the approved document shall be submitted with the Development Engineering Plan application. If any portion of the proposed access lies outside of the section line highway on the adjacent property, an access easement shall be secured and a copy of the recorded easement shall be submitted with the Final Plat application. In addition, construction plans for a turnaround at the terminus of the
access road shall be submitted with dimensions that meet Table 1 of the Pennington County Subdivision Regulations;

2. Upon submittal of the Development Engineering Plan application, all applicable information required per 16.12.040 of the Rapid City Municipal Code shall be submitted;

3. Upon submittal of a Development Engineering Plan application, all applicable engineering design reports required for construction approval per Section 1.15 of the Infrastructure Design Criteria Manual shall be submitted. In addition, permits required for construction shall be approved and issued and construction plans shall be accepted in accordance with the Infrastructure Design Criteria Manual. All final engineering reports shall be signed and sealed by a Professional Engineer and contain a Certification Statement of Conformance with City Standards, as required by the Infrastructure Design Criteria Manual;

4. Prior to approval of the Developmental Engineering Plan application, the “Petition for Road Construction within a Section Line Right-of-Way” shall be approved by the Pennington County Board of Commissioners and documentation of this approval must be submitted;

5. Upon submittal of the Development Engineering Plan application, the applicant shall obtain an Engineer’s Cost Estimate shall be submitted for review and approval;

6. Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements;

7. Prior to approval of the Development Engineering Plan application, any necessary offsite easements shall be recorded;

8. Upon submittal of a Development Engineering Plan application, construction plans shall be submitted for review and approval for a water tank and pump that supplies a sufficient amount of water volume and pressure to meet the fire flow requirement as per the International Fire Code as adopted by the City of Rapid City or the applicant has the option to install automatic sprinkler suppression systems. If the applicant chooses to install fire sprinkler systems in lieu of providing the construction plans, then prior to submittal of the 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, prior to submittal of the Final Plat application, a Covenant Agreement shall be entered into with the City to ensure exterior cladding, open eaves, and soffits shall be constructed of classified ignition-resistant or non-combustible materials. Approved non-combustible materials include, but are not limited to: metal, fiber-cement board, traditional stucco, masonry/brick, concrete synthetic stone, and similar materials. Gutters and downspouts that are of non-combustible construction shall be installed such that the leading edge of the roof is finished with a metal drip edge so that no wood sheathing is exposed. The drip edge shall extend into the gutter. Vinyl gutters and other combustible materials are not allowed. In addition, a copy of the executed agreements shall be submitted with the Final Plat application;
9. Prior to approval of the Development Engineering Plan application, approval from the South Dakota Department of Agriculture and Natural Resources shall be secured;

10. Upon submittal of the Final Plat application, surety for any required subdivision improvements that have not been completed shall be posted and the subdivision inspection fees shall be paid; and,

11. Prior to the City’s acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required.

3. No. 22PL059 - Sweetbriar Heights
A request by KTM Design Solutions, Inc for Rodshop Enterprises LLC to consider an application for a Preliminary Subdivision Plan for proposed Lot 43RA and 43RB of Sweetbriar Heights, legally described as Lot 43R of Sweetbriar Heights, located in Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at 2051 Covington Street.

Planning Commission recommended that the Preliminary Subdivision Plan be approved with the following stipulations:
1. Prior to submittal of the Final Plat application, the plat document shall be revised to show the “formerly” legal description as, “formerly all of Lot 43R of Sweetbriar Heights”;
2. Upon submittal of the Final Plat application, the plat document shall continue to show four feet of right-of-way being dedicated along Covington Way; and
3. Upon submittal of the Final Plat application, any necessary easements shall be shown on the plat document.

---END OF CONSENT CALENDAR---

*4. No. 22UR014 - Jackson View Addition
A request by Puffy's LLC to consider an application for a Conditional Use Permit to allow a Medical Cannabis Dispensary for Lot 42 of Shaver Block 2 of Block 2 of Jackson View Addition, located in Section 2, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1002 Jackson Boulevard.

Harrington presented the application and reviewed the associated slides noting it is located in a commercial district along a commercial corridor. Harrington clarified that the Fulton Apartments, which are a residential zoned district to the rear of the property is within 500 feet but that there is separated by storage units and noted that the signage will not be visible to the residents. Harrington stated that this application had been approved by the Planning Commission in November 2021 and subsequently appealed to the City Council who overturned the Planning Commission’s decision based on the proximity to the residential use. Harrington stated that staff supports the approval of the Conditional Use Permit to allow a Medical Cannabis Dispensary with stipulations.

Kittrick Jeffries – Puffy's Dispensary, stated he would be available for any questions and request approval of the application.

In response to Braun’s question on the status of the reapplication of Conditional Use
Permits for Medical Cannabis Dispensaries that had been approved at a previous Planning Commission Meeting, Fisher confirmed that they had not been appealed to City Council.

Braun stated that Stuck would be abstaining.

Heikes commented that he is in support and Vidal agreed.

Bulman moved, Vidal seconded and the Planning Commission approved the Conditional Use Permit approved with the following stipulation(s):

1. Prior to issuance of a building permit, a medical cannabis dispensary license shall be secured from the South Dakota Department of Health;
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 dispensary 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. No operable windows or exhaust vents shall be located on the building façade that abuts a residential use or zone. Exhaust vents on rooftops shall direct exhaust away from residential uses or zones;
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;
7. Prior to submittal of a building permit application, the applicant shall enter into a Developmental Lot Agreement; a copy of the recorded document shall be submitted with the building permit application; and
8. The Conditional Use Permit shall allow a medical cannabis dispensary at the location proposed. The medical cannabis dispensary 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 establishment shall require a Major Amendment to the Conditional Use Permit. Permitted uses within the General Commercial District in compliance with the Parking Ordinance shall be allowed with a building permit. Any conditional use shall require the review and approval of a Major Amendment to the Conditional Use Permit. (8 to 0 with Braun,
Bulman, Golliher, Heikes, Ottenbacher, 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.

---BEGINNING OF REGULAR AGENDA ITEMS---

*5. No. 22PD028 - Rushmore Crossing
A request by Mylash Lounge and Nails to consider an application for a Major Amendment to a Planned Development Overlay to allow on-sale liquor in conjunction with a nail salon for Lot 2 of Block 2 of Rushmore Crossing, located in Section 30, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 951 Eglin Street, Unit 101.

Kapsa presented the application and reviewed the associated slides reviewing the suite layout showing how the beer and wine will be managed and offered only to customers of the salon allowing it to remain competitive with other salons that are able to offer beer and wine and staff recommends to approve of the Major Amendment to a Planned Development Overlay to allow on-sale liquor in conjunction with a nail salon with stipulations.

Ottenbacher spoke regarding his concerns of over saturation with liquor licenses and children being present when alcohol is being served.

Fisher spoke regarding the various uses that have been requested and approved for on-sale beer and wine for customers as a secondary service to the primary service clarifying that saturation is referring to bars where the primary use or service is to provide alcoholic beverages rather than secondary use to the primary service such as a salon, shop, restaurant.

Further discussion was had regarding the sale of alcohol and Heikes posed a question to Premus as to whether or not having these secondary uses is causing an uptick in crime to which Premus responded that they have not.

Quasney moved, Vidal seconded and the Planning Commission approved the Major Amendment to a Planned Development Overlay to allow an on-sale liquor in conjunction with an existing nail salon with the following stipulations:
1. No consumption of alcohol shall be allowed outside of the suite in which My Lash Lounge and Nails is located; and
2. The Major Amendment to a Planned Development Overlay shall allow beer and wine to be served to customers of the existing nail salon during scheduled business hours as per the applicant’s operational plan. All requirements of the General Commercial District shall be maintained unless specifically authorized as a stipulation of this Major Amendment to a Planned Development Overlay or a subsequent Major Amendment to the Planned Development. All uses permitted in the General Commercial District which do not increase parking requirements shall be permitted
contingent upon an approved Building Permit. All conditional uses in the General Commercial District or uses which increase the required amount of parking on the site shall require a Major Amendment to the Planned Development. (7 to 1 with Braun, Bulman, Golliher, Heikes, Quasney Stuck and Vidal voting yes and Ottenbacher voting no)

*6. No. 22PD029 - Rushmore Mall Addition
A request by Morgan Nolan and Wanda Miller to consider an application for a Major Amendment to Planned Development Overlay to allow on-sale liquor in conjunction with an art store for Tract A and B of Lot 2 (also in T2N, R8E), Rushmore Mall, located in Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2200 N. Maple Avenue, Unit 562A.

Halonen presented the application and reviewed the associated slides noting that the suite is an interior suite of the Uptown Rapid Mall and the applicant is planning to over beer and wine in association with art supply sales and classes and staff is recommending to approve with stipulations.

Braun posed a question regarding the states regulation of how many licenses can be in town, Kinsley stated she would have to research to provide an answer to that question.

Discussion was had regarding big picture issues pertaining to alcohol licenses including where this should be addressed.

Golliher moved, Bulman seconded and the Planning Commission approved the Major Amendment to a Planned Development to allow on-sale allow liquor in conjunction with an art store with the following stipulations;
1. All signage shall continually conform to the Sign Code. Lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A Sign Permit shall be obtained for each individual sign; and,
2. The Major Amendment to the Planned Development Overlay shall allow for on-sale liquor to be served in conjunction with the art store and in compliance with the applicant’s operational plan. Any change in use or expansion of use that is permitted in the Community Shopping Center-2 District shall require review and approval of a Building Permit. Any change in use or expansion of use that is a Conditional Use in the Community Shopping Center-2 District shall require review and approval of a Major Amendment to the Final Planned Development Overlay. (8 to 0 with Braun, Bulman, Golliher, Heikes, Ottenbacher, Quasney Stuck and Vidal voting yes and none voting no)

The Rapid City Planning Commission’s action on this item is final unless any...
No. 22UR013 - Hope Court Condominiums
A request by Canada Salter and Jeff Salter for BIN 605 LLC to consider an application for a Major Amendment to a Conditional Use Permit to expand on-sale liquor in conjunction with existing restaurant for Unit 1 and 22.18 percent of Common Area of Hope Court Condominiums, located in Sections 26 and 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2001 Hope Court, Suite 1.

Kapsa presented the application and reviewed the associated slides recommendation noting that the restaurant currently has on-sale in the interior and wish to expand to the patio noting that the patio is fenced in with access taken only from the interior of the restaurant with gates that will be locked. Kapsa stated that an Exception to allow 61 parking spaces in lieu of the required 72 spaces has been approved and that staff recommends to approve the Major Amendment to a Conditional Use Permit to expand on-sale liquor in conjunction with existing restaurant with stipulations.

Fisher clarified that this location already has a conditional use permit for alcohol, but stipulations of approval required any expansion of use would require a Major Amendment to the Conditional Use Permit.

Discussion regarding parking and fencing followed.

Vidal moved and Ottenbacher seconded and the Planning Commission approved the Major Amendment to a Conditional Use Permit to expand on-sale liquor in conjunction with an existing restaurant with the following stipulations:

1. All plans and construction shall comply with South Dakota Codified Law 36-18A and all adopted codes and ordinances. A building permit shall be obtained prior to any construction;

2. The requested Major Amendment to a Conditional Use Permit to expand on-sale liquor in conjunction with an existing restaurant shall allow the expansion of the on-sale liquor use to allow a 300 square-foot outdoor dining space to be used during the warm months of the year. The outdoor dining space shall be fenced as proposed. Any change in use shall require a Major Amendment to the Conditional Use Permit. All requirements of the General Commercial District shall be continually maintained. Any permitted use within in the General Commercial District shall be allowed with a Building Permit. Conditional uses in the General Commercial District, or any additional expansion of the on-sale liquor use on the property shall require a Major Amendment to the Conditional Use Permit. (8 to 0 with Braun, Bulman, Golliher, Heikes, Ottenbacher, 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.
8. **Staff and Planning Commission Discussion Items**

   Discussion occurred about the concentration of on-sale liquor uses and the need for guidance on the issue for the Planning Commission. Fisher discussed review processes for all applications including on-sale, reminding the Planning Commission that it needs to be contained to the criteria of review.

   Discussion followed regarding placement of items on Consent Agenda or Non-Consent Agenda.

   There being no further business, Ottenbacher moved, Bulman seconded and unanimously carried to adjourn the meeting at 8:55 a.m. (8 to 0 with Braun, Bulman, Golliher, Heikes, Ottenbacher, Quasney Stuck and Vidal voting yes and none voting no)