

MINUTES OF THE  
RAPID CITY ZONING BOARD OF ADJUSTMENT  
April 20, 2023

MEMBERS PRESENT: Erik Braun, Karen Bulman, Mike Gollither, Eirik Heikes, Mike Quasney and Vince Vidal.

MEMBERS ABSENT: Kelly Arguello, John Herr, Haven Stuck, Brook Kaufman. Bill Evans, Council Liaison was also present.

STAFF PRESENT: Vicki Fisher, Tanner Halonen, Alex Osborne, Jonathan Howard, Kip Harrington, Sarah Hanzel, Chip Premus, Todd Peckosh, Kinsley Groote and Andrea Wolff.

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

1. Approval of the January 5, 2023 Zoning Board of Adjustment Minutes

**Bulman moved and Vidal seconded and the Zoning Board of Adjustment approved the January 5, 2023 Zoning Board of Adjustment Minutes. (6 to 0 with Braun, Bulman, Gollither, Heikes, Quasney, and Vidal voting yes and none voting no)**

2. No. 23VA003 - Pine Hills Subdivision

A request by Mike Swenson to consider an application for a **Variance to allow a height of 19 feet 6 inches in lieu of maximum height of 15 feet for an attached garage** for Lot 53 and 54 of Pine Hills Subdivision, located in Section 28, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1355 Pinehills Drive.

Osborne presented the application and reviewed the associated slides noting that the site has a 2,000 sq. feet residential structure, 3 sheds and a car port. The proposed garage is 3,768.5 square foot overall with 2,418 square feet on the main floor and 1,130 square feet on 2<sup>nd</sup> story loft with a covered deck. The applicant is proposing to build the structure into the grade to mitigate the impact of the height. Osborne explained the measurement to obtain the mean height level. Osborne reviewed the review criteria for denial and approval. He noted the lot is heavily wooded with large distances from other structures and the garage does not adversely affect the neighborhood, however, he noted staff recommends the Variance to allow a height of 19 feet 6 inches in lieu of maximum height of 15 feet for an attached garage be denied as it only meets 3 of the 5 criteria.

Fisher clarified that size of the garage will be addressed in a Conditional Use Permit which, will be heard separately, dependent on approval of the Variance.

Mike Swensen, applicant, stated he is looking to use the structure for hobbies and that the height does not cause the neighbors view to be impacted.

**Bulman moved and Quasney seconded and the Zoning Board of Adjustment approved the Variance to allow a two-story, 19.5 foot high accessory structure in lieu of the maximum height of 15 feet for an attached garage based on Criteria #4 and #5. (6 to 0 with Braun, Bulman, Golliher, Heikes, Quasney, and Vidal voting yes and none voting no)**

3. Staff and Zoning Board of Adjustment Discussion Items

None

There being no further business Vidal moved, Quasney seconded and unanimously carried to adjourn the meeting at 7:15 a.m. (6 to 0 with Braun, Bulman, Golliher, Heikes, Quasney, and Vidal voting yes and none voting no)

MINUTES OF THE  
RAPID CITY PLANNING COMMISSION  
April 20, 2023

MEMBERS PRESENT: Erik Braun, Karen Bulman, Mike Gollhofer, Eirik Heikes, Mike Quasney, and Vince Vidal.

MEMBERS ABSENT: Kelly Arguello, John Herr, Brook Kaufman, Haven Stuck. Bill Evans, Council Liaison was also absent.

STAFF PRESENT: Vicki Fisher, Sarah Hanzel, Kip Harrington, Tanner Halonen, Alex Osborne, Jonathan Howard, Chip Premus, Todd Peckosh, Kinsley Groote and Andrea Wolff.

Braun called the meeting to order at 7:15 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 3 be removed from the Consent Agenda for separate consideration.**

**Motion by Vidal seconded by Gollhofer 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 3. (6 to 0 with Braun, Bulman, Gollhofer, Heikes, Quasney, and Vidal voting yes and none voting no)**

**---CONSENT CALENDAR---**

1. Approval of the April 6, 2023 Planning Commission Meeting Minutes.
2. No. 23PL027 - Lien HQ Subdivision  
A request by Avid4 Engineering for Pete Lien & Sons to consider an application for a **Preliminary Subdivision Plan** for proposed Lot 1 of Lien HQ Subdivision, legally described as the SE1/4 of the SE1/4, Less Lot H1, H2, H3 and H4 in the SE1/4 of the SE1/4; less a portion of Lot A and Lot B in the S1/2 of the SE1/4; less Tract B Revised of Lien Industrial Park No. 2; Less Tract A Revised of Lien Industrial Park No. 2 Less Lot H1; Less Lot 1 of the SE1/4 of the SE1/4; and vacated portion of Universal Drive in the SE1/4 of the SE1/4 all located in Section 21, T2N, R7E and the NE1/4 of the NE1/4 Less portion of Lot A in the NE1/4 of the NE1/4, Less Lot H-1 in the NE1/4 of the NE1/4, Less Lot H1 of Lot 10 of Block 1 of Lien Industrial Park all located in Section 28, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 3401 Universal Drive.

**Planning Commission recommended that the Preliminary Subdivision Plan be approved with the following stipulations:**

1. **Upon the submittal of a Final Plat application, the plat document shall identify all necessary easements.**

4. No. 08TI007D - Sections 23, 24, 26 27, 34 and 35, T1N, R7E  
A request by Dream Design International, Inc. to consider an application for a **Resolution to Dissolve Tax Increment District No. 70** for Utility Lot 1 Par Subdivision; Tract 2 and Tract 3 of Par Subdivision; all located in Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Unplatted Portion of NE1/4 SW1/4 Lying N of Hwy Right-of-Way; Unplatted Portion of NW1/4 SW1/4 Lying N of Hwy Less Lot H1; Unplatted Portion of NW1/4 SW1/4 Lying South of Hwy, Right-of-Way Less Lot H1; Unplatted SW1/4 SW1/4, Less Lot H2 & Less Right-of-Way; all located in Section 24, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Tract A and Tract B of Meadow View Subdivision; Unplatted, E1/2 W1/2 NE1/4 NW1/4 and the W1/2 E1/2 NE1/4 NW1/4; Unplatted Portion of NE1/4 NW1/4 NW1/4 Lying East of Hwy 16 Less Shipman Heights Subdivision and Less Right-of-Way; Lot A Tucker Subdivision; Lot 1 Shipman Heights Subdivision; Unplatted Portion of SE1/4 NW1/4 NW1/4 Lying East of Hwy 16 Less Right-of-Way; Lot A Ranch Subdivision; Tract 1 of W1/2 NW1/4 Less Lot A of Ranch Subdivision, Less Connector Subdivision, Less Lots H1, H2, H3 & Right-of-Way; Tract AR2 Needles Subdivision; Tract B Needles Subdivision; Tract 1 Waterslide Addition; Unplatted Balance of S1/2 SE1/4 NW1/4; Unplatted Balance of NE1/4 SW1/4; Lot 4R and Lot 5 of Old Rodeo Subdivision; Lot 2 and Vacated Physician Drive Adjacent of Said Lot 2 Old Rodeo Subdivision; Lot 3 and Vacated Physician Drive Adjacent to Said Lot 3 Old Rodeo Subdivision; Lot 1 Less Lots 2, 3, 4R, 5 and ROW Old Rodeo Subdivision; Unplatted Lot B of SW1/4 SW1/4 Less RTY; Right-of-Way of Tucker Street; Right-of-Way of Promise Road; Right-of-Way of Jordan Drive; Right-of-Way of Addison Avenue; all located in Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Lot 1 and Lot 2 of Connector Subdivision, all located in Sections 26 and 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Platted Tract 1 of SE1/4 NE1/4 Less Connector Sub & Less Lot H1, Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Unplatted NW1/4NW1/4 less Lot H1 and less right-of-way; Unplatted SE1/4NW1/4; Unplatted W1/2SE1/4 and SE1/4SE1/4; Unplatted NE1/4SW1/4; Unplatted SW1/4NW1/4 less Lot H1 and less right-of-way; all located in Section 35, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Right-of-Way of Catron Boulevard located in Sections 23, 24, 26, and the SE1/4 NE1/4 of Section 27, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota; Right-of-Way of U.S. Highway 16 located in Section 26, 27, NE1/4 of Section 34, and NW1/4 of Section 35, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located along Catron Boulevard from Fifth Street to South U.S. Highway 16, then south along U.S. Highway 16 to Sammis Trail and east to Hyland Crossing Subdivision.

**Planning Commission recommended approving the Resolution to Dissolve TID #70**

**---END OF CONSENT CALENDAR---**

- \*3. No. 23UR010 - Robbinsdale Addition No. 10  
A request by Jenny Jimenez to consider an application for a **Conditional Use Permit to allow a child care center** for Lot 8 of Block 13, of Robbinsdale Subdivision No. 10, located in Section 10, T1N, R7E, BHM, Rapid City, Pennington

County, South Dakota, more generally described as being located at 3747 Sonora Drive.

Halonen presented the application and reviewed the associated slides. Halonen stated that the applicant resides in the property and currently operates a Child Care Center for 12 children and is proposing to operate a Child Care Center for up to 20 children with two staff members. The applicant will be constructing an ADA parking space to the southeast of the driveway to meet the parking requirement. Halonen reviewed the operational plan which addresses the drop off and pick up plan to control the number of vehicles accessing the driveway at any one time. Halonen reviewed the layout and proposed use of space. Halonen said staff recommends the Conditional Use Permit to allow a child care center be approved with stipulations.

Jenny Jimenez stated she was here to answer questions.

Neighbor concerns were discussed with staff noting that only one was received addressing covenants, which staff noted that city does not enforce covenants.

**Vidal moved, Bulman seconded and the Planning Commission approved the Conditional Use Permit to allow a child care center with the following stipulations;**

- 1. Upon the submittal of a Building Permit application, the plans submitted shall identify that the child care center has sufficient fire sprinkler, smoke detection, and fire alarm systems;**
- 2. Prior to the approval of a Building Permit, the existing greenhouse shall be relocated a minimum of five feet from the south property line or a Variance shall be obtained;**
- 3. All construction plans shall be signed and stamped by a registered professional pursuant to South Dakota Codified Law 36-16A;**
- 4. A minimum of four parking spaces and one van-accessible space shall be provided. Parking shall be designed in compliance with the City's Parking Regulations;**
- 5. A minimum of 1,000 square feet of outdoor play space and 700 square feet of indoor play space shall be provided; and,**
- 6. The Conditional Use Permit shall allow a child care center for a maximum of 20 children in compliance with the applicant's operational plan. Any change in use or expansion of use permitted in the Low Density Residential District shall require the review and approval of a Building Permit. Any change in use or expansion of use that is a Conditional Use in the Low Density Residential District shall require review and approval of a Major Amendment to the Conditional Use Permit. (6 to 0 with Braun, Bulman, Gollither, Heikes, Quasney 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. 23UR009 - Watersedge Subdivision

A request by KTTK LLC DBA Crushmore to consider an application for a **Major Amendment to a Conditional Use Permit to allow a medical cannabis manufacturing facility** for Lot 2 of Watersedge Subdivision, located in Section 27, T2N, R7E, Rapid City, Pennington County, South Dakota, more generally described as being located at 1810 Rand Road, Building B.

Harrington presented the application and reviewed the associated slides and noted the existing structure on the property is permitted as a cannabis cultivation facility and reviewed the site plan showing the proposed 2,400 square foot manufacturing facility. Harrington stated that the location meets the zoning and separation requirements. Harrington stated he had a call of interest by a neighboring business, but when the proposed use was identified they did not have a concern. Harrington stated that staff recommends approval with stipulations.

It was confirmed that as part of obtaining the building permit, drainage on the property would have to be addressed.

**Golliher moved and Vidal seconded and the Planning Commission approved that the Conditional Use Permit with the following stipulation(s):**

1. **Prior to issuance of a certificate of occupancy, a medical cannabis cultivation and manufacturing facility 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 facility as a permitted use and shall be sufficient cause for revocation of the 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. **Prior to issuance of a building permit, the applicant shall revise the site plan to identify the water service to the proposed building, and identify the location of the required master meter on the property;**
4. **The waste management plan shall be continually monitored to ensure the security of waste handling;**
5. **The security plan shall be continually monitored to ensure that all areas and operation of the medical cannabis cultivation and manufacturing facility are provided 24/7 surveillance and recovery of video shall be provided as needed;**
6. **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;
7. 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,
  8. The Conditional Use Permit shall allow a medical cannabis cultivation and manufacturing facility at the location proposed. The medical cannabis cultivation and manufacturing facility 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 and manufacturing facility 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. (6 to 0 with Braun, Bulman, Gollhofer, Heikes, Quasney 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. 23VR002 - Original Town of Rapid City

A request by Schreier Engineering, Inc for Rob Huber to consider an application for a **Vacation of Right-of-Way** for the westerly 20 feet of 1st Street adjacent to Lot 1 of Block 119 of Original Town of Rapid City, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 1st Street between Quincy and the alley.

Harrington presented the application and reviewed the application noting the applicant is requesting a 20 foot span of right-of-way be vacated, that vacating this right-of-way will create a discontinuous roadway along 1<sup>st</sup> Street and that Public Works has stated that a project to install a 20" water main in 1<sup>st</sup> Street may be impacted by this vacation of right-of-way. Harrington stated that staff recommends denial of the request based on maintaining the consistent right-of-way along 1<sup>st</sup> Street and to protect the future water main construction.

Allen Schreier, engineer working on project, spoke to the fact that the dead end nature of the road within a block and believes that the city has enough room for the installation of the new main as the existing right-of-way is excessive and he feels the city can give up some right-of-way without being detriment to future plans. Schreier said the applicant is willing to work with City to acquire the vacation of right-of-way.

Ron Huber, spoke of the work he has done on the property stating he wants to add an addition to the existing house which he believes will improve the area.

Sewer use and design, options other than vacating right-of-way including

Variance, small lot size and other options available were discussed.

Quasney moved to deny, seconded by Golliher.

Bulman offered substitute motion to continue to May 25, 2023 Planning Commission Meeting.

**Bulman moved and Heikes seconded and the Planning Commission continued the Vacation of Right-of-Way to the May 25, 2023 Planning Commission Meeting. (6 to 0 with Braun, Bulman, Golliher, Heikes, Quasney and Vidal voting yes and none voting no)**

7. No. 23TI001 - Section 13 and 24, T2N, R7E

A request by Vanocker Development for Eastern Slope Land Corp. to consider an application for a **Resolution to Create a Tax Increment District Boundary and Adopt a Project Plan** for Lots 2 thru 5 of Block 5, Lots 2 thru 3 of Block 7 and Restricted Lot A of Kateland Subdivision, Located in Section 13, T2N, R7E; Lots 1 of Block 6 of Kateland Subdivision, Located in Section 24, T2N, R7E and Lot 1 of Block 7 of Kateland Subdivision, Located in Sections 13 and 24, T2N, R7E, all located in BHM, Rapid City, Pennington County, South Dakota, more generally described as being located western terminus of County Road, west of the intersection of Brooke Street.

Hanzel stated that this will be known as the Country Road West Extension Tax Increment District and presented the application and reviewed TIF process. Hanzel noted the TIF committee approved with revision which has been made to this existing request. Hanzel noted this is expected to be classified as a Local District which is different from other TIDs which are identified as Economic Development Districts. Hanzel reviewed the fees, costs, impacts and overall figures for the TIF. Hanzel reviewed State statutes and City TIF policies and stated that per State Law staff if Planning Commission recommends approval of creating the District and adopting the Project Plan then staff recommends that the stipulations at the end of the report be incorporated into the Developer's Agreement.

The description of blight was discussed, work force housing verses affordable housing and the difference between them, with this being market rate housing, use of TIFs for residential development and the opening of access approximately 600 additional acres of land for development by the connection of the Petros Lane to West Country Road. Revenue repayment was discussed.

Bulman stated she was on the TIF Committee that reviewed and approved this TIF noting she voted against this request and reviewed why including the street being needed but she does not feel it is a priority connection and that it is developer driven. She also noted she has concerns regarding the private utility fees that are included. However, she does like the connectivity it will create.

Roberts discussed the need for housing in the city and the need to step up and make it happen. He noted that TIFs are long term payoff risks that need to be taken to provide what is needed.



Bulman no

**Heikes moved and Gollher seconded and the Planning Commission recommended approval of creating the District and adopting the Project Plan with the following stipulations being incorporated into the Developer's Agreement:**

- 1. The City and the applicant shall enter into a Developer's Agreement and an Assignment Agreement following approval of the Resolutions to Create a District and Adopt a Project Plan;**
- 2. The Developer's Agreement shall include language identifying that any funding deficiency in the Project Plan shall be the responsibility of the developer to fully fund and construct;**
- 3. The Developer's Agreement shall include a requirement that any plans used for bidding of Tax Increment Financing project components be approved by the Public Works Department prior to the bid opening; and,**
- 4. There is an existing oversize agreement for the water main. To avoid paying twice for this infrastructure, the agreement shall be rescinded if the TIF District is approved. (6 to 0 with Braun, Gollher, Heikes, Quasney and Vidal voting yes and Bulman voting no)**

8. No. 23TI002 - Highpointe North Subdivision

A request by Site Works Inc for Watershed Development II LC to consider an application for a **Resolution to Create Tax Increment Financing District and Resolution to Adopt a Project Plan** for Lots 1 thru 19 and Lot 36 of Block 1, Lots 1 thru 10 of Block 2, Lots 1 thru 5 of Block 3 of Highpoint Ranch Subdivision; the N1/2 of the SE1/4 of the SE1/4, Less Highpointe Ranch Subdivision, Less Highpointe Ranch North Subdivision and Less right-way; that part of the E1/2 of Section 20, located inside the Rapid City Limits, Less Highpointe Ranch Subdivision, Less Highpointe Crescent Subdivision and Less Highpointe Ranch North Subdivision, all located in Section 20, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of Cloud Peak Drive and Targhee Drive.

Hanzel presented the application and noted it would create the Highpointe North Lift Station Tax Increment District and reviewed the area and the purpose to create a lift station, sewer line and force main, which could support up to 240 houses to the east. Hanzel reviewed the overall numbers noting that this TIF is identified as Local District which as noted earlier effects the distribution of revenue for the School District to local tax payers instead of state wide tax payer. Hanzel reviewed the State statutes and City policy for TIFs. Hanzel reviewed State statutes and City TIF policies and stated that per State Law staff if Planning Commission recommends approval of creating the District and adopting the Project Plan then staff recommends that the stipulations at the end of the report be incorporated into the Developer's Agreement.

Dan Wenk, adjacent property owner, spoke to his concerns regarding the level of return and the use of funds.

Andy Scull, developer associated with TIF, reviewed the proposed project plan.

**Bulman moved and Vidal seconded and the Planning Commission**

**recommended approval of creating the District and adopting the Project Plan with the following stipulations being incorporated into the Developer's Agreement:**

- 1. The City and the applicant shall enter into a Developer's Agreement and an Assignment Agreement following approval of the Resolutions to Create a District and Adopt a Project Plan;**
- 2. The Developer's Agreement shall include language identifying that any funding deficiency in the Project Plan shall be the responsibility of the developer to fully fund and construct;**
- 3. The Developer's Agreement shall include a requirement that any plans used for bidding of Tax Increment Financing project components be approved by the Public Works Department prior to the bid opening; and,**
- 4. No reimbursement shall occur until the sewer connection to the east lot line is made. This sewer connection shall provide the physical connection to serve the property to the east as identified in Figure 2 of the application. (6 to 0 with Braun, Bulman, Gollither, Heikes, Quasney and Vidal voting yes and none voting no)**

9. Staff and Planning Commission Discussion Items

Fisher reviewed that back in 2018 revisions were made to the RCMC addressing Planning Commission make up and appointment criteria to remove the requirement for representation from all 5 wards, but the by-laws were not updated at that time. Fisher stated that if the Planning Commission supports the change to by-laws to align with the RCMC staff will bring forward an amendment to the By-Laws to reflect this change.

**Vidal moved, Quasney seconded to amend the Planning Commission By-Laws to align with Chapter 2 of RCMC. (6 to 0 with Braun, Bulman, Gollither, Heikes, Quasney and Vidal voting yes and none voting no)**

Braun spoke to the continued expansion out west continues to create issues along Sheridan Lake Road and asks that it be kept in everyone's minds.

**There being no further business, Bulman moved, Vidal seconded and unanimously carried to adjourn the meeting at 8:55 a.m. (6 to 0 with Braun, Bulman, Gollither, Heikes, Quasney and Vidal voting yes and none voting no)**