

MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
April 4, 2024

MEMBERS PRESENT: Kelly Arguello, Erik Braun, Karen Bulman, Alicia Ginsberg, Mike Gollither, Eirik Heikes, Haven Stuck, Brook Kaufman, Mike Quasney and Vince Vidal. Pat Roseland Council Liaison was also present.

MEMBERS ABSENT: John Herr

STAFF PRESENT: Vicki Fisher, Jessica Olson, Kip Harrington, Tanner Halonen, Cassie Hayes, Morgan Twombly, 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 8, 2024 Zoning Board of Adjustment Meeting Minutes.

Gollither moved, Vidal seconded and the Zoning Board of Adjustment approved the February 8, 2024 Zoning Board of Adjustment Minutes. (9 to 0 with Arguello, Braun, Bulman, Gollither, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)

2. No. 24VA002 - Pine Hills Subdivision

A request by Mike Swenson to consider an application for a **Variance to increase the maximum height from 15 feet to 19 feet 6 inches for a detached garage with a second story accessory dwelling unit** for Lots 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 Pine Hills Drive.

Hayes presented the application and reviewed the associated slides outlining the previously approved applications for this property including a previous Variance to allow the height of 19 feet 6 inches in lieu of maximum 15 feet (23VA003) and the Conditional Use Permit (23UR005) to allow an oversized garage which had a stipulation that required the space be used for storage and not a residence or commercial use. Hayes stated the applicant is requesting to finish the 2nd story of the garage as a 2nd floor Accessory Dwelling Unit. Additionally, Hayes noted that due to shallow bed rock the garage is not able to connect to the septic system that services the house so holding tanks have been installed to service this structure. Hayes reviewed the ADU regulations noting this is outside of the intended use for ADUs and that the large size of the property allows for the possibility of building the proposed ADU elsewhere on the lot. Hayes further noted that this change of use would affect the Conditional Use Permit, the Variance and the Building Permit. Hayes stated that staff is recommending denial of the Variance to increase the maximum height from 15 feet to 19 feet 6 inches for a detached garage with a second story accessory dwelling unit as there are no special circumstances, the previous request stated it would not be used as residence, reasonable use of property is available, this is beyond the minimal adjustment necessary, and the 2nd story ADU is not in harmony with the intent of the ADU ordinance.

The use of holding tanks, the change of use and reasons for granting Variances were discussed.

Fisher reviewed the history of the property noting that the stipulation of approval for the prior Conditional Use Permit clearly defined the 2nd story portion of the garage would not be used for residential.

Bulman moved, Heikes seconded and the Zoning Board of Adjustment denied the Variance to increase the maximum height from 15 feet to 19 feet 6 inches for a detached garage with a second story accessory dwelling unit based on Criteria that there ar No special Circumstances and Reasonable Use Exists. (9 to 0 with Arguello, Braun, Bulman, Golliher, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)

3. Staff and Zoning Board of Adjustment Items

None

There being no further business Vidal moved, Kaufman seconded and unanimously carried to adjourn the meeting at 7:17 a.m. (9 to 0 with Arguello, Braun, Bulman, Golliher, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
April 4, 2024

MEMBERS PRESENT: Kelly Arguello, Erik Braun, Karen Bulman, Alicia Ginsberg, Mike Gollither, Eirik Heikes, Brook Kaufman, Mike Quasney, Haven Stuck and Vince Vidal. Pat Roseland Council Liaison was also present.

MEMBERS ABSENT: John Herr

STAFF PRESENT: Vicki Fisher, Jessica Olson, Kip Harrington, Tanner Halonen, Cassie Hayes, Morgan Twombly, Chip Premus, Todd Peckosh, Kinsley Groote and Andrea Wolff.

Braun called the meeting to order at 7:17 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 Items 3 be removed from the Consent Agenda for separate consideration.

Motion by Vidal seconded by Kaufman and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 4 in accordance with the staff recommendations with the exception of Items 3. (9 to 0 with Arguello, Braun, Bulman, Gollither, Heikes, Kaufman, Quasney, Stuck and Vidal voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the March 21, 2024 Planning Commission Meeting Minutes.
2. No. 23PL090 - Falcon Crest 2 Subdivision
A request by KTM Design Solutions, Inc for Jeffrey and Mary Marrs to consider an application for a **Preliminary Subdivision Plan** for Lots 1 thru 3 of Block 1 and Lots 1 thru 10 of Falcon Crest 2 Subdivision, legally described as W1/2 of the SW1/4 of Section 32 T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located at 8550 Countryside Boulevard.

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

1. **Prior to the submittal of a Development Engineering Plan application, the applicant shall schedule a pre-application conference as required by §16.08.070 of the Rapid City Municipal Code;**
2. **Prior to the submittal of a Development Engineering Plan application, the plat document shall be revised to identify a second access to the subdivision or an Exception shall be obtained from City Council to allow 118 lots in lieu of a maximum of 40 with one point of access. If an Exception is obtained, a copy of the approved document shall be submitted with the Development Engineering Plan application;**

3. Upon the submittal of a Development Engineering Plan application, all information as per §16.12.040 of the Rapid City Municipal Code shall be submitted for review and approval, as applicable;
4. Upon the submittal of a Development Engineering Plan application, engineering design reports (in part to include water, sewer, drainage, and pavement) shall be submitted for review and approval as per §1.15 of 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;
5. Upon the submittal of a Development Engineering Plan application, construction plans pursuant to Figure 2-1 of the Infrastructure Design Criteria Manual for a Collector Street, except for a sanitary sewer main, shall be submitted for review and approval for Countryside Boulevard or the criteria for obtaining an Exception shall be met. If an Exception is obtained, a copy of the approved document shall be submitted with the Development Engineering Plan application;
6. Upon the submittal of a Development Engineering Plan application, construction plans pursuant to Figure 2-1 of the Infrastructure Design Criteria Manual for a Local Street, except for a sanitary sewer main, shall be submitted for review and approval for the Section Line Highway; or the criteria for obtaining an Exception shall be met, or a Vacation of Right-of-Way Application shall be submitted for review and subsequently approved. If an Exception is obtained, or if the Section Line Highway is vacated a copy of the approved document shall be submitted with the Development Engineering Plan application;
7. Upon the submittal of a Development Engineering Plan application, construction plans pursuant to Figure 2-1 of the Infrastructure Design Criteria Manual for a Lane/Place Street, except for a sanitary sewer main, shall be submitted for review and approval for the proposed right-of-way extending south from Countryside Boulevard and for the existing Access Easement, or the criteria for obtaining an Exception shall be met. If an Exception is obtained, a copy of the approved document shall be submitted with the Development Engineering Plan application;
8. Prior to the approval of a Development Engineering Plan application, the plat document shall be revised to identify property line sidewalks adjacent to the proposed lots along Countryside Boulevard, along the right-of-way extending south from Countryside Boulevard, and along the Access Easement, or Variances shall be obtained from City Council to waive this requirement. If Variances are obtained, a copy of the approved document shall be submitted with the Development Engineering Plan application;
9. Prior to the approval of a Development Engineering Plan application, a water engineering design report shall be submitted for review and subsequently approved by the Colonial Pine Hills Water District;
10. Prior to the approval of a Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements;
11. Prior to the approval of a Development Engineering Plan application, a cost estimate for the required subdivision improvements shall be submitted for review and approval;
12. Prior to the approval of a Development Engineering Plan application, approval from the South Dakota Department of Agriculture and Natural

13. **Resources shall be secured;**
 14. **Prior to the approval of a Development Engineering Plan application, any necessary off-site easements shall be secured;**
 15. **Prior to the submittal of a Final Plat application, if an Exception to the '40-unit rule' is obtained, the owner shall enter into a Covenant Agreement with the City to ensure the installation of fire suppression systems in any new residential structures in lieu of providing a second access to the development. The system design and installation shall meet the system requirements of the National Fire Protection Agency 13, 13R, and 13D as applicable. A copy of the executed agreement shall be submitted with the Final Plat application;**
 16. **Prior to the submittal of a Final Plat application a Covenant Agreement shall be entered into with the City to ensure that exterior building construction materials, building separations, and landscaping provisions are in conformance with the best practices established by the Rapid City Fire Department Survivable Space Initiative. A copy of the executed agreement shall be submitted with the Final Plat application;**
 17. **Prior to the submittal of a Final Plat application, a Covenant Agreement shall be entered into with the City to ensure the maintenance and ownership of any proposed drainage element. A copy of the executed agreement shall be submitted with the Final Plat application;**
 18. **Upon the submittal of a Final Plat application, documentation shall be submitted to show that the Falcon Crest Estates Road District shall approve and accept all created parcels and roadways into the Road District;**
 19. **Upon the submittal of a Final Plat application, the plat document shall be revised to show that 68 feet of right-of-way will be dedicated east of the proposed cul-de-sac and abutting the east property line;**
 20. **Upon the submittal of a Final Plat application, street right-of-way names approved by the Emergency Communications Service Center shall be labeled on the plat document;**
 21. **Upon the submittal of a Final Plat application, the plat document shall identify all necessary easements. Miscellaneous documents shall be provided for all necessary easements outside of the plat boundary;**
 22. **Upon the submittal of a Final Plat application, surety approved by the City Attorney's Office shall be posted for any required subdivision improvements that have not been completed and the subdivision inspection fees shall be paid; and,**
 23. **Prior to the City's acceptance of public improvements, a warranty surety shall be submitted for review and approval as required.**
4. No. 24RZ005 - Robbinsdale Addition No. 10
A request by Williams & Associates Architecture, Inc for Black Hills Surgical Hospital, LLP to consider an application for a **Rezoning request from Low Density Residential District I and Office Commercial District** for Lot 1R of Block 17 of Robbinsdale Addition No. 10, located in Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 201 Anamaria Drive.

Planning Commission recommended approval of the Rezoning request from Low Density Residential District I to Office Commercial District.

---END OF CONSENT CALENDAR---

3. No. 24PL019 - Dvorak Subdivision

A request by Advanced Design Engineering and Surveying, Inc for Christopher Dvorak to consider an application for a **Preliminary Subdivision Plan** for proposed Lots 1 thru 4 of Dvorak Subdivision, legally described as the NE1/4 of the NW1/4 of the SE1/4; the NE1/4 of the SE1/4; the N1/2 of the SE1/4 of the SE1/4 of Section 25, T2N, R6E, BHM, Pennington County, South Dakota, more generally described as being located northeast of the intersection of Sun Ridge Road and Pushing Place.

Stuck stated that he had questions on the item noting that the attachments were not linked.

Halonen presented the application reviewing some of the major stipulation requirements including the 40 lot rule and noting that staff recommends approval of the Preliminary Subdivision Plan with the stipulations outlined in the Staff Report.

Fisher noted that the number of stipulations are part of the “what if” process of Preliminary Subdivision Plan for large lots of property at the end of a dead-end road.

In response to a question on fire mitigation, Chip Premus with the Fire Department explained what fire mitigation does and why the Fire Department requests that the Fire Suppression and Wildland Fire Mitigation Agreement be added to the stipulations of approval. Fisher provided language for an additional stipulation.

Fisher and Braun both noted that it is unusual to add stipulations at this late date, but they both feel this issue is important that staff should work with the consultant and applicant to make this addition as simple as possible. Fisher additionally noted that the Fire Department does assist the applicant to prepare the plan and makes themselves available as the process is worked through.

Janelle Fink, Advanced Design representing the applicant, stated that she had discussed the potential need for this agreement with the applicant so does not anticipate it being an issue, she also noted that parts of the area have already had mitigation in effect from a previous fire event.

Vidal moved, Quasney seconded and the Planning Commission recommended that the Preliminary Subdivision Plan be approved with the following stipulations:

1. **Prior to the submittal of a Development Engineering Plan application, the plat document shall be revised to identify a second access to the subdivision or an Exception shall be obtained from City Council to allow 48 lots in lieu of a maximum of 40 with one point of access. If an Exception is obtained a copy of the approved document shall be submitted with the Development Engineering Plan application;**
2. **Prior to the submittal of a Development Engineering Plan application, the criteria for obtaining an Exception shall be met to allow an**

approximately 3,450-foot cul-de-sac street in lieu of 1,500 feet or the plat shall be revised accordingly. If an Exception is obtained, a copy of the approved document shall be submitted with the Development Engineering Plan application;

3. Upon the submittal of a Development Engineering Plan application, all information as per §16.12.040 of the Rapid City Municipal Code shall be submitted for review and approval, as applicable;
4. Upon the submittal of a Development Engineering Plan application, engineering design reports (in part to include water, sewer, drainage, and pavement) shall be submitted for review and approval as per §1.15 of 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;
5. Upon the submittal of a Development Engineering Plan application, construction plans pursuant to Figure 2-1 of the Infrastructure Design Criteria Manual for a Collector Street, except for a water and sanitary sewer main, shall be submitted for review and approval for Sun Ridge Road or the criteria for obtaining an Exception shall be met. If an Exception is obtained a copy of the approved document shall be submitted with the Development Engineering Plan application;
6. Upon the submittal of a Development Engineering Plan application, the plat document shall be revised to identify shared access between proposed Lots 1 and 2 and between proposed Lots 3 and 4 or the criteria for obtaining an Exception shall be met. If an Exception is obtained a copy of the approved document shall be submitted with the Development Engineering Plan application;
7. Upon the submittal of a Development Engineering Plan application, construction plans for intermediate turnarounds shall be submitted for review and approval as per §2.13.2 of the Infrastructure Design Criteria Manual or the criteria for obtaining an Exception shall be met. If an Exception is obtained a copy of the approved document shall be submitted with the Development Engineering Plan application;
8. Prior to the approval of a Development Engineering Plan application, the plat document shall be revised to identify property line sidewalks adjacent to the proposed lots along Sun Ridge ~~Boulevard Road~~ **about the street a distance of 200 feet or less,** and along the ~~Section Line Highway~~ or a ~~Variances~~ shall be obtained from City Council to waive this requirement. If ~~a Variances are~~ **is** obtained a copy of the approved documents shall be submitted with the Development Engineering Plan application;
9. Prior to the approval of a Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements;
10. Prior to the approval of a Development Engineering Plan application, a cost estimate for the required subdivision improvements shall be submitted for review and approval;
11. Prior to the approval of a Development Engineering Plan application, any necessary off-site easements shall be secured;
12. Prior to the submittal of a Final Plat application, if an Exception to the

'40-unit rule' is obtained the owner chooses to enter into a Covenant Agreement with the City to ensure the installation of fire suppression systems in any new residential structures in lieu of providing a second access to the development. The system design and installation shall meet the system requirements of the National Fire Protection Agency 13, 13R, and 13D as applicable. A copy of the executed agreement shall be submitted with the Final Plat application;

13. Prior to the submittal of a Final Plat application, Covenant Agreements shall be entered into with the City to ensure that:
 - Exterior building construction materials, building separations, and landscaping provisions are in conformance with the best practices established by the Rapid City Fire Department Survivable Space Initiative; and,
 - Fire apparatus turnarounds are provided at the terminus of the future driveways in excess of 150 feet in length on proposed Lot 1 and on proposed Lots 2 through 4 if required.

A copy of the executed agreements shall be submitted with the Final Plat application.

14. Upon the submittal of a Final Plat application, the plat document shall identify all necessary easements. Miscellaneous documents shall be provided for all necessary easements outside of the plat boundary;
15. Upon the submittal of a Final Plat application, surety approved by the City Attorney's Office shall be posted for any required subdivision improvements that have not been completed and the subdivision inspection fees shall be paid; and,
16. Prior to the City's acceptance of public improvements, a warranty surety shall be submitted for review and approval as required, and;
17. Prior to submittal of a Final Plat application the applicant shall submit a Fire Suppression and Wildland Fire Mitigation Agreement to the Fire Department for review and approval. (9 to 0 with Arguello, Braun, Bulman, Gollhofer, Heikes, Kaufman, Quasney Stuck and Vidal voting yes and none voting no)

---BEGINNING OF REGULAR AGENDA ITEMS---

*5. No. 24UR005 - RCLD Addition

A request by Miriam Quiroz Diaz to consider an application for a **Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant** for Lot B Revised of Lot 2 of Tract C (also in Section 3, T1N, R7E) of RCLD Addition, located in Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2050 W. Main Street Suite 7 and Suite 8.

Olson presented the application and reviewed the associated slides noting the property is located in a multi-use area and reviewed both the inside and outside layout. Olson stated that the property it is located within a business park with multiple other uses and there is ample parking available and there is not a saturation of on-sale in the area. Olson stated that based on these criteria staff

recommends that the Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant be approved with the stipulations outlined in the Project Report.

In response to a question about the type of liquor license, Olson confirmed that the license would be for beer and wine sales.

Bulman moved, Kaufman seconded and the Planning Commission approved the Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a restaurant with the following stipulations:

- 1. The Conditional Use Permit shall allow on-sale liquor in conjunction with a restaurant as per the applicant's operational plan. Any expansion or change in the proposed on-sale liquor establishment 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 Arguello, Braun, Bulman, Gollither, Heikes, Kaufman, 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.

6. No. 24UR004 - Pine Hills Subdivision

A request by Mike Swenson to consider an application for a **Major Amendment to a Conditional Use Permit to allow a detached oversized garage with a second story accessory dwelling unit** for Lots 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 Pine Hills Drive.

Hayes presented the application noting the Major Amendment to a Conditional Use Permit to allow a detached oversized garage with a second story accessory dwelling unit is associated with the Variance to increase the maximum height from 15 feet to 19 feet 6 inches for a detached garage with a second story accessory dwelling unit that was denied as part of the Zoning Board of Adjustment meeting and staff is recommending denial of the Major Amendment to a Conditional Use Permit to allow a detached oversized garage with a second story accessory dwelling unit.

Fisher clarified that since the Variance was denied, as such, the Conditional Use Permit must be denied.

Kaufman moved, Vidal seconded and the Planning Commission denied the Major Amendment to a Conditional Use Permit to allow a detached oversized garage with a second story Accessory Dwelling Unit. (9 to 0 with Arguello,

Braun, Bulman, Golliher, Heikes, Kaufman, 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.

7. No. 24OA001 - Ordinance 6612

A request by City of Rapid City to consider an application for an **Ordinance Amending Clerical Errors in Sections 17.60.120, 17.62.120 and 17.64.120 of the Rapid City Municipal Code.**

Hayes presented the Ordinance explaining that staff had identified typing errors in these sections of the Rapid City Municipal Code and is proposing this amendment to allow the correction of those clerical errors and that staff recommends approval of Ordinance Amending Clerical Errors in Sections 17.60.120, 17.62.120 and 17.64.120 of the Rapid City Municipal Code.

Stuck moved, Arguillo seconded and the Planning Commission recommended approval of Ordinance 6612 amending clerical errors in Sections 17.60.120, 17.62.120, and 17.64.120 of the Rapid City Municipal Code. (9 to 0 with Arguello, Braun, Bulman, Golliher, Heikes, Kaufman, Quasney Stuck and Vidal voting yes and none voting no)

8. No. 24OA002 - Ordinance 6613

A request by City of Rapid City to consider an application for an **Ordinance Amending Clerical Errors and Fencing Requirements in Sections 17.16.030, 17.18.030, 17.18.080, 17.20.080, 17.22.020, 17.36.080, 17.40.070, 17.50.150, and 17.66.070 of the Rapid City Municipal Code.**

Hayes presented the Ordinance explaining that staff had identified typing errors and is proposing this amendment to allow the correction and section notices to fence heights in various sections of the RCMC and this will allow for the requirements to be consistent throughout the RCMC. Hayes also noted references for recreation parks were corrected and staff recommends approval of the Ordinance 6613 amending clerical errors in Sections 17.16.030, 17.18.030, 17.18.080, 17.20.080, 17.22.020, 17.36.080, 17.40.070, 17.50.150, and 17.66.070 of the Rapid City Municipal Code.

Bulman moved, Vidal seconded and the Planning Commission recommended approval of Ordinance 6613 amending clerical errors and fencing requirements in Sections 17.16.030, 17.18.030, 17.18.080, 17.20.080, 17.22.020, 17.36.080, 17.40.070, 17.50.150, and 17.66.070 of the Rapid City Municipal Code. (9 to 0 with Arguello, Braun, Bulman, Golliher, Heikes, Kaufman, Quasney Stuck and Vidal voting yes and none voting no)

9. Staff and Planning Commission Discussion Items

Heikes noted that the work that the Fire Department and staff are doing in regards to fire suppression and wildland fire mitigation is Climate Action Work and thanked staff for including this in their work.

Kaufman complemented the staff reviewing Ordinance understanding that must be extremely detailed work. Fisher stated to expect more like this along and some with much more substance.

Michelle Quiroz Diaz of Michelle's Tacos thanked the Commission for their work to allow her to expand her business.

There being no further business, Golliher moved, Vidal seconded and unanimously carried to adjourn the meeting at 7:50 a.m. (9 to 0 with Arguello, Braun, Bulman, Golliher, Heikes, Kaufman, Quasney Stuck and Vidal voting yes and none voting no)