

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
August 24, 2017

MEMBERS PRESENT: Erik Braun, Karen Bulman, Racheal Caesar, Mike Gollhofer, Galen Hoogestraat, Curt Huus, Mike Quasney, Steve Rolinger and Gerald Sullivan. John Roberts, Council Liaison was also present.

MEMBERS ABSENT: Kimberly Schmidt and John Herr

STAFF PRESENT: Vicki Fisher, Fletcher Lacock, Patsy Horton, Tim Behlings, Ted Johnson, Carla Cushman and Andrea Wolff.

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

Braun reviewed the Consent Agenda and asked if any member of the Planning Commission, staff or audience would like any item removed from the Consent Agenda for individual consideration.

Caesar requested that Item 2 be removed from the Consent Agenda for separate consideration.

Motion by Caesar seconded by Hoogestraat and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 5 in accordance with the staff recommendations with the exception of Items 2. (9 to 0 with Braun, Bulman, Caesar, Gollhofer, Hoogestraat, Huus, Quasney, Rolinger and Sullivan voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the August 10, 2017 Planning Commission Meeting Minutes.
3. No. 17PL082 - Little A & M Subdivision
A request by D.C. Scott Surveyors, Inc for James Muellenberg to consider an application for a **Preliminary Subdivision Plan** for proposed Lot 1 and Lot 2 of Little A & M Subdivision, legally described as Lot G of the SE1/4 of the NW14/ and the NE1/4 of the SW1/4 of Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 1080 Kennel Drive.

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

1. **Prior to approval of the Development Engineering Plan application, submitted engineering reports required for construction approval shall be accepted and agreements required for construction approval shall be executed if subdivision improvements are required. 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;
2. Upon submittal of a Development Engineering Plan application, construction plans for Centre Street shall be submitted for review and approval showing the street constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk and street light conduit or an Exception shall be obtained. If an Exception is obtained, a copy of the approved document shall be submitted with the Development Engineering Plan application;
3. Upon submittal of a Development Engineering Plan application, construction plans for Kennel Drive shall be submitted for review and approval showing the street constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk and street light conduit or an Exception shall be obtained. In addition, the plat document shall show the dedication of 9.25 additional feet of right-of-way or an Exception shall be obtained. If Exception(s) are obtained, a copy of the approved documents shall be submitted with the Development Engineering Plan application;
4. Upon submittal of a Development Engineering Plan application, construction plans showing the extension of a public sanitary sewer main either in the centerline of Kennel Drive up to Centre Street or on proposed Lots 1 and 2, west of the 53 foot wide electric transmission easement up to Centre Street shall be submitted for review and approval. If the sewer is proposed to be extended on Lots 1 and 2, then the sewer shall be located in a minimum 20 foot wide sanitary sewer easement dedicated to the City;
5. Upon submittal of a Development Engineering Plan application, water plans and analysis prepared by a Registered Professional Engineer shall be submitted for review and approval in accordance with the Infrastructure Design Criteria Manual. The design report shall demonstrate that the water service is adequate to meet estimated domestic flows and required fire flows to support the proposed development;
6. Upon submittal of a Development Engineering Plan application, a sewer design report prepared by a Registered Professional Engineer as per the Infrastructure Design Criteria Manual shall be submitted for review and approval. The design report shall demonstrate that the sanitary sewer capacity is adequate to meet estimated flows and provide sufficient system capacity in conformance with the Infrastructure Design Criteria Manual;
7. Upon submittal of a Development Engineering Plan application, a drainage plan and report prepared by a Registered Professional Engineer as per the Infrastructure Design Criteria Manual and the Rapid City Municipal Code shall be submitted for review and approval for the proposed subdivision improvements. The drainage report shall address storm water quantity control and storm water quality treatment. In addition, easements shall be provided as needed;
8. Upon submittal of a Development Engineering Plan application, a complete parking plan for the existing use(s) on proposed Lot 2 shall be provided to ensure that sufficient parking in compliance with the City's Parking Regulations is being provided;

9. **Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements;**
10. **Upon submittal of a Development Engineering Plan application, a cost estimate of the required subdivision improvements shall be submitted for review and approval;**
11. **Upon submittal of a 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,**
12. **Prior to the City's acceptance of the public improvements, a warranty surety shall be submitted for review and approval as required. In addition, any utilities and drainage proposed outside of the dedicated right-of-way shall be secured within easement(s).**

4. No. 17PL087 - Red Rock Estates

A request by KTM Design Solutions, Inc for Red Rock Development Company, LLC to consider an application for a **Preliminary Subdivision Plan** for proposed Lot 14R of Block 22 of Red Rock Estates, legally described as Lot 14 of Block 22 of Red Rock Estates and a portion of the unplatted NE1/4 of the NE1/4 of Section 29, T1N, R7E, all located in the NE1/4 of the NE1/4 of Section 29, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located lying west of Bandon Lane.

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

1. **Upon submittal of a Final Plat application, the plat document shall be revised to show the dedication of ½ foot of additional right-of-way along Bandon Lane or an Exception shall be obtained. If an Exception is obtained, the approved Exception document shall be submitted with the Final Plat application.**

*5. No. 17UR016 - Menard Subdivision

A request by Sperlich Consulting, Inc for Vista Ridge Properties, LLC to consider an application for a **Conditional Use Permit to allow a child care center** for Lot 2 of Block 2 of Menard Subdivision, located in Section 32, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located southwest of the intersection of E. Anamosa Street and N. Creek Drive.

Planning Commission approved the Conditional Use Permit to allow an off-premise sign with the following stipulation(s):

1. **Upon submittal of a Building Permit, redlined plans and comments shall be addressed. The redlined plans shall be returned to Community Planning and Development Services;**
2. **Upon submittal of a Building Permit, the site plan shall be revised to show sidewalk along East North Street which shall align with sidewalk currently being constructed in the boulevard or an Exception shall be obtained;**
3. **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. All signage shall meet the requirements of the Rapid City Sign Code. A sign permit shall be obtained for each sign;

4. The proposed child care center shall operate in compliance with the submitted operations plan and all approved plans. Changes in the operator of this facility shall require a Major Amendment to the Conditional Use Permit; and,
5. The Conditional Use Permit shall allow a childcare center for a maximum of 103 children and 18 staff members. Any expansion of the childcare center 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.

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 Planning & Development Services by close of business on the seventh full calendar day following action by the Planning Commission.

---END OF CONSENT CALENDAR---

2. No. 17RZ024 - Potts Subdivision

A request by KTM Design Solutions for Dakota Hills Trailer Sales, LLC to consider an application for a **Rezoning from Park Forest to Low Density Residential** for Lot 2 of Potts Subdivision, located in Section 22, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 6061 Covenant Drive.

Caesar stated that she pulled this item to confirm the continuation.

Rolinger moved, Braun seconded that the Rezoning request be continued to the September 7, 2017 Planning Commission meeting with the applicant's concurrence. (9 to 0 with Braun, Bulman, Caesar, Gollither, Hoogestraat, Huus, Quasney, Rolinger and Sullivan voting yes and none voting no)

---BEGINNING OF REGULAR AGENDA ITEMS---

6. No. 17TI003 - Section 5, T1N, R8E

A request by Creek Drive Apartments, LLC to consider an application for a **Resolution Creating the East St. Charles Housing Tax Increment District and Resolution approving the Project Plan** for Lot B of Lot 3 of Tract D and the adjacent right-of-way to Lot B of Lot 3 of Tract D, located in Section 5, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located northwest corner of the intersection of Creek Drive and E. St. Patrick Street.

Due to a conflict of interest, Braun stepped away from the dais handing the gavel to Bulman.

Horton confirmed that the applicant has requested that the Resolution creating the East St. Charles Housing Tax Increment District and Resolution approving the Project Plan be continued to the September 21, 2017 Planning Commission meeting and staff requests that the Planning Commission continue as requested.

Planning Commission continued the Resolution Creating the East St. Charles Housing Tax Increment District and Resolution approving the Project Plan to the September 21, 2017 Planning Commission Meeting at the applicant's request. (8 to 0 to 1 with Bulman, Caesar, Gollither, Hoogestraat, Huus, Quasney, Rolinger and Sullivan voting yes and none voting no and Braun abstaining)

*7. No. 17PD041 - Tower Ridge Subdivision

A request by Chris Olney of Arc International for Joe Kieffer to consider an application for an **Initial and Final Planned Development Overlay to allow an athletic training and performance center** for Lot 2 of Tower Ridge Subdivision, Section 23, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located east of Mt. Rushmore Road between Enchantment Road and Plains Vista Court.

Braun returned to the dais at this time.

Lacock presented the applicant and reviewed the associated slides. Lacock noted that the applicant has requested an Exception to reduce the minimum required landscape island requirement from 3 feet to 0 feet contingent upon the proposed landscape plan being installed and maintained in a live vegetative state. A minimum of 139,792 landscape points shall be provided along Enchantment Road and around the perimeter of the structure. Lacock presented staff's recommendation to approve the Initial and Final Planned Development Overlay to allow an athletic training and performance center with stipulations.

In response to a suggestion from Quasney's on the recent requests to remove landscape islands from various projects, that the requirement be removed from the Landscape Ordinance, Fisher stated that although the landscape islands do add to the character of a property, due to the cost of maintaining both the parking lot in the winter and the plants in the growing season, staff does provide the option to provide those points in perimeter landscaping but noted that this is on the agenda to review when the landscape ordinance is revised.

Nancy Jenson, 5440 Plains Vista Court, spoke to her concerns regarding the access to Enchanted, drainage, signage, hours of use and plans for future use of the property.

Johnson stated that the SDDOT has reviewed the Traffic Report but have not completed their comments; however he noted that they are looking to address any concerns that have been noted. Johnson also stated that the application will have to conform to the City's drainage requirements.

Donavan Broberg of ARC International, Inc., stated that the signs proposed for the application are set to obtain the maximum signage allowed by the sign ordinance but that they may be less when the actual sign permits are submitted. He also addressed the question on drainage stating that they will meet historic and projected flow demands. Regarding spectators and the use of the property, Broberg stated that the events are not expected to make up the major use of the facility and that the hours of operation should basically be general office hours and that any future development of the property would require a Major Amendment to the Planned Development.

In response to questions from Bulman regarding traffic, Fisher stated that the Traffic Engineer projected that the current infrastructure would work until approximately 2023. If issues are identified before that time both the State and the City would work with the applicant to address.

Sullivan moved, Rolinger seconded and carried to approve the Initial and Final Planned Development Overlay to allow an athletic training and performance center be approved with the following stipulations:

- 1. An Exception is hereby granted to reduce the minimum required landscape island requirement from 3 to "0" contingent upon the proposed landscape plan being installed and maintained in a live vegetative state. A minimum of 139,792 landscape points shall be provided;**
- 2. Prior to issuance of a Building Permit, a final Traffic Impact Study shall be approved. The construction plans shall be revised to reflect any recommendations;**
- 3. Prior to issuance of a Building Permit, construction plans for the sewer main extension shall be approved. Prior to issuance of a Certificate of Occupancy, the sewer main shall be constructed;**
- 4. All signage shall comply with the requirements of the Rapid City Sign Code. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Final Planned Development Overlay. The addition of electronic or LED signage shall require a Major Amendment to the Planned Development. A sign permit is required for any new signs; and,**
- 5. The Initial and Final Planned Development Overlay shall allow for an athletic training and performance center. Phase II shall require a Major Amendment to the Planned Development. Any change in use that is a permitted use in the Office Commercial District and non-compliance with the parking ordinance shall require the review and approval of a Building Permit. Any change in use that is a Conditional Use in the Office Commercial District shall require the review and approval of a Major Amendment to the Planned Development. Phase II shall require a Major Amendment to the Planned Development. (9 to 0 with Braun, Bulman, Caesar, Gollhofer, Hoogestraat, Huus, Quasney, Rolinger and Sullivan 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 Planning & Development Services by close of business on the seventh full calendar day following action by the Planning Commission.

*8. No. 17PD042 - Marlin Industrial Park

A request by Jay Waldner for WV, LLC to consider an application for a **Major Amendment to a Planned Development to allow a micro-brewery** for Lot 23, of Marlin Industrial Park, located in Section 20, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 4624 Creek Drive Suite No. 6.

Lacock presented the application and reviewed the associated slides, stating that this is a Major Amendment to an existing Planned Development. Lacock said this Major Amendment is due to a Micro-Brewery and the associated on-sale being a Conditional Use in the General Commercial District. Lacock presented staff's recommendation that the Major Amendment to a Planned Development to allow a micro-brewery be approved with stipulations.

Rolinger moved, Bulman seconded and unanimously carried to approve the requested Major Amendment to a Planned Development to allow a micro-brewery with the following stipulations:

- 1. The applicant shall coordinate with the City Water Reclamation Division for pretreatment and sewer discharge industrial monitoring requirements. Upon submittal of a Building Permit, revised utility or plumbing plans shall be submitted for review and approval if additional infrastructure is required;**
- 2. All signage shall comply with the requirements of the Rapid City Sign Code. No electronic or Light Emitting Diode (LED) message centers are being approved as a part of this Major Amendment to the Planned Development. The inclusion or addition of any LED message centers shall require a Major Amendment to the Planned Development. A sign permit shall be obtained or each sign, and;**
- 3. This Major Amendment to the Planned Development Overlay shall allow for a micro-brewery, tasting room, and patio area. Any expansion of use shall require a Major Amendment to the Planned Development. All uses permitted in the General Commercial District shall be permitted contingent upon an approved building permit and provision of sufficient parking. All conditional uses shall require a Major Amendment to the Planned Development. (9 to 0 with Braun, Bulman, Caesar, Gollhofer, Hoogestraat, Huus, Quasney, Rolinger and Sullivan 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 Planning & Development Services by close of business on the seventh full calendar day following action by the Planning Commission.

9. No. 17RZ025 - Section 12, T1N, R7E

A request by KTM Design Solutions, Inc for Maguire Services, LLC to consider an application for a **Rezoning from Park Forest District to Low Density Residential District** for a tract of land lying in the S1/2NE1/4 and the N1/2SE1/4 of Section 12, T1N, R7E of the B.H.M. and being more particularly described as follows: Commencing at the Northeast corner of Lot 32, Block 3 of Robbinsdale Terrace Addition as recorded in the steel files in the Pennington County Register of Deeds and being the Point of Beginning; Thence with said Addition southwesterly a distance of 300 feet to the Northwest corner of Lot 26, Block 5; Thence continuing with said Addition southeasterly a distance of 210 feet to the southwest corner of Lot 25, Block 5; Thence continuing with said Addition southwesterly a distance of 46 feet to the northwest corner of Lot 20, Block 5; Thence continuing with said Addition northwesterly a distance of 166 feet to the southeast corner of Lot 16, Block 5; Thence continuing with said Addition northwesterly a distance of 450.5 feet to the southeast corner of Lot 10, Block 5; Thence continuing with said Addition northerly a distance of 46.06 feet to an angle point in the easterly line of said Lot 10, also being an angle point in the south line of Lot 1 of Faith Lutheran Addition as recorded in Book 29 of Plats, Page 21 in the Pennington County Register of Deeds; Thence with said Faith Lutheran Addition northerly a distance of 11.50 feet to an angle point in the south line of said Lot 1; Thence continuing with said Addition easterly a distance of 206.77 feet to the southeast corner of said Lot 1; Thence continuing with said Addition northerly a distance of 100.00 feet to a point on the easterly line of said Lot 1, also being the southwest corner of Lot 2, Block 5 of aforementioned Robbinsdale Terrace Addition; Thence with said Robbinsdale Terrace Addition easterly a distance of 583 feet to the northwest corner of Lot 9, Block 3; Thence continuing with said Addition southeasterly a distance of 306 feet to the southwest corner of Lot 12, Block 3; Thence continuing with said Addition southeasterly a distance of 203 feet to an angle point in the south line of Lot 15, Block 3; Thence continuing with said Addition southwesterly a distance of 361.5 feet to the northeast corner of Lot 25, Block 3; Thence continuing with said Addition westerly a distance of 112 feet to the northwest corner of Lot 26, Block 3; Thence continuing with said Addition northwesterly a distance of 474 feet to the northeast corner of Lot 32, Block 3 and the Point of Beginning, more generally described as being located southeast of the intersection of Oak Avenue and Indiana Street.

Lacock presented the application and reviewed the associated slides. Lacock noted that the property is identified as Forest Conservation on the Future Land Use Plan generally because to date no feasible development had been considered possible. Lacock noted that the information provided with this Rezoning application is preliminary information and that the applicant will have to provide drainage plans, construction plans and additional plans showing how they will meet all requirements. Lacock noted that the initial layout plan shows 14 single family units, but upon review the applicant has reduced that projection to 5-10 single family houses. Lacock presented staff's recommendation to approve the Rezoning from Park Forest District to Low Density Residential District with a Planned Development Designation.

In response to a question from Quasney regarding what is required to develop

this property, Lacock confirmed that the property does have issues and that the access, utilities and the shale soil in the area will require designs and plans to address them, which is why the Planned Development Designation is being requested by staff.

In response to a question from Hoogestraat whether the property would have to be rezoned back to Park Forest District should the proposed project not get completed, Fisher clarified that regardless of the property zoning no development would be allowed without the Final Planned Development being approved by Planning Commission, which is why the Planned Development Designation is being requested by staff.

In response to a question from Hoogestraat of the City purchasing the property for use as a park, Fisher stated that the Parks Department showed no indication of an interest to purchase this property.

Pat Muldoon, 135 E. Indiana Street, spoke to her concerns regarding the development on the shale soil and requested that the application not be approved.

Doug Dane, 119 E. Indiana Street, spoke to his concerns regarding the shifting of the ground on existing properties and questions additional development.

Linda Boyle, 2603 Oak Drive, spoke to the issues that she has on her property with shifting and that she sees the same issues happening to her neighbors and believes if this Rezoning is approved it will create additional problems.

Robin Obstedahl, 2610 Oak Drive, stated that she has lived in the area for 30 plus years and fears that additional development may adversely affect her property. She suggested that an Environmental Impact Study be done.

Hollie Kaufman, 2514 Grandview Drive, spoke to her concerns that this development could damage the structural integrity of their property which is located on the top of the hill and requested that the property be left as is.

Caesar said that she thinks that the development may be cost prohibitive. Caesar questions if the proposed residences would sell or be unsalable thus affecting the existing neighborhood noting that she has conflicting feelings regarding the Rezoning.

Fisher stated that the property is currently zoned to allow residential use and that the owner could currently build residences. Fisher noted that Rezoning the property requires that the neighborhood be notified, platting does not require notice.

Discussion followed.

John Roberts, City Council liaison, addressed the comment regarding the City purchasing the property but said that the City cannot purchase all of the properties offered and hopes that the Planning Commission does not deny this

application. Roberts noted that a large portion of Rapid City is located on shale and that construction and engineering processes have changed over the years making such development possible even if still cost restrictive. Roberts said he would like to see the plans as it moves forward if approved.

Fisher again confirmed that any construction on this property would be required to meet the same requirements regardless of the zoning and that only by creating the Planned Development would those plans be reviewed by the Planning Commission or that the neighbors would be notified of the proposed plans.

Discussion followed.

Fisher reviewed the motion options.

Rolinger moved to continue to the October 5, 2017 Planning Commission meeting, Quasney seconded.

Sullivan stated that he would like to see this resolve now rather than delaying it for a month or more.

Planning Commission continued the Rezoning request be approved in conjunction with a Planned Development Designation to the October 5, 2017 Planning Commission Meeting to be heard in conjunction with a Final Planned Development Overlay application. (6 to 3 with Bulman, Caesar, Gollhofer, Hoogestraat, Quasney and Rolinger voting yes and Braun, Huus and Sullivan voting no)

*10. No. 17UR017 - Deadwood Avenue Business Park

A request by Renner Associates, LLC for David Eliason to consider an application for a **Conditional use Permit to allow a sexually oriented business in the General Commercial District** for Lot 3 of Deadwood Avenue Business Park, Section 34, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located 1141 Deadwood Avenue, Suite 7.

Lacock presented the application and reviewed the associated slides. Lacock reviewed the numerous limitations and restrictions to the location of this type of business and that the location and all other zoning requirements are met by this proposed location. Lacock noted that staff had received a letter of opposition to the request. He also clarified that although the letter of opposition identifies the applicant as Renner Associates, LLC that the applicant for the Conditional Use Permit application is Dick and Janes Naughty Spot and not Renner Associates, LLC, who is actually the agent for the application. Lacock presented staff recommendation that as the application meets the zoning requirements that the Conditional Use Permit to allow a sexually oriented business in the General Commercial District be approved with stipulations as outlined.

Rolinger clarified that the Planning Commission cannot address core or moral values as criteria for review or approval noting that they as a body can only address the planning issues when considering an application.

Bulman stated that she does not support the application but based on planning requirements she will have to vote in favor. Bulman did request that the hours of operation be reduced on Sundays.

David Eliason, of Dick and Jane's, stated that the hours presented were proposed to allow the most hours and may change based on business demands; however, he did note that State Codified law does allow the operational hours between 8:00 a.m. and 2:00 a.m. seven days a week

In response to the restrictions identified by Rapid City Municipal Zoning Code regarding an adult oriented business not being within a specific distance to various other uses and if a future request by such a use would require the closure or removal of this Conditional Use Permit, Cushman clarified that as the pre-existing business it would not be adversely affected. In fact, staff would advise such proposed uses of the existing use if they are not aware and advise them to consider their options.

In response to questions regarding the visibility of the interior of the shop from the outside and displays, Eliason stated they maintain a discreet display and that the windows would be opaque in accordance with Rapid City Municipal Code. Eliason said they work to meld with the surrounding elements and building designs. He also noted that he is working to modify the signage to remove the reference to "naughty spot" to use another identifier such as simply spot or superstore.

In response to a question from Bulman regarding the option to revoke the Conditional Use Permit if the applicant does not abide by the stipulations of approval for the Conditional Use Permit, Fisher stated that it would generally be brought to the attention of the Rapid City Code Enforcement Division by someone who noted that something was not meeting Rapid City Ordinance or in compliance with the stipulations of approval, Code Enforcement would investigate and if needed the owner would be notified of the violation and allowed to address the issue. Fisher noted that this would be the same for any violation for any business or property owner.

Roberts stated that if this item is appealed and comes before the City Council that although they do have more leniency in their review, the City Council ultimately has to follow the law and it appears that this application meets the current Zoning Ordinance and state law so that needs to be strongly considered before any decisions are made.

Hoogestraat moved, Caesar seconded and unanimously carried to approve the Conditional Use Permit to allow a sexually oriented business with the following stipulation(s):

- 1. Upon submittal of a Building Permit, a revised site plan shall be submitted identifying a total of 5 ADA accessible parking spaces with one being "van accessible". Prior to issuance of a Certificate of Occupancy, the 5 ADA spaces shall be striped;**
- 2. Upon submittal of a Sign Permit, a complete sign package shall be**

submitted for review and approval. No new Light Emitting Diode (LED) message centers are being approved as a part of this request. The inclusion or addition of any new LED message centers shall require a Major Amendment to the Conditional Use Permit. All signage shall meet the requirements of the Rapid City Sign Code. A sign permit shall be obtained for each sign;

3. The proposed sexually oriented business shall operate in compliance with Chapter 17.50.186 of the Rapid City Municipal Code and with the submitted operations plan. Changes in the operator of this facility or the operations plan shall require a Major Amendment to the Conditional Use Permit; and,
4. The Conditional Use Permit shall allow a sexually oriented business in the General Commercial District. Any expansion of the use 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. (9 to 0 with Braun, Bulman, Caesar, Gollhofer, Hoogestraat, Huus, Quasney, Rolinger and Sullivan 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 Planning & Development Services by close of business on the seventh full calendar day following action by the Planning Commission.

11. Discussion Items
None

12. Staff Items
None

13. Planning Commission Items

In response to a question from Rolinger about the Frisbee Golf Course, Fisher stated she has inquired to the Parks Department but has not heard back as yet but will follow up on the request.

There being no further business, Bulman moved, Quasney seconded and unanimously carried to adjourn the meeting at 8:44 a.m. (9 to 0 with Braun, Bulman, Caesar, Gollhofer, Hoogestraat, Huus, Quasney, Rolinger and Sullivan voting yes and none voting no)