



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

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## OFFICE OF THE CITY ATTORNEY

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### MEMORANDUM

TO: Mayor Sam Kooiker and the City Council

FROM: Joel P. Landeen, Assistant City Attorney

DATE: 10-19-11

RE: Summary of Presidential Plaza Project

#### Timeline and Summary:

2006 – The City appoints a downtown revitalization task force to look at ways to revitalize the downtown area. The parking sub-committee looks for ways to better spend the 2.8 million that has been identified from the 2012 Fund to build another parking ramp in downtown. The ask for proposals for a mixed use development which would incorporate retail stores and living space in addition to parking. Dream Design proposes a 15 story mixed use building which is chosen by the committee as the top proposal.

February 9, 2007 – A special meeting of the City's Historic Preservation Commission is held to discuss the proposal with Dream Design.

February 20, 2007 – Mayor Shaw holds a press conference introducing the plan to build a 15 story mixed use high rise in a joint public/private partnership.

February 21, 2007 – Mayor Shaw made a presentation on the proposed building at the City Council's Informational Meeting. Mayor Shaw gave a very basic presentation identifying retail, office and residential spaces, but stating that the details were not important at this point just the concept. No details of amount of retail, office or residential were given. He did discuss that the three things that were important to a downtown were having people working, shopping and living downtown. He said that we have the first two already in Rapid City, but this project would help with the third leg. He further stated that it would double the amount of public

parking at the site by providing a minimum of 280 public parking spaces. (Source Video of 2/21/07 meeting)

February 28, 2007 – The Legal and Finance Committee directed staff to enter into discussions with Dream Design regarding the downtown revitalization plan. This was approved on the City Council's consent calendar March 5, 2007.

April 4, 2007 – Dream Design appeared before the City's Tax Increment Committee and presented a request for the use of tax increment funds to help finance the project. The project plan requested that funds be used to help construct a public parking structure, fund removal of contaminated soils and relocate over head power lines in the adjacent alley. The total cost of the TID was estimated at \$23,085,086.14. That amount was broken down as follows, parking structure \$9,242,500, soil removal \$247,500, power line relocation \$300,000, professional services \$924,250; necessary and convenient costs \$500,000, contingency \$462,125 and financing interest \$11,408,711.14. The committee approved the request.

April 26, 2007 – The Planning Commission unanimously approved recommending the creation of Tax Increment District #62 and the proposed project plan for the district.

May 7, 2007 – The City Council addressed the proposed TID. There were questions raised about the specifics of the project. Marcia Elkins responded that some elevations have been circulating, but an architect from Colorado had recently been hired and the proposals which have been circulating may not necessarily be what is ultimately brought forward. She further indicated that it would be more appropriate to work out the details at the time the developer's agreement is approved. The City Council approved the creation of the Tax Increment District #62 and the Project Plan for TID #62. There was a presentation prepared by Dream Design at this time which included a project summary. I cannot find where this presentation was ever given to the City Council. The project summary prepared by Dream Design identified there would be 575-600 parking stalls, 52,000 square feet of retail/office space and 50-70 residential units.

July 24, 2007 – A detailed design proposal is prepared by RNL, the project's architects, which showed parking, retail/office and residential uses.

August 3, 2007 – Dream Design and RNL meet with the City's Historic Preservation Commission to discuss the project.

September 7, 2007 – The City's Historic Preservation Commission makes a finding that the proposal will have no adverse impact on the City's Downtown Historic District. The primary discussion is the height of the proposed residential tower.

September 2007 – The State Office of History disagrees with the City's Historic Preservation Commissions finding. The State Office of History requests a full case report. Dream Design/RNL never provide the case report.

March 2008 – Dream Design expressed concern with the speed at which the City was addressing the project and the fact the legal agreements were not in place.

July 16, 2008 – The Legal and Finance Committee directed that the City Attorney's Office to prepare the agreements for the Rushmont project.

October 2008 – Dream Design sends a letter to Mayor Hanks informing him that the project is dead and will no longer be moving forward.

May 6, 2009 – The City Council holds a Special Council Meeting to discuss a proposal by FourFront Design/Legacy Development to revive the mixed use development at the corner of 5<sup>th</sup> and St. Joseph St. Other interested parties attend the meeting, including Dream Design, and request the opportunity to present proposals as well. The City Council takes no formal action at this meeting.

June 1, 2009 – The City Council approves a request for proposals for a public private development for the 5<sup>th</sup> and St. Joseph St. site. The request asked those submitting proposals to address the parking and specifically identify the amount of parking stalls they were proposing to provide above the 135 stalls currently at the site. Potential developers had until July 22<sup>nd</sup> to submit proposals.

July 27, 2009 – A Special City Council Meeting was held to discuss the proposals the City had received. Only two proposals had been received by the deadline. One from St Joe Investment Group and one from Presidential Plaza Partners. The St Joe Investment Proposal had 500 parking spaces, of which 350 would be owned and operated by the City and 150 would belong to building tenants. The proposal indicated that the development would provide 10,000 – 16,000 sq.ft. of retail space, 40,000 sq.ft. of office space and up to as many as 40 urban loft style residential units. They were also proposing 6,000 – 10,000 sq.ft. banquet facility. No request for changes to the TID were made at that time. The Presidential Plaza Partner's proposal included a net gain of 45 parking stalls for the City and there was some discussion that the amount of stalls could be increased to possibly 145 parking stalls. No action was taken on the proposals. A decision was continued to the August 3, 2009, City Council meeting so a side by side comparison could be made.

August 3, 2009 – The City Council directed the City Attorney's Office to enter into negotiations with the St. Joe Investments Group to carry out the proposed project. The City Council further directed that the negotiations be completed by December 31, 2009.

September 21, 2009 – The City Council approves a Master Development Agreement with St. Joe Investments. No specifics of the building design or the amount of space to be committed to specific uses is included in the master agreement. The only detail addressed in the agreement is that the City will get a minimum of 350 parking spaces. The agreement states that the City will participate in the design of the building through the building permit process and the Historic Preservation review. In the agreement, St. Joe investments limits the amount of TID funds it will use to \$5 million dollars.

November 16, 2009 – The City Council approves the first addendum to the master agreement. The addendum dealt with the financing and payment of the 2.8 million dollars in 2012 funds.

December 21, 2009 – After a hearing on a resolution of intent to enter into a land transfer, the City Council approved authorizing the City Attorney to execute the necessary documents to transfer the property to St. Joe Investments. No transfer has ever occurred.

February 1, 2010 – The City Council approves extending the deadline in the master agreement to transfer the City land to the developer to April 15, 2010.

April 19, 2010 – The City Council continues a request for a second extension by St. Joe Investments to its May 3, 2010 meeting.

May 3, 2010 – The City Council approves St. Joe Investments extension request giving them until June 1, 2010 to transfer the land.

June 7, 2010 – The City Council approves a 6 month extension for St. Joe Investments to provide proof of financing.

August 19, 2010 – In a Rapid City Journal article St. Joe Investments indicates that they have postponed plans to include residential lofts in the President's Plaza project.

December 6, 2010 – St. Joe Investments appears in front of the City Council and provides a report on its progress on the project. In conjunction with the report they provide a new time line for approval. The City Council approves acknowledging the report, but does not specifically grant an extension of any deadlines.

January 2011 – Questions arise about the lack of a specific extension and the overall status of the project.

February 22, 2011 – St. Joe Investments appears at the City Council meeting and informs the Council that Hani Shafai and Pat Hall have joined there development group. St. Joe Investments indicate that there have not been major changes to the initial project elements outlined in the master development agreement. Alderman Kooiker requested that any significant changes to the original proposal be brought forward to the Council for approval.

February 27, 2011 – In a Rapid City Journal article Hani Shafai stated that residents could expect to see changes in the proposed project in the coming months. Pat Hall indicated that the final product would incorporate the best from both designs.

April 18, 2011 – The City Council approves an assignment agreement transferring the Master Development Agreement from St. Joe Investments to Presidents Plaza LLC.

August 2011 – The City Council directs that a committee be formed to work with the project developer and provide more information about the progress of the project, but still provide the confidentiality the developer's need.

September 6, 2011 – The City Council appoints the Presidential Plaza Review Sub-Committee, acknowledged a report on the scope and time frame of the project and extended the deadline to provide proof of financing to January 31, 2012. Presidents Plaza LLC indicated at the Legal and Finance Committee meeting that the scope of the project had not changed.

RushMont	St. Joe Investments L.L.C	President's Plaza L.L.C.
52,000 sq.ft. Retail/ Commercial Space 50-70 Residential Units	56,000 sq.ft. of Retail/ Commercial Space Up to 40 Residential Units	59,000 sq.ft. of Retail/ Commercial Space Up to 30 Residential Units
Approx. 102,000 sq.ft.	Approx. 96,000 sq.ft.	Approx. 89,000 sq.ft.

During the December 6, 2010, City Council Meeting St. Joe Investments acknowledged that the President's Plaza project had changed from the original presentation presented to and approved by the City Council. They removed a floor of commercial space and incorporated it into the ground level. The presentation indicated that the building they were currently proposing would have 20,000 sq.ft. of retail/commercial space and 40 loft style apartments. This would bring the total square footage down to 60,000 sq.ft.

City's Contribution:

#### RushMont

1. The land at the corner of 5<sup>th</sup> and St. Joseph Street. Estimated value in 2009 was \$1.1 million.
2. \$2.8 million in 2012 Funds
3. Up to \$23,085,086.14 in Tax Increment Funds. Of this amount, \$11,676,375 was allowed for the public improvements (parking structure, soil clean-up and power line relocation in the alley), professional services and contingency and \$11, 408,711.14 was allowed for financing interest.

#### St. Joe Investments

1. The land at the corner of 5<sup>th</sup> and St. Joseph Street. Estimated value in 2009 was \$1.1 million.
2. \$2.8 million in 2012 Funds.
3. The developer limited the amount of project costs to be reimbursed from the TID to \$5 million dollars. In an email dated December 15<sup>th</sup> 2010, the developer makes clear that it is their understanding this means \$5 million project costs plus interest. There is no breakdown of what the \$5 million would fund.

#### President's Plaza

1. The land at the corner of 5<sup>th</sup> and St. Joseph Street. Estimated value in 2009 was \$1.1 million.

2. \$2.8 million in 2012 Funds

3. Up to \$23,085,086.14 in Tax Increment Funds. Of this amount, \$11,676,375 was allowed for the public improvements (parking structure, soil clean-up and power line relocation in the alley), professional services and contingency and \$11,408,711.14 was allowed for financing interest.

In return for the above, the City will receive ownership of 350 spaces within the parking structure constructed in conjunction with the private building. Under the original RushMont proposal the City would have only received 280 spaces. Under all the proposals the land would be transferred to private ownership which would place it back on the property tax rolls.