

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
July 21, 2011

MEMBERS PRESENT: Erik Braun, John Brewer, Eric Christianson, Dennis Landguth, Linda Marchand, Dennis Popp, Kay Rippentrop, Steve Rolinger, Andrew Scull, Josh Snyder, Jan Swank and Len Weimer. John Roberts, Council Liaison was also present

MEMBERS ABSENT: None

STAFF PRESENT: Brett Limbaugh, Vicki Fisher, Fletcher Lacock, Robert Laroco, Kip Harrington, Tim Behlings, Ted Johnson, Allison Marsland and Andrea Wolff.

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

Brewer 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 Item 2 be removed from the Consent Agenda for separate consideration.

Motion by Rolinger Seconded by Christianson and unanimously carried to recommend approval of the Consent Agenda Items 2 thru 8 in accordance with the staff recommendations with the exception of Items 2. (10 to 0 with Braun, Brewer, Christianson, Landguth, Marchand, Rolinger, Scull Snyder, Swank and Weimer voting yes and none voting no)

Brewer welcomed the new Planning Commissioners Len Weimer, Josh Snyder and Jan Swank and the new Council Liaison, John Roberts.

---CONSENT CALENDAR---

1. Approval of the July 7, 2011 Planning Commission Meeting Minutes.
3. No. 11VR003 - Feigels Addition
A request by Renner & Associates, LLC for Deluxe, LLC to consider an application for a **Vacation of Right-of-Way** for a portion of N. Cherry Street right-of-way lying adjacent to Lot 1 of Block 16, a portion of Pine Street right-of-way lying adjacent to Lot 3 of Block 16, a portion of E. New York Street right-of-way and a portion of E. Chicago Street right-of-way lying adjacent to Lots 1-3 of Block 16 of Feigels Addition located in the SW1/4 of the SE1/4 of Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 815 East New York Street.

Planning Commission recommended that the Vacation of Right-of-Way be continued to the August 4, 2011 Planning Commission meeting.

- *4 No. 11PD030 - Feigels Addition
A request by Renner & Associates, LLC for Deluxe, LLC to consider an

application for an **Initial Residential Development Plan** for Lots 1 through 3 of Block 16 of Feigels Addition located in Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 815 East New York Street.

Planning Commission continued the Initial Residential Development Plan be continued to the August 4, 2011 Planning Commission meeting.

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 Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

5. No. 10VR007 - Scott's Addition

A request by Fisk Land Surveying & Consulting Engineers for Marilou Yarber to consider an application for a **Vacation of Right-of-Way** for a portion of the Van Buren Street Right-of-way lying adjacent to the S1/2 of Lot 8 and the S1/2 S1/2 of Lots 9-11 of Block 20, Scott's Addition, Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 902 Silver Street.

Planning Commission recommended that the Vacation of Right-of-Way be continued to the August 4, 2011 Planning Commission meeting.

6. No. 11PL035 - Signal Heights Subdivision

A request by Renner & Associates, LLC for Bob Akers to consider an application for a **Preliminary Plat** for proposed Lots 1 and 2 of Tract 5 Revised of Signal Heights Subdivision, legally described as Tract 5 Revised of Signal Heights Subdivision and a portion of vacated South Street located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of the intersection of East Boulevard and Kellogg Place.

Planning Commission recommended that the Preliminary Plat be continued to the August 25, 2011 Planning Commission meeting.

7. No. 11PL036 - Race Track Subdivision

A request by Dream Design International, Inc. to consider an application for a **Preliminary Plat** for proposed Lots K, L, & M of Race Track Subdivision, legally described as a portion of the NW1/4 of the SW1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at the northeast corner of Jolly Lane and East Highway 44.

Planning Commission recommended that the Preliminary Plat be continued to the August 25, 2011 Planning Commission meeting.

8. No. 11SV011 - Race Track Subdivision

A request by Dream Design International, Inc. to consider an application for a **Variance to the Subdivision Regulations to waive the requirement to install**

curb, gutter, sidewalk and sewer along Jolly Lane as per Chapter 16.16 of the Rapid City Municipal Code for proposed Lots K, L, & M of Race Track Subdivision, legally described as a portion of the NW1/4 of the SW1/4 of Section 10, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located at the northeast corner of Jolly Lane and East Highway 44.

Planning Commission recommended that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk and sewer along Jolly Lane as per Chapter 16.16 of the Rapid City Municipal Code be continued to the August 25, 2011 Planning Commission meeting.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

*2. No. 11PD029 - Tittle Springs Subdivision

A request by Tracy Parris to consider an application for a **Initial and Final Residential Development Plan to allow an oversized garage** for Lots 2-6 of Tittle Springs Subdivision located in the NE1/4 SW1/4 of Section 18, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 6201 Magic Canyon Road.

Laroco presented the application for the Initial and Final Residential Development Plan to allow an oversized garage noting that the item had been removed from the Consent Calendar to allow review of corrected plans and stipulations. Revisions include an increase in the height of the structure from 28 feet to 30 feet and the reduction of overall space of the structure from 5,156 to 2,660. Laroco stated that staff recommends approval of the application with the corrected stipulations.

Rolinger moved, seconded by Snyder and unanimously carried to approve the Initial and Final Residential Development Plan to allow an oversized garage with the following stipulations:

- 1. Prior to issuance of a Building Permit, revised plans showing the location of sanitary sewer lines shall be submitted for review and approval;**
- 2. Prior to issuance of a Building Permit, the applicant shall file a Covenant Agreement with the Register of Deeds showing that the garage will only be used for residential purposes and a copy of the recorded document submitted to the Growth Management Department;**
- 3. Prior to issuance of a Building Permit, a Developmental Lot Agreement for Lots 2 through 6 shall be recorded with the Register of Deeds and a copy of the recorded document shall be submitted to the Growth Management Department;**
- 4. Prior to issuance of a Building Permit, the applicant shall demonstrate compliance with all applicable provisions of the currently adopted International Fire Code;**
- 5. A Building Permit shall be obtained prior to construction and a Certificate of Occupancy shall be obtained prior to occupancy;**
- 6. The proposed structure shall conform architecturally to the plans,**

elevations, and color palette approved as a part of this Planned Residential Development. Revisions to the design of the structure that the Growth Management Director determines to be consistent with the original approved elevations shall be allowed as a Minimal Amendment to the Planned Residential Development.

7. An Exception is hereby granted for an accessory structure with a height of 30 feet, rather than the 15 feet allowed by the regulations;
8. This Planned Residential Development shall allow the construction of an oversized garage with a cumulative area of not more than 2,660 total square feet rather than the 1,500 square feet allowed by regulations. Expansion or modification of the single-family home on site shall not require an Amendment to the Planned Residential Development. Expansion or modification of the proposed garage shall require an Amendment to the Planned Residential Development; and
9. The Planned Residential Development shall expire if the use is not undertaken and completed within two years of the date of approval by the Planning Commission, or if the use as approved has ceased for a period of two years. (10 to 0 with Braun, Brewer, Christianson, Landguth, Marchand, Rolinger, Scull Snyder, Swank and Weimer 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 Growth Management Department by close of business on the seventh full calendar day following action by the Planning Commission.

9. No. 11CA007 - Section 35, T2N, R7E

A request by City of Rapid City to consider an application for a **Amendment to the Comprehensive Plan to revise the Major Street Plan by adding a collector street and eliminating two collector streets** for the E1/2 of the NE1/4 of Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located north of Omaha Street and west of Interstate 190.

Harrington presented the application and staff's recommendation to approve the Amendment to a Comprehensive Plan to revise the Major Street Plan by adding a collector street and eliminating two collector streets.

In response to a question from Brewer, Harrington clarified that the streets were being reclassified not removed. Harrington also reviewed the extension of E. Philadelphia Street connecting to North Street under I-190.

Rolinger moved, seconded by Marchand and unanimously carried to approve the Comprehensive Plan Amendment to the Major Street Plan by eliminating, adding, and realigning collector streets. (10 to 0 with Braun, Brewer, Christianson, Landguth, Marchand, Rolinger, Scull Snyder, Swank and Weimer voting yes and none voting no)

10. Discussion Items

A. Sidewalk Vendor Issues

Limbaugh informed the Planning Commission that it has come to the attention of staff that there are issues with the Sidewalk Vendor Permit Ordinance including the number of sites an individual can have and the overall number of sites.

Fisher noted that the ordinance is overly broad. After further discussion addition issues were defined including time limits, subleasing, need for annual review, potential annual fees and, if so what should those fees be, assigned sites not in use, amount of insurance required and who must hold that insurance and possible additional locations.

Rolinger indicated that he feels that more time is needed to review the Ordinance, Braun agreed.

In response to a question from Snyder, Ashley stated that his plan is to move from location to location keeping a log of usage time and dates. It is not his intent to use all of the locations at one time but to allow himself the opportunity to be where the market is at any given time.

Further discussion followed regarding the exclusivity of the permit holder's rights to sites, the review required for vendor license, whether other uses have limits, the process, steps and requirement for applying for a Sidewalk Vendor Permit.

Kyle Comes, Fancy Franks Corporation, stated that he feels the insurance requirement is excessive suggesting the amount be reduced to one to two million dollars. Comes confirmed that they operate more for the late night customers but they would be interested if additional sites were created; however, insurance remains an obstacle.

Brady Douglas, Fancy Franks Corporation, noted his frustration with the restrictions of the private property location they operated because he can see the customers but cannot reach them and requested that an additional site be assigned for which they could apply.

Commissioner Swank left the meeting for a short time.

Discussion followed regarding the possibility of additional sites, background checks and associated fees, problems associated with subleasing and if there have been reported issues with the downtown vendors.

Commissioner Swank returned to the meeting at this time.

Fisher stated that staff's concern regarding subleasing of the sites is the removal of City review and that it then becomes a private business operating in a public right-of-way.

Rolinger requested that a meeting be scheduled to address the issue in more detail. Marsland stated that the City Attorney's office is looking into the issue and will participate in the upcoming meeting. Limbaugh stated that staff would prepare a list of items with options and ramifications to those items for review at the upcoming meeting.

11. Staff Items
12. Planning Commission Items
13. Committee Reports

There being no further business, Christianson moved, Snyder seconded and unanimously carried to adjourn the meeting at 7:57 a.m. (10 to 0 with Braun, Brewer, Christianson, Landguth, Marchand, Rolinger, Scull, Snyder, Swank and Weimer voting yes and none voting no)