

MINUTES OF THE
RAPID CITY ZONING BOARD OF ADJUSTMENT
December 10, 2015

MEMBERS PRESENT: Erik Braun, John Brewer, Karen Bulman, Galen Hoogestraat, Mark Jobman, Linda Marchand, Kay Rippentrop, Steve Rolinger and Kim Schmidt. Amanda Scott, Council Liaison was also present.

MEMBERS ABSENT: Andrew Scull and Jan Swank

STAFF PRESENT: Brett Limbaugh, Vicki Fisher, Fletcher Lacock, Robert Laroco, Ted Johnson, Carla Cushman and Andrea Wolff.

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

1. Approval of the November 25, 2015 Zoning Board of Adjustment Meeting Minutes.

Bulman move, Marchand seconded and unanimously carried to approve the November 25, 2015 Zoning Board of Adjustment Minutes. (9 to 0 with Braun, Brewer, Bulman, Hoogestraat, Jobman, Marchand, Rippentrop, Rolinger and Schmidt voting yes and none voting no)

2. No. 15VA005-CIVAR15-0017 - Strathavon Addition Revised 1952
A request by Davis Engineering, Inc for Jacob T Johnson to consider an application for a **Variance to allow side yard setbacks from 8 feet to 4 feet** property generally described as being located at 2002 Central Boulevard.

Lacock presented the application and reviewed the associated slides. Lacock said that the proposed garage does meet the Low Density Residential District guidelines, but that the applicant could construct a 20 foot by 20 foot garage that aligns with the driveway and remain in compliance with all setback requirements and for that reason staff recommends that the application be denied.

Jacob Johnson, 2002 Central Boulevards, the applicant, stated that they have requested this variance to allow easy access to the proposed garage noting that the neighbor most impacted by the request has provided a letter of support as well as indicating that numerous other houses and garages have reduced setbacks in the neighborhood. He stated that he was willing to work with options or restrictions such as the one-hour fire wall that was indicated in the project report. He has talked with Black Hills Power and they have indicated there is no private easement in this area and that he will be trenching the services currently going over the area of the proposed garage. Johnson reviewed photos showing the affected area and reflecting the instances in the neighborhood where other properties have less than the 8 foot setbacks.

Hoogestraat stated that he supports the request and moved to approve the variance.

In response to Rolinger's request that a reason be provided, Fisher clarified that the Project Report identified Criteria that was being met which included a use is otherwise allowed in the district and as long as it is constructed with the required one-hour fire wall, it is not injurious to the neighborhood. Hoogestraat concurred with the reason, Rolinger seconded.

In response to the question from Rolinger on the requirement for the firewall, Lacock stated that the one-hour firewall is required by Rapid City Building Code for structures located within five feet of the property line.

Bulman stated that as the applicant could choose to build a 20 foot by 20 foot garage and be within the setback requirements, they are not being denied reasonable use of their property as per the guidelines provided for variances and as such will not be voting in favor of the motion.

Hoogestraat moved, Rolinger seconded and carried to approve the Variance to allow side yard setbacks from 8 feet to 4 feet for reason that the use is otherwise supported in the District and as long as it is constructed with the required one-hour fire wall, it is not injurious to the neighborhood. (8 to 1 with Braun, Brewer, Hoogestraat, Jobman, Marchand, Rippentrop, Rolinger and Schmidt voting yes and Bulman voting no)

3. Discussion Items
None

4. Staff Items
None

5. Zoning Board of Adjustment Items
None

There being no further business, Brewer moved, Marchand seconded and unanimously carried to adjourn the meeting at 7:16 a.m. (9 to 0 with Braun, Brewer, Bulman, Hoogestraat, Jobman, Marchand, Rippentrop, Rolinger and Schmidt voting yes and none voting no)

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
December 10, 2015

MEMBERS PRESENT: Erik Braun, John Brewer, Karen Bulman, Galen Hoogestraat, Mark Jobman, Linda Marchand, Kay Rippentrop, Steve Rolinger and Kimberly Schmidt
Amanda Scott, Council Liaison was also present.

MEMBERS ABSENT: Andrew Scull and Jan Swank.

STAFF PRESENT: Brett Limbaugh, Vicki Fisher, Fletcher Lacock, Robert Laroco, 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.

Motion by Rolinger seconded by Bulman and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 3 in accordance with the staff recommendations. (9 to 0 with Braun, Brewer, Bulman, Hoogestraat, Jobman, Marchand, Rippentrop, Rolinger and Schmidt voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the November 25, 2015 Planning Commission Meeting Minutes.

*2. No. 15PD042 - Rushmore Crossing

A request by Farnsworth Group to consider an application for a **Final Planned Development Overlay to allow a restaurant** for Lot 8R of Block 3 of Rushmore Crossing, formerly Lot 7A of Block 3 of Rushmore Crossing, located in the SW1/4 of the SE1/4 and the SE1/4 of the SW1/4 of Section 22, T2N, R8E, Rapid City, Pennington County, South Dakota, more generally described as being located north of Eglin and south of E. North Street.

Planning Commission approved the requested Final Planned Development with the following stipulation:

1. **Prior to issuance of a building permit, the applicant shall provide an access agreement for the water shutoff valve for the proposed domestic water service and fire service lines as necessary. The applicant shall provide documentation for the ownership and maintenance responsibilities of all common open space, stormwater and water quality facilities, and shared accesses as necessary. In addition, stormwater quality calculations in compliance with the Stormwater Quality Manual and Stormceptor sizing criteria and calculations shall be provided.**
2. **This requested Final Planned Development shall allow for development of a restaurant on the property. All requirements of the**

General Commercial District shall be maintained unless specifically stipulated as a part of a subsequent Major Amendment. All uses permitted in the General Commercial District shall be permitted. All conditional uses in the General Commercial District shall require the review and approval of a Major Amendment to the Planned Development.

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.

*3. No. 15PD043 - Founders Park Subdivision

A request by Fisk Land Surveying and Consulting Engineers, Inc for Founders Park LLC to consider an application for a **Final Planned Development Overlay to allow an office complex** for a parcel of land located in the unplatted portion of the West One-Half of the Northwest One-Quarter of the Southeast One-Quarter (W ½ NW ¼ SE ¼) of Section Thirty-Five (35) in Township Two North (T2N), Range Seven East (R7E) of the Black Hills Meridian (BHM), Rapid City, Pennington County, South Dakota to be known as Future Lot 5 of Founders Park Subdivision and more fully described as follows: Beginning at the north corner of Lot 2 of Founders Park Subdivision, located in said W ½ NW ¼ SE ¼ of Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota as shown on the plat filed March 3, 2008 and recorded in Book 35 of Plats on Page 13, said point being coincident with the westerly right-of-way line of Founders Park Drive right-of-way; thence, curving to the right and on the north line of said Lot 2 of Founders Park Subdivision, on a curve with a radius of 193.23 feet, a delta of 86 degrees 48 minutes 45 seconds, an arc length of 292.78 feet, and a chord bearing and distance of South 50 degrees 38 minutes 16 seconds West 265.56 feet more or less; thence, curving to the right and continuing on the north line of said Lot 2 of Founders Park Subdivision, on a curve with a radius of 218.29 feet, a delta of 16 degrees 13 minutes 50 seconds, an arc length of 61.84 feet and a chord bearing and distance of North 80 degrees 09 minutes 05 seconds West 61.63 feet more or less to the northwest corner of said Lot 2 of Founders Park Subdivision, said point being coincident with an easterly corner of Lot 1 of Founders Park Subdivision which is located in said W ½ NW ¼ SE ¼ of Section 35, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota and is as shown on the plat filed February 1, 2007 and recorded in Book 34 of Plats on Page 80; thence, curving to the right on the easterly line of said Lot 1 of Founders Park Subdivision, on a curve with a radius of 218.29 feet, a delta of 16 degrees 12 minutes 30 seconds, an arc length of 61.75 feet, and a chord bearing and distance of North 63 degrees 55 minutes 55 seconds West 61.55 feet more or less to a point of curvature on the east line of said Lot 1 of Founders Park Subdivision; thence, North 25 degrees 55 minutes 09 seconds East a distance of 86.32 feet more or less; thence, North 62 degrees 00 minutes 00 seconds East a distance of 226.62 feet more or less to a point on the westerly right-of-way line of Founders Park Drive; thence, curving to the left and on the westerly line of said Founders Park Drive right-of-way on a curve with a radius of 389.50 feet, a delta

of 2 degrees 04 minutes 02 seconds, an arc length of 14.05 feet, and a chord bearing and distance of South 56 degrees 36 minutes 59 seconds East 14.05 feet more or less to a point of tangency; thence, southeasterly and on the westerly line of said Founders Park Drive right-of-way South 57 degrees 39 minutes 00 seconds East a distance of 84.96 feet more or less to the point of beginning, more generally described as being located southwest of Founders Park Drive and Cowboy Hill Road intersection.

Planning Commission approved the Major Amendment to a Planned Development to allow an office complex with the following stipulations:

- 1. The Major Amendment to a Planned Development shall allow for an office building. Permitted uses within the Office 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 Planned Development.**

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---

---BEGINNING OF REGULAR AGENDA ITEMS---

***4. No. 15UR024 - Original Township of Rapid City**

A request by Tina Fletcher to consider an application for a **Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a salon** for the south 90 feet of Lot 17 thru 20; Lot 21 thru 25; vacated 6th Street and St. Joe Street adjacent to that part of Lot 17 and that part of Lot 23 of Block 85, located in Section 1, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 522 6th Street.

Laroco presented the application and reviewed the associated slides. Laroco noted that the Central Business District has been identified as an appropriate location for this type of activity and staff recommends that the **Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a salon** be approved with stipulations.

Tina Fletcher, 526 Sixth Street, the applicant, thanked the Planning Commission for hearing for her request. She stated that this will be a very welcomed service for her customers and hopes they approve the request.

Brewer clarified that the request will include both the offering of and the sales of wine and beer to the customers of the salon.

Bulman moved, Rolinger seconded and unanimously carried to approve the requested Conditional Use Permit with the following stipulation:

1. **The requested Conditional Use Permit shall allow an on-sale liquor establishment for the sale and service of beer and wine only as an accessory to the existing salon. Any change in use which continues the sale and service of alcohol shall require a Major Amendment to the Conditional Use Permit. Uses permitted in the Central Business District shall be permitted. All conditional uses in the Central Business District shall require the review and approval of a Major Amendment to the Conditional Use Permit. (9 to 0 with Braun, Brewer, Bulman, Hoogestraat, Jobman, Marchand, Rippentrop, Rolinger and Schmidt 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.

*5. No. 15PD044 - Original Township of Rapid City

A request by Geiger Architecture for Julie Herman to consider an application for a **Final Planned Development Overlay to allow a mix of residential and commercial uses** for the south 50 feet of Lot 28 thru 32 of Block 63 of Original Township of Rapid City, located in Section 36, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 321 7th Street.

Lacock presented the application and reviewed the associated slides. Lacock reviewed the proposed uses which include restaurants in the basement and first story, a church that would operate only on Sunday's and apartment units on the second story and offices or apartment units on the third story noting that the applicant is requesting an Exception to the parking requirement from 187 parking spaced to 1 parking space. Lacock stated that this building has been granted a number of variances, one was to allow the operation of restaurant that opened after 5:00pm to alleviate parking issues, but that those uses have been non-active for over a year and that the building has been vacant. Lacock reviewed the calculations used to identify the parking requirements, stating that staff believes that even if the total number of parking spaces are not needed, some parking does need to be provided. Lacock stated that the applicant provided a detailed operation plan for the use and a business plan noting that the applicant has decided to not request a Conditional Use Permit to allow On-Sale at this time. If such a request is made in the future it would be a Major Amendment to the Final Planned Development and would be reviewed the Planning Commission. Lacock presented staff's recommendation that based on the Comprehensive Plan's objective of removing barriers for the adaptive reuse of properties, staff recommends approval of the **Final Planned Development Overlay to allow a mix of residential and commercial uses** with stipulations.

Rolinger stated that he has supported these requests in the past noting that the parking issue for this building is not going to change.

Fred Thurston, 6665 W. Highway 44, owner of the adjacent property, reviewed some of the historical properties that he has refurbished both in Rapid City and other cities noting that this helps him understand the restrictions associated with reusing a historic building. Thurston stated that he has worked with the previous operators of this building in regards to parking including offering parking if the uses did not start until after 5:00pm. Thurston also noted that the sewer line that provides service to the building is a private line that is owned by him and that in the past they have experienced issues with this line backing up into his basement. Thurston stated that he feels that parking requirements need to be retained, that he believes that not requiring parking will be harmful to business in the downtown area. Thurston said that there are creative options for providing parking and requested that the application be denied.

Alli Thurston, 3204 Park Drive, property owner of adjacent property, stated that if this is approved it will devastate her business due to the nature of her business. She feels that if the building is to have permanent residents they should provide parking. Thurston also referenced the issues that they have had with the sewer line stating that the issues have not occurred since the use of the property has been empty.

Vicki Bierman, 5001 Strong Creek Drive, owner of Victoria's garden, which is located across the street from the applicant property, noted that she chose the location of the business based on the available parking which is provided by Thurston, who is the owner of the property, that they are a destination location and that the type of business depends on the ability for customers to park close to the business. She believes that the applicant should be required to provide parking for the patrons of the building and not rely on the street parking.

Hoogestraat discussed his thoughts on the application including the parking, which he feels should be at least 10 spaces for the residential use, but that he would like to see the building used. Lacock stated that the use of residential in this building would provide vibrancy for the area.

Rippentrop left the dais at this time.

Rolinger spoke to the other uses in the downtown area and the parking solutions that are used. He noted that there appears to be no discussion to arrive at a joint solution for this property which bothers him, as previously in cases like this negotiations have been undertaken and solutions reached.

Bulman also noted that she would like to see this building used and discussed the parking issue. Discussion followed.

In response to a question from Schmidt regarding possible stipulations requiring lease of spaces, Fisher stated that that is not an option at this time, but did offer the suggestion that this item could be continued to allow additional input.

Julie Herman, 2180 Cardinal Lane, the applicant, spoke to the age and condition of the building stating that it has been brought up to code and is even fire

sprinkler protected. She noted the issues associated to the sewer issue stems from the fact that the line is lower than the sewer on the street leading to the backup issues and that if a baffle was installed it would address this issue. Herman reviewed the criteria for the number of required parking spaces saying that all of the listed uses would have to be happening at one time to make that number anywhere near needed. She discussed how the building has stood vacant for over a year and she is trying to utilize the building to attract tenants. She does understand the need for parking and discussed a few options.

Discussion followed and it was suggested that the item be continued to the January 7, 2016 Planning Commission meeting to allow additional discussion and suggestions.

Fisher offered for staff to meet with the applicant to review the parking requirement compared to the variance uses in order to more accurately identify the parking requirements for this site, included developing the property in phases.

Brewer moved, Bulman seconded to continue the Final Planned Development Overlay to allow a mix of residential and commercial uses to the January 7, 2015 Planning Commission meeting. (8 to 0 with Braun, Brewer, Bulman, Hoogestraat, Jobman, Marchand, Rolinger and Schmidt 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.

6. Discussion Items
7. Staff Items
8. Planning Commission Items
9. Committee Reports

There being no further business, Rolinger moved, Bulman seconded and unanimously carried to adjourn the meeting at 8:13 a.m. (9 to 0 with Braun, Brewer, Bulman, Hoogestraat, Jobman, Marchand, Rippentrop, Rolinger and Schmidt voting yes and none voting no)