

MINUTES OF THE  
RAPID CITY PLANNING COMMISSION  
January 7, 2016

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

MEMBERS ABSENT: None

STAFF PRESENT: Vicki Fisher, Fletcher Lacock, Robert Laroco, Ted Johnson, Carla Cushman, Jess Rogers, Rebel VanLoh and Andrea Wolff.

Braun called the meeting to order at 7:05 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 Marchand seconded by Rolinger and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 2 in accordance with the staff. (8 to 0 to 1 with Braun, Brewer, Bulman, Hoogestraat, Marchand, Rippentrop, Rolinger, and Swank voting yes, none voting no and Scull abstaining)**

**---CONSENT CALENDAR---**

1. Approval of the December 10, 2015 Planning Commission Meeting Minutes.
2. No. 15PL112 - Prairie Meadows Subdivision  
A request by Sperlich Consulting, Inc. for Freeland Meadows, LLC to consider an application for a **Preliminary Subdivision Plan** for Lots 20 thru 35 of Block 1, Lots 2 thru 23 of Block 3 and Lots 14 thru 26 of Block 4 of Prairie Meadows Subdivision, legally described as a portion of Government Lot 4 of Section 18, T2N, R8E, located in Section 18, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located northeast of the West Nike Road and Country Road intersection.

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

1. **Prior to submittal of a Development Engineering Plan application, driveway length(s) for Lots 26 and 27 shall be identified. If the length(s) exceed 150 feet, than an emergency vehicle turnaround shall be designed and constructed as a part of the subdivision improvements;**
2. **Upon submittal of a Development Engineering Plan application, construction plans for Giants Drive, Eli Drive and Marino Drive shall be submitted for review and approval showing the street(s) located within a minimum 52 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or Exception(s) shall be obtained. If Exception(s) are**

- obtained, a copy of the approved Exception(s) shall be submitted with the Development Engineering Plan application;
3. Upon submittal of a Development Engineering Plan application, construction plans for Country Road shall be submitted for review and approval showing the street constructed with a minimum 36 foot wide paved surface, curb, gutter, sidewalk, street light conduit, sewer and a dual water main or an Exception shall be obtained. If an Exception is obtained, a copy of the approved Exception shall be submitted with the Development Engineering Plan application;
  4. Upon submittal of a Development Engineering Plan application, construction plans for West Nike Road shall be submitted for review and approval showing the street located within a minimum 68 foot wide right-of-way and constructed with a minimum pavement width of 24 feet, curb, gutter, sidewalk, street light conduit, water and sewer or an Exception shall be obtained. If an Exception is obtained, a copy of the approved Exception shall be submitted with the Development Engineering application;
  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. In addition, easements shall be provided as needed;
  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 for this phase of the development and for future development up stream. In addition, easements shall be provided as needed;
  7. Upon submittal of a Development Engineering Plan application, a drainage plan report prepared by a Registered Professional Engineer as per the Infrastructure Design Criteria Manual shall be submitted for review and approval. The drainage plan and report shall address storm water quantity control and storm water quality treatment in conformance with the Infrastructure Design Criteria Manual. In addition, easements shall be provided as needed;
  8. Prior to submittal of the Development Engineering Plan application, redlined comments shall be addressed. Upon submittal of the Development Engineering Plan application, the redlined comments and the revised drawings and plat per the redline comments shall be submitted for review and approval or an Exception to the Infrastructure Design Criteria Manual or the Standard Specifications for each comment shall be obtained. If an Exception is obtained, a copy of the approved Exception(s) shall be submitted with the

- Development Engineering Plan application;**
9. **Prior to Development Engineering Plan approval, engineering reports required for construction approval shall be accepted and agreements required for construction approval shall be executed. 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 Registered Professional Engineer;**
  10. **Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements, if applicable;**
  11. **Upon submittal of a Development Engineering Plan application, a cost estimate of the required subdivision improvements shall be submitted for review and approval;**
  12. **Prior to submittal of a Final Plat application, the plat document shall be revised to show Country Road as East Country Road. In addition, the plat title shall be revised to show “dedicated right-of-way in Government Lot 4” as “dedicated right-of-way”;**
  13. **Upon submittal of a Final Plat application, a covenant agreement, homeowners agreement or some other agreement securing perpetual ownership and maintenance of the drainage lots/areas and the drainage improvements shall be submitted for recording;**
  14. **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,**
  15. **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).**

**---END OF CONSENT CALENDAR---**

**---BEGINNING OF REGULAR AGENDA ITEMS---**

- \*3. 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 noting that this application had been continued at the December 10, 2015 meeting to allow the applicant time to answer Planning Commission’s question from the last meeting including parking, more defined uses and confirming that the sewer service to the property is adequate. Lacock stated that the applicant that has submitted a revised letter of intent outlining the proposed changes to the uses including removing the church use

from the second floor and removing the office use from the third floor entirely. The second floor office use is still being included but only to allow for flexibility for future use, in addition, the applicant requests that the basement restaurant have no time limit. The proposed uses will reduce the minimum parking requirement from 187 to 1 to 127 to 1. Lacock noted that previous variances reduced parking from 106 to 1 noting that these past uses were less desirable for the area. Lacock stated that the applicant had reviewed leasing options for parking and although she was unable to obtain parking there have been discussions for other options to enable this use. In regards to the sewer capacity Lacock stated that the applicant had provided a report which Public Works has reviewed and accepted as being suitable but noted that any improvements or repair of the sewer main will be the responsibility of the property owners. Lacock stated that with the revision to the uses and the acceptance of the sewer report staff recommends that the application for the **Final Planned Development Overlay to allow a mix of residential and commercial uses** be approved with stipulations.

Swank stated that he would be abstaining from the item due to a conflict of interest.

Vicki Bierman, 5001 Stoney Creek Drive, owner of a neighboring business, spoke to her concerns regarding the parking issues. Bierman stated that they support the use of the now empty building but have concerns that the parking needs for the uses in the building will negatively affect her customers parking.

Fred Thurston, Thurston Design, 6665 W. Highway 444, owner of the neighboring building spoke to his concerns regarding the proposed uses and the associated parking issues. Thurston reviewed the discussion and suggestions made during a meeting between he and the applicant. He stated that he has reviewed the sewer capacity issue and the options that could be initiated to alleviate this issue.

Tancy Winchell, 1980 Country Road #50, owner of a neighboring business, spoke to her concerns noting that she had chosen the location for her business based on the availability of parking and access to the business and is afraid that her customers would have to park further away and not chose to use her business. She also made mention that due to the nature of her business she has a heavy use of water and worries about sewer backups which would be detrimental to her business.

Julie Herman, 2506 Canyon Lake Drive, reviewed the meeting with the neighboring business owners and the actions she has made to address their concerns. Herman noted that they had discussed the sewer issue and that there may be future requests to the City regarding reconstruction of the sewer main located in the street. Herman noted that this building has been vacant for a number of years making this a high risk building and she is trying to give herself as much flexibility for proposed uses in order to improve the potential for successful ownership and leasing of the building. She discussed the uses and associated parking options and how this affects the various uses both adversely

and positively. Herman reviewed the sewer capacity issue noting that there is no actual sewer main, but a sewer service and that all of the services have been identified as sufficient and operational, noting that the service on Thurston's property is the lowest and therefore bears the brunt of potential backups. Herman reviewed some of the options to correct this problem and what she did to confirm the capacity of the sewer service on her property for the proposed uses. She stated that her timeline is to be open by June or July.

Scull commended the applicant on a professional presentation addressing the concerns posed by the Commission and neighboring business owners.

Bulman stated that she wants to see the building used and agrees that the uses are those type that are wanted in the area. She also spoke to her concerns regarding parking and that she understands that the solution is not simple but hopes a solution can be reached.

Brewer stated that he agrees with Scull that the presentation was very professional and that he understands that parking is an issue; however, he stated that a decade ago the parking issue downtown was that no one was using the parking.

**Brewer moved to approve the application with stipulations, Marchand seconded.**

Hoogestraat stated that he supports the request also stating that regardless of what use goes into the property there will be parking issues.

Discussion followed regarding the issue associated with parking.

In response to a question from Rolinger, Fisher stated that the sewer services are private and the responsibility for repair and maintenance falls to the owner not the City.

In response to a request from Rolinger regarding the history associated with the sewer service for these properties, Lee Geiger, Geiger Architecture stated that all lines are private. Once it comes off the main line it belongs to the owner and any repair and maintenance is the responsibility of the owner. Geiger stated that the inspection of the line that serves this property showed that it is in good repair and should be able to meet the use. He stated that the reason it appears that Thurston is bearing backups or overflow is that his is the lowest level of the line, but that with limited attention and maintenance this can be solvable. Geiger also spoke to the parking issue and discussing possible solutions.

In response to a comment from Rolinger that the request for two restaurants on a sewer system that was not built to handle such use, Thurston reviewed his options regarding the management of his service lines.

Ted Johnson reviewed the sewer lines which appear to have been built in the 1920s noting that it is a non-conforming combined line, of which there are a

number in the City. Johnson stated that there are no immediate plans to rebuild 7<sup>th</sup> Street which would include the extension of the sewer main. He did state that the City does have a program to rebuild or replace non-conforming sewers that is based on urgency, but stated that this does not qualify. Johnson also stated that an assessed project could be affected on a volunteer basis, but that all owners and users of the lines would have to participate. He stated that the line has been reviewed and is operating to standards.

Further discussion ensued regarding the sewer from Bob Fuchs, owner of the property, regarding the efforts they have used to manage their sewer lines and back up issues.

Rippentrop left the meeting at this time.

**Brewer moved, Marchand seconded and unanimously carried to approve the Final Planned Development Overlay to allow a mix of residential and commercial uses with the following stipulations:**

1. **An Exception is hereby granted to reduce the minimum required parking from 126 parking spaces to one parking space. The one parking space shall be handicap “van accessible”;**
2. **The basement level of the building shall be used as a restaurant with no time limitations. Any change in use that does not require an increase in parking shall require a Building Permit. Any conditional use shall require a Major Amendment to the Planned Development;**
3. **The first story of the building shall be used as a restaurant with no time limitations. Any change in use that does not require an increase in parking shall require a Building Permit. Any conditional use shall require a Major Amendment to the Planned Development;**
4. **The second story of the building shall be used as four apartments/condos. Any change in use that does not require an increase in parking shall require a Building Permit. Any conditional use shall require a Major Amendment to the Planned Development; and**
5. **The third story shall be used for three apartments/condos. Any change in use that does not require an increase in parking shall require a Building Permit. Any conditional use shall require a Major Amendment to the Planned Development. (9 to 0 with Braun, Brewer, Bulman, Hoogestraat, Jobman, Marchand, Rolinger, Scull, and Swank 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.***

- \*4. No. 15PL108 - Shopko Addition  
A request by Dream Design International, Inc. to consider an application for a

**Preliminary Subdivision Plan** for Lot 2 and 4 of Shopko Addition, legally described as Lot 2 of Shopko Addition, located in Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1845 Haines.

Braun stated that he would be abstaining from this issue due to conflict of interest and handed the gavel to Bulman.

Fisher presented the application and noted that it was placed on non-consent portion of the agenda to allow Braun to abstain and that staff recommends that the **Preliminary Subdivision Plan** be approved with stipulations.

**Rolinger moved, Marchand seconded and unanimously carried to approve the Preliminary Subdivision Plan with the following stipulations:**

1. **Prior to submittal of a Development Engineering Plan application, the plat document shall be revised to clearly show the existing “Private Access Easement for Lots 2 & 3 for Parking & Ingress/Egress” as a part of proposed Lot 2. In addition, the labeling of the easement(s) shall be revised to read “Private Access Easement for Parking & Ingress/Egress” to ensure that proposed Lot 4 can also use the easement(s) as identified;**
2. **Upon submittal of a Development Engineering Plan application, construction plans for the Private Access Easement(s) shall be submitted for review and approval showing the easements with a minimum width of 70 feet and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer or Exception(s) shall be obtained. If Exception(s) are obtained, a copy of the approved Exception(s) shall be submitted with the Development Engineering Plan application;**
3. **Upon submittal of a Development Engineering Plan application, the plat document shall be revised to show the existing sanitary sewer service that serves proposed Lot 2 within a 10 foot wide utility easement. If any portion of the easement is located on proposed Lot 4, then a design exception shall be obtained to allow a utility easement to cross one lot to serve another or the plat document shall be revised to ensure that the entire easement is located on proposed Lot 2. If an Exception is obtained, a copy of the approved Exception shall be submitted with the Development Engineering Plan application;**
4. **Upon submittal of a Development Engineering Plan application, the plat document shall be revised to show the existing water service line that serves proposed Lot 2 within a minimum 20 foot wide utility easement. Since the water service line extends across proposed Lot 4, a design Exception shall be obtained to allow a utility to cross one lot to serve another or the plat document shall be revised to ensure that the water service line is located exclusively on proposed Lot 2. If an Exception is obtained, a copy of the approved Exception shall be submitted with the Development Engineering Plan application;**

5. Upon submittal of a Development Engineering Plan application, a drainage plan report prepared by a Registered Professional Engineer as per the Infrastructure Design Criteria Manual shall be submitted for review and approval if subdivision improvements are required. The drainage plan and report shall address storm water quantity control and storm water quality treatment in conformance with the Infrastructure Design Criteria Manual. In addition, easements shall be provided as needed;
6. Prior to Development Engineering Plan approval, engineering reports required for construction approval shall be accepted and agreements required for construction approval shall be executed. 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 Registered Professional Engineer;
7. Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for all public improvements, if applicable;
8. Upon submittal of a Development Engineering Plan application, a cost estimate of the required subdivision improvements shall be submitted for review and approval;
9. 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,
10. 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). (8 to 0 to 1 with Brewer, Bulman, Hoogestraat, Jobman Marchand, Rolinger, Scull, and Swank voting yes, none voting no and Braun abstaining)

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Bulman turned the gavel back to Braun at this time.

- \*5. No. 15RZ023 - Section 23, T2N, R8E  
A request by Renner and Associates, LLC to consider an application for a **Rezoning from General Agricultural District to Heavy Industrial District** for a portion of the W1/2 of the NW1/4 of Section 33, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of Elgin between East North Street and N. Elk Vale Rd.

Laroco presented the application and reviewed the associated slides. Laroco noted that the future land use plan does not show this is an applicable zoning for



the property. Laroco reviewed the criteria used to review a rezone request which includes conditions that would necessitate the rezone noting that there is no changes in the area which would require the property be rezoned; is the use consistent with the intent of the Ordinance and the intent being the safe, orderly, effective development in compliance with the Comprehensive Plan, noting that the uses identified for High Industrial Districts are generally high impact and do not meet the lesser impact, interior or enclosed nature of Light Industrial District uses which this area is identified as appropriate for in the Future Land Use Plan, due to the non-enclosed, higher impact nature of the Heavy Industrial uses; that the uses of a Heavy Industrial District is not compatible with the neighboring zonings and additionally that the property is located along one of the City's entry corridors. Based on these review criteria staff recommends that the request **Rezoning from General Agricultural District to Heavy Industrial District** be denied.

Peter Hendrickson, 5827 Wildwood Drive, said he is the owner of neighboring property spoke to his concerns regarding the detrimental effects this would have on the neighboring businesses which includes retail shops, car dealerships and other small businesses and is located along one of the corridors of entry into the City of Rapid City and would create an island of Heavy Industrial uses and request that the request be denied.

Jobman left the dais at this time.

Bill Huebner, 820 Enchanted Pines Dive, President of Ace Steel Recycling, presented handouts to the Planning Commission and saying that this area has been heavy industrial in every way but zoning. Huebner reviewed the history of Ace Steel Recycling, the customer base that uses the facilities stating that recycling is at an all-time high, but he feels that the City does not want the business in its boundaries. Huebner said that the Future Land Use Plan from the 1970s identified this area as Industrial and that the shopping and restaurants referenced by others are located further down the corridor. Huebner said that staff was aware of their plans for expansion even though no actual project plans have been submitted as yet. Huebner reviewed some of the reasons they feel the proposed property would be a good location for these expansion plans, including the possible reduction of heavy truck traffic if they could obtain a spur to the railroad line that runs along this property, stating that they have been in contact with the Pierre & Eastern Railroad regarding this possibility; the natural topography of the proposed property that would provide some screening of the materials which they indicated would be moving from the current location to the proposed location, which would move the material out of the view of traffic on the Interstate, which is in the interest of the City. Huebner discussed the traffic issues and the Comprehensive Plan stating that he feels that this area should be identified for heavy industrial uses rather than as light industrial uses which the City's Comprehensive Plan identifies it. Huebner noted that the surrounding business owners had signed a petition in support of the request and that he feels that this will not create an island of Heavy Industrial but is a reasonable zoning for this area that is adjacent to heavy industrial uses.

Allen Johnson, 7925 Meadow View Court, owner of the property in question, spoke to the reasons he supports this rezoning request including development of the property by other uses is unlikely due to the location and neighboring businesses, that rezoning this from General Agricultural District to Heavy Industrial District would increase taxes based on the zoning which would be a benefit for the city and the potential movement of the materials currently located next to the interstate would improve the line of sight from the interstate.

Sylvia Conrad, 2600 Sheridan Lake Road, property owner in the area spoke to her concerns of the rezoning of the property boarding her property, but stated that after visiting the property she now agrees that the proposed use is probably the best option for the property.

Scott left the meeting at this time.

Brewer stated that he would like to have additional information before he would be comfortable supporting this request. Brewer also addressed the reference to the Comprehensive Plan noting that the preparation of the Comprehensive Plan was an extensive two year process to which the entire community, both business and private, was invited to participate and the final project was designed to guide the growth of the area for the good of the community and he feels that that goal was well met.

Hoogestraat stated that he is in support of the application.

Rolinger stated that he understands both sides of this issue noting that he had visited the site and agrees with the potential benefit, but would also like additional information before he votes.

In response to a question from Schmidt regarding the screening required for Heavy Industrial, Fisher stated that it is based on the surrounding zoning. She noted that rezoning of this property to Heavy Industrial District is in direct conflict of the intent of the Comprehensive Plan that was worked on for years by the community. She noted that rezoning opens the door to all uses in a Heavy Industrial District and not just the one identified by the property owner, noting that if this proposed plan does not occur any of those uses would then be applicable. Fisher pointed out that salvaging is a Conditional Use in a Heavy Industrial District and would have to be approved by the Planning Commission.

Scull spoke to the need for additional information stating that a rezone should include information regarding the Planned Development to allow review of the proposed use. Scull said he understands the desire to move these types of business away from the commercial and residential areas but said it is important to plan for the diversification of businesses including these types of businesses to promote strong future growth.

Renee Catron, Renner and Associates, Inc., agent for the applicant, stated that this use is a Conditional Use in the Heavy Industrial District and would require the same type of review as a Planned Development.

Bulman stated her concerns regarding the increase of heavy industrial uses creeping further in towards the City and stated that preventing this was a part of the goal of the Comprehensive Plan and why input from the local businesses and property owners was such a crucial element in the preparation Comprehensive Plan to try and identify the projected growth and uses to allow for the safe, orderly and effective growth of the city including these kinds of uses and to avoid this type of push in. Bulman requested that this be continued to allow for more information to be provided to the Planning Commission to review including some of the proposed design plans.

**Bulman moved to continue to for two weeks, Marchand seconded.**

Fisher clarified that the applicant was not disclosed as Ace Steel Recycling in the application, nor were any of the plans for the proposed use of expansion of Ace Steel Recycling included in the information provided with the rezoning request only the brief letter of intent listing the uses for a Heavy Industrial District.

Fisher suggested that the item be continued longer than two weeks to allow the applicant more time to provide additional information and for staff to be able to review. She also requested that Planning Commission clarify if they wanted additional time to review the site and basic design plans for the proposed use and expiation of the recycling facility, or if they wanted the applicant to provide a Planned Development application in association with the Rezone.

In response to a suggestion from Rolinger that a meeting be held on the site, Fisher urged against such a meeting suggesting instead that she would advise that each commissioner review the sight individually.

**Bulman offered an amended motion, Marchand seconded.**

**Bulman moved, Marchand seconded to continue the application to rezone property from General Agriculture District to Heavy Industrial District to the February 4, 2015 Planning Commission meeting to allow the applicant to bring back a concept plan for the sight and to show how this will improve his existing site along Eglin Street. (9 to 0 with Braun, Brewer, Bulman, Hoogestraat, Marchand, Rolinger, Schmidt, Scull, and Swank 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.***

Hoogestraat left at this time.

- \*6. No. 15PD045 - Lowes Subdivision  
A request by Lowes Subdivision to consider an application for a **Major**

**Amendment to the Planned Development Overlay to reduce the required amount of parking** for Lot 1 of Lowes Subdivision, located in Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2550 Haines Avenue.

Laroco presented the application and reviewed the associated slides. Laroco noted that the retaining wall that was required as part of the original Planned Development to allow the required parking is starting to fail. In lieu of that the applicant is requesting a reduction in parking to enable the redesign of the parking lot to reduce the retaining wall. Laroco stated that staff supports the Exception to reduce parking and recommends that the application for **Major Amendment to the Planned Development Overlay to reduce the required amount of parking** be approved with stipulations.

In response to and inquiry from Brewer regarding the landscaping and drainage plans associated to this redesign Todd Butler from Ozark Civil Engineering reviewed the plans showing the revised drainage and landscaping noting that the pedestrian sidewalk will remain unchanged.

Rolinger stated that he will be supporting this application stating that he believes that the reduction in parking for Lowe's will not create shortage of parking for the store.

**Swank approved, Rolinger seconded and unanimously carried to approve the requested Final Planned Development for a Major Amendment to the Planned Development Overlay to reduce the required amount of parking with the following stipulation:**

- 1. All stipulations of the previously approved Initial and Final Planned Development are hereby acknowledged.**
- 2. The requested Exception to reduce the required amount of parking from 551 spaces to 460 parking spaces is hereby granted. All parking shall comply with the requirements of the Rapid City Parking Ordinance.**
- 3. Prior to issuance of a building permit, revised plans shall be submitted which show that the minimum required amount of landscaping is still being provided as a part of the new parking lot design. All landscaping shall be installed and maintained in compliance with the requirements of the Rapid City Landscaping Ordinance.**
- 4. Prior to issuance of a certificate of completion, all display and storage currently located within the existing and proposed parking lot shall be removed. Outdoor display and/or storage which is located within identified parking areas shall require a Major Amendment to the Planned Development.**
- 5. This Major Amendment to the Planned Development shall allow for a reduction in the required amount of off-street parking in order to provide a revised parking lot design at the existing Lowe's. All requirements of the General Commercial District shall be continually**

**maintained unless specifically stipulated as a part of the previously approved Initial and Final Planned Development, this Major Amendment, or a subsequent 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 in the General Commercial District shall require a Major Amendment to the Planned Development. (8 to 0 with Braun, Brewer, Bulman, Marchand, Rolinger, Schmidt, Scull, and Swank 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.***

\*7 No. 15PD047 - Cleary Subdivision

A request by Cleary Building Corp for Tom and Carol Cleary to consider an application for a **Major Amendment to a Planned Unit Development to allow Black Hills Garage Doors as a professional office** for Lot A less Lot H1 of Cleary Subdivision, located in Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1555 Carton Boulevard.

Braun stated that Bulman would be recusing herself from this item. Bulman stepped down from the dais at this time.

Lacock presented the application noting that Planning Commission had previously approved a Major Amendment to the Planned Unit Development, 15PD036, with the requirement that Black Hills Garage Doors leave the property. Lacock stated that staff has been made aware that they had not. Lacock stated that in addition to Black Hills Garage Doors remaining in the facility, the approved hours of operation have not been adhered to and that staff continues to receive complaints from the neighbors regarding early arrivals and noise associated with the operation of the property. Based on these reasons staff recommends that the **Major Amendment to a Planned Unit Development to allow Black Hills Garage Doors as a professional office** be denied.

Pat Hahn, 1105 Regency Court, spoke to her concerns regarding the use of the building and stated that she is in disagreement with the request.

Bulman, 1311 Edinborough Drive, spoke to her concerns in regards to this request saying that the requirements of the previous Major Amendment to the Planned Unit Development that the property be operated as commercial offices and that the hours of operations be contained to 8:00 am to 5:00 pm and that Black Hill Garage Doors no longer be in the building have not been followed. Bulman said that the large equipment usage has stopped but that the hours of operation have not been met causing disruption to the neighborhood. Bulman said that the current use of the building exceeds the approved office use leaning

more towards an industrial use. She notes that they are still using the building for storage of vehicles and requests that they be required to operate solely as office uses.

In response to a question from Brewer regarding what will happen if Planning Commission denies as per staff recommendation, how will the enforcement of hours be handled, Fisher clarified that denying this request would limit the operation to office hours.

Jess Rogers, City Attorney's office, spoke about the procedures for the enforcement of complaints stating that when an item is ongoing or before Planning Commission her office tends to stay enforcement until a final decision is made. Rogers noted that she was aware that a decision had been made regarding the Cleary offices use of the building but that there was a pending application regarding the Black Hills Garaged Doors use of the property. Based on previous discussion about allowing the early arrival of vehicles to fall outside the defined hours listed in the hours of operation and with the pending Major Amendment to the Planned Unit Development that is now before the Planning Commission, Rogers said she is waiting for clear instructions regarding the hours of operation which would then allow her to criminally enforce reported offences. Rogers agreed that the denial of the request for Black Hills Garage Doors and clarification of the hours of operation for the Cleary office use would meet these criteria.

**Brewer moved to deny the request to allow Black Hills Garage Doors to operate as professional offices and to verify the hours of operations for Cleary office use.**

Discussion followed regarding the usage and hours of those uses.

Patrick Anderson, of Cleary Buildings stated that he had addressed the outdoor use of the property. Anderson stated that the current use of the property included employees arriving prior to 6:30 am which are the hours of the business. Anderson spoke to a letter from the attorney's office addressing the use of the building by Black Hills Garage Doors pending the review of this application was why Black Hills Garage Doors had been allowed to continue to operate onsite and confirmed that he understands that the action today requires that Black Hills Garage Doors be removed from the property.

Scull called the question.

Following the vote, Michael Friend, Black Hills Garage Doors, asked if he could speak to the issue. Friend stating that he has been operating under a lease with Cleary Buildings for approximately the last two years and that he was aware of the concerns but that he has invested in the location and would like to request to continue being able to remain on property.

Fisher stated that as the Planning Commission had voted to deny the application that the applicant has to cease and desist at this time. She did state that the

applicant can appeal this decision to the City Council.

**Brewer moved, Marchand seconded and unanimously carried to deny the Major Amendment to a Planned Unit Development to allow Black Hills Garage Doors as a professional office and clarified the hours of operation for the Cleary office operations as follows: Monday thru Friday from 8:00 am to 5:00 pm and Saturday from 8:00 am to 12:00 pm with no employee activity on the property before 7:30 am. (7 to 0 with Braun, Brewer, Marchand, Rolinger, Schmidt, Scull, and Swank 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. Discussion Items  
None

9. Staff Items  
None

10. Planning Commission Items  
None

11. Committee Reports  
A. City Council Report (December 21, 2015)  
The City Council concurred with the recommendations of the Planning Commission.

**There being no further business, Scull moved, Marchand seconded and unanimously carried to adjourn the meeting at 9:53 a.m. (7 to 0 with Braun, Brewer, Marchand, Rolinger, Schmidt, Scull, and Swank voting yes and none voting no)**