

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
August 22, 2013

MEMBERS PRESENT: Carlos Beatty Jr., Erik Braun, John Brewer, Linda Marchand, Dennis Popp, Cody Raterman, Steve Rolinger, Tim R. Rose, Andrew Scull, and Jan Swank. Amanda Scott, Council Liaison was also present.

MEMBERS ABSENT: Karen Bulman, Kay Rippentrop

STAFF PRESENT: Brett Limbaugh, Vicki Fisher, Fletcher Lacock, Robert Laroco, Kip Harrington, Tim Behlings, Ted Johnson, Allison Marsland, Ryan Soye 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 6 be removed from the Consent Agenda for separate consideration.

Motion by Marchand seconded by Rose and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 6 in accordance with the staff recommendations with the exception of Item 6. (10 to 0 with Beatty, Braun, Brewer, Marchand, Popp, Raterman, Rolinger, Rose, Scull and Swank voting yes and none voting no)

---CONSENT CALENDAR---

1. Approval of the August 8, 2013 Planning Commission Meeting Minutes.
2. No. 13CA010 - Section 27, T2N, R7E
Summary of Adoption Action for a request by Ferber Engineering Company, Inc. for Kevin L. Randall to consider an application for an **Amendment to the Comprehensive Plan to change the land use designation from Commercial to Industrial** for Lot A of Lot 2 of the NW1/4 of the SW1/4 and the SW1/4 of the NW1/4, less lot H2 and less right-of-way, located in Section 27, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 2090 Deadwood Avenue.

Planning Commission approved the summary and authorized publication in the Rapid City Journal.
3. No. 13AN003 - Blue Marlin Estates
A request by Renner and Associates LLC for Shane Geidel to consider an application for a **Petition for Annexation** for a portion of the SE1/4 of the NE1/4, Section 20, T2N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the ¼ Section Corner common to Sections 20 and 21, T2N, R8E, BHM, thence N 03°08'35"W, a distance of

910.84' to the point of beginning; Thence, first course: S 89°52'15" W a distance 1047.10'; Thence, second course: N 00°00'26" E a distance 416.00; Thence third course: N 89°52'15" E a distance 1047.10'; Thence, fourth course: S 00°00'26" W a distance of 416.00, to the point of beginning, more generally described as being located at 3775 Dyess Avenue.

Planning Commission recommended that the Petition for Annexation be approved contingent on any payment due to the North Haines Fire Protection District being made by the City of Rapid City.

4. No. 13CA012 - Blue Marlin Estates

A request by Renner and Associates LLC for Shane Geidel to consider an application for an **Amendment to the Comprehensive Plan to change the land use designation from Public to Residential** for a portion of the SE1/4 of the NE1/4, Section 20, T2N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the NE 1/16th Section Corner of Section 20, T2N, R8E, BHM, thence N 89°52'15"E, a distance of 228.46' to the point of beginning; Thence, first course: N 89°52'15" E a distance 170.00'; Thence, second course: S 00°00'26" W a distance 416.00; Thence third course: S 89°52'15" W a distance 170.00'; Thence, fourth course: N 00°00'26" E a distance of 416.00, to the point of beginning, more generally described as being located at 3775 Dyess Avenue.

Planning Commission recommended that the Amendment to the Comprehensive Plan to change the land use designation from Public to Residential be approved.

5. No. 13RZ020 - Blue Marlin Estates

A request by Renner and Associates LLC for Shane Geidel to consider an application for a **Rezoning from No Use District to Low Density Residential District** for a portion of the SE1/4 of the NE1/4, Section 20, T2N, R8E, BHM, Pennington County, South Dakota, more fully described as follows: Commencing at the ¼ Section Corner common to Sections 20 and 21, T2N, R8E, BHM, thence N 03°08'35"W, a distance of 910.84' to the point of beginning; Thence, first course: S 89°52'15" W a distance 1047.10'; Thence, second course: N 00°00'26" E a distance 416.00; Thence third course: N 89°52'15" E a distance 1047.10'; Thence, fourth course: S 00°00'26" W a distance of 416.00, to the point of beginning, more generally described as being located at 3775 Dyess Avenue.

Planning Commission recommended that the Rezoning from No Use District to Low Density Residential District be approved contingent upon the annexation of the property by the City of Rapid City and in conjunction with the associated Comprehensive Plan Amendment.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

*7. No. 13PD022 - Feigels Subdivision

A request by SL Buildings LLC to consider an application for a **Final Planned Development to Allow a Dog Kennel in the Light Industrial District** Lot 4 of Block 4 of Feigels Subdivision, located in Section 31, T2N, R8E, Rapid City, Pennington County, South Dakota, more generally described as being located north and east of the intersection of East Watertown Street and North Cherry Avenue.

Laroco reviewed the application stating that the item is to review the Planned Development and Conditional Use Permit of a kennel in a Light Industrial District noting that the dog kennel operates under the name of the "Animal Psychology Center." Laroco also noted that the kennel has operated on this property since the spring of 2012 without the review and approval of a conditional use as required by the Rapid City Municipal Code and is currently operating without an approved kennel license. Laroco noted that as part of the Conditional Use Permit application the operator has provided an operational plan that defines the services offered by the kennel as boarding services, dog day care, obedience training, grooming, socialization, kenneling, massage and animal sales, identifying that an average of eight animals would be on the property at one time, with three in day care, two boarding overnight and three for sale. Laroco stated that residents of the mobile home park adjacent to the property have contacted both staff and their City Council representative to complain about prolonged barking of the dogs kenneled outside on the property.

Laroco identified the legal non-confirming parking for the property and noted that an Exception to reduce the parking requirement is included as part of the application. Laroco further stated that the outdoor kennels would not be allowed as a part of the Conditional Use Permit and that the signage was not permitted and/or sign permits have not been obtained as required by the Rapid City Municipal Code. Laroco reviewed the slides noting that they show between 20 to 30 dogs and cats inside the building and an additional seven to ten dogs kenneled outside.

Laroco stated that the requirements of the Light Industrial District are intended to ensure that operations do not create an adverse impact such as noise, dust and glare from the Light Industrial District to adjacent or nearby Residential Districts. Based on the location and existing operation of the kennel, staff believes that the kennel creates an adverse effect on the neighborhood and as such, staff recommends that the **Final Planned Development to Allow a Dog Kennel as a conditional use in the Light Industrial District** be denied.

Clifford Gross, 1709 Mesa Drive, stated that he rents property two doors down from the property and stated that he has no problems with the dogs.

Katherine Andrews, 910 E. Watertown, owner and operator of the dog kennel, provided a review of her background and how she came to operate the facility stating that the loss of the business would be financially devastating. Andrews stated that she had previously worked with staff to rezone a potential location and it was decided that the location not a suitable location and she should look

for some place in a Light Industrial District. Andrews stated that she thought she had a license as her check made out to the Animal Control Division had been cashed, adding that the animal control officer, Kent Brown, had mentioned that she should check into a Conditional Use Permit but that she was informed by the property owner that the building was grandfathered in and she did not need to address anything with the City. Andrews also indicated that upon discussing this issue with City Staff, she was informed that a Conditional Use Permit was required for the dog kennel. Andrews stated that she was unaware of the noise issues as she had not been contacted or received any complaints herself.

Rolinger asked about the operational plan that states no outside kenneling would be provided and read from an email that documented numerous dates and times that dogs were barking continuously in the outside kennels. Andrews stated that she does not kennel outside and that the fenced area is for exercise and bathroom breaks only. Andrews confirmed that the larger exercise area is used daily for extended periods.

In response to a question from Popp regarding whether her license covers caring for cats and what the limit of her license allows for dogs, Andrews stated that she has the space to tend to 35 to 40 dogs and 4 to 5 cats.

In response to a question from Beatty regarding her kennel license status, Andrews stated again that she thought she had one, Beatty asked if she had received a certificate from the Human Society. Andrews stated that she did not.

Vergie Heinen, 840 North Spruce Street #312, stated that she has never had a noise issue with the dog facility, but did note that she does hear dogs from other residences and she has no concerns with the facility.

In response to a question from Scull, Fisher confirmed that no zoning district allows animal kenneling without a Conditional Use Permit.

Kent Brown, Senior Animal Control Officer reviewed the Kennel Licensing process noting that it is a two-tiered process. The first is a general review of the facility for which a \$50 fee is required. Following the initial inspection of the facility, the second tier includes the application being brought to the Community Planning and Development Services Department so a Planner can confirm that a Conditional Use Permit is on file for the property. If a Conditional Use Permit has not been obtained, the form is returned to the applicant unsigned and the kennel operator is directed to obtain a Conditional Use Permit. The fee collected is not returned as it is a processing fee.

Fisher stated that a Conditional Use Permit is required prior to the Kennel License being issued. Brown stated that he assumed that by informing the applicant that the application was not signed by Community Planning and Development Services Department due to the need for a Conditional Use Permit, she was aware that the license was not approved.

Leeann Barta, paralegal for George Grassby, presented photos of the facility.

George Grassby, attorney for the facility operator, asked that the Planning Commission approve the application, allowing Andrews to continue to operate the facility, which is her sole source of income. Grassby reviewed the processes Andrews completed to receive her kenneling license. Grassby stated that they had no complaints and were unaware of any issues until they received notice from Community Planning and Development Services Department. Grassby addressed the parking issue and the lack of license from Animal Control stating that the items can be addressed to clear the way to allow Andrews to continue her operation of the facility.

John Roberts, City Council Representative for the ward and resident of the neighborhood, noted that he had documented the presence of the dogs in the outdoor kennel on the facility, and done so because he has had multiple complaints starting around four months ago. Roberts stated that he feels it is more appropriate for him to discuss issues with staff rather than the individual person who he receives the complaint against. Roberts noted that he had heard the barking at various early morning hours.

In response to Rolinger's question about the public comment handouts that had been placed on the dais for the Planning Commissioners as to whether the information had been disseminated to the appropriate parties, Fisher stated that the information had been posted to the on-line agenda and that the applicant, Shane Liebig, had been notified of the comments. Fisher also noted that Katherine Andrews was not identified as a contact person on the application from the Conditional Use Permit.

Shane Liebig, 117 East Custer, responded to Brewer's question regarding Andrew's statement that Liebig had told her that the use was grandfathered, stating that he did not know that a Conditional Use Permit was required. Liebig stated that Andrews had inquired about the zoning and since his property is zoned Light Industrial District, he assumed that everything was okay until Andrews had recently mentioned that she needed a parking exception. Liebig noted that he advised Andrews just leave things as they were. It was after that that he learned of the need for a Conditional Use Permit and that he as the property owner had to sign the application.

Julia Hildebrant, 327 Saint Patrick Street, a former employee, addressed her concerns regarding Andrews' operation of the facility including leaving larger dogs outside for long periods of time. She also noted that Andrews did kennel problem dogs outside, noting that it was rare for someone to stay overnight at the facility.

Amanda Ruppel, 1721 Riley Avenue, addressed her concerns, including the cleanliness of the facility, the non-profit status of the facility and the fact that animals are being left outside in bad weather and often left unattended.

Brewer reviewed the issues discussed and staff's recommendation, at which time Fisher clarified that Andrews has been before the Planning Commission to

amend the Ordinance to allow dog kennels as a Conditional Use Permit in the General Commercial District, which was not supported by Planning Commission. Fisher noted that the operational plan does not address the actual operation of the business as it is being run at present. In addition, there is a structure that was built on the property that has not been permitted.

Fisher addressed the fact that staff cannot support the request due to the existing operation of the dog kennel in close proximity to an existing mobile home park. Fisher also noted that the adjacent property owners are proposing to expand the mobile home park.

Raterman asked about the anticipated time frame of the expansion of the mobile home park. Fisher responded that the time is not defined but the property owner is in the initial planning stages.

Swank moved to continue for two weeks to allow Andrews to submit a specific and accurate operational plan, Rose seconded.

Fisher suggested that the item be continued for one month to allow sufficient time to review the information. Brewer requested that the animal control officer complete an additional inspection and provide a thorough report. Brewer also clarified that Andrews must identify how all of the nuisances would be mitigated.

Scull requested that the time for comments be limited and that the applicant address each issue directly.

Popp requested that the animal control officer be present and provide the checklist or inspection form they use for their inspection and issuing licenses and provide a full report on the conditions of the dog kennel.

Swank moved, Rose seconded and carried to continue the Final Planned Development and the Conditional Use Permit request to allow a dog kennel in the Light Industrial District to the September 26, 2013 Planning Commission meeting. (8 to 2 with Braun, Brewer, Marchand, Raterman, Rolinger, Rose, Scull and Swank voting yes and Beatty and Popp 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. 13UR015 - North Side Addition

A request by Thomas R. Cone II to consider an application for a **Conditional Use Permit to allow an On-Sale Liquor Establishment in Conjunction with a Full Service Restaurant** for Lots 15 thru 23, the north 3 feet of vacated Monroe Street adjacent to Lots 15 thru 21, the S1/2 of the vacated alley adjacent to said Lots 15 thru 23 of Block 9 of North Side Addition, located in Section 31, T1N,

R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 710 N. LaCrosse, Suite 4.

Laroco presented the application and reviewed the slides. Laroco noted that the applicant has received permits for the signage and noted that the additional restaurant located within the strip mall is generally a morning café and that the overlap of operational hours would be approximately two hours. Laroco noted the applicant is requesting to sell beer and presented staff's recommendation that the **Conditional Use Permit to allow an On-Sale Liquor Establishment in Conjunction with a Full Service Restaurant** be approved with stipulations.

Rolinger moved, Beatty seconded and unanimously carried to approve the Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a full service restaurant with the following stipulations:

- 1. A building permit shall be obtained prior to commencement of any construction;**
- 2. All signage shall continue to comply with the submitted sign package and the Rapid City Municipal Code. Changes or additions to the signage which comply with the Rapid City Sign Code shall be permitted. No electronic or Light Emitting Diode (LED) signage is being approved as a part of this Planned Development. The addition of electronic or LED signage shall require a Major Amendment to the Planned Development. A sign permit is required for each sign;**
- 3. A minimum of 40 parking spaces shall be provided. All parking shall continue to comply with the Rapid City Parking Ordinance and the submitted site plan;**
- 4. All outdoor lighting shall continue to reflect within the property boundaries so as to not shine on adjoining properties and rights-of-way and not be a hazard to the passing motorist or constitute a nuisance of any kind;**
- 5. All applicable provisions of the International Fire Code shall be continually maintained;**
- 6. All provisions of the General Commercial District shall be continually maintained, and;**
- 7. This Conditional Use Permit shall allow an on-sale liquor establishment for beer in conjunction with a full-service restaurant. All permitted uses in the General Commercial District shall be permitted contingent upon provision of sufficient parking and with an approved building permit. All conditional uses in the General Commercial District shall require a Major Amendment to the Conditional Use Permit. (9 to 0 to 1 with Beatty, Braun, Marchand, Popp, Raterman, Rolinger, Rose, Scull and Swank voting yes and none voting no and Brewer abstaining)**

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.

Staff requested that Items # 6 and # 9 be heard together.

6. No. 13PL079 - Red Rock Village Subdivision

A request by Renner and Associates, Inc for DKEA, LLC to consider an application for a **Preliminary Subdivision Plan** for Lots 1 thru 5 of Block 1 and Lots 1 thru 5 of Block 2 of Red Rock Village Subdivision, legally described as a portion of Tract A of Red Rock Village Subdivision, 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 west of Dunsmore Road.

*9. No. 13PD033 - Red Rock Village Subdivision

A request by Renner and Associates, Inc for DKEA, LLC to consider an application for a **Final Planned Development Overlay to allow a Single Family Residential Development** for a portion of Tract A of Red Rock Village Subdivision, Located in the NE1/4 of the NE1/4 of Section 29, Township 1 North, Range 7 East, BHM, Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the southwesterly corner of Lot H2 of the NE1/4 of the NE1/4 of Section 29, T1N, R7E, BHM, common to a point on the northerly boundary of Tract A of Red Rock Village Subdivision, thence, S89°59'27"E , along the southerly boundary of said Lot H2, common to the northerly boundary of said Tract A, a distance of 54.00 feet to the point of beginning; Thence, first course: S89°59'27"E, along the southerly edge of said Lot H2, common to the northerly boundary of said Tract A, a distance of 105.00 feet, to the northeasterly corner of said Tract A, , common to a point on the westerly edge of Dunsmore Road Right-of-Way ; Thence, second course: S00°18'28"E, along the westerly edge of said Dunsmore Road Right-of-Way, common to the easterly edge of said Tract A, a distance of 722.58 feet, to the northeasterly corner of Lot 3R of Block 12 of Red Rock Meadows Subdivision; Thence, third course: S89°41'32"W, along the northerly edge of said Lot 3R of Block 12 of Red Rock Meadows Subdivision, a distance of 105.00 feet; Thence, fourth course: N00°18'28"W, a distance of 723.16 feet, to the said point of beginning, more generally described as being located west of Dunsmore Road.

Lacock presented the applications and reviewed the slides. Lacock noted that a Rezoning request to change the land use designation from General Agriculture District to Low Density Residential District, had recently been approved by Planning Commission. Lacock stated that the applicant's request to reduce the set back to a section line highway and to reduce the rear yard setback are in keeping with the character of the neighborhood and set should not have an adverse affect. As such, staff recommends approval of the **Preliminary Subdivision Plan** with stipulations and approve of the **Final Planned Development Overlay** with stipulations.

Bob Borgmeyer, Sheridan Lake Road, stated that his family owns the property that surrounds Red Rock Estates. Borgmeyer discussed his property holdings and interaction with the City and the developers of Red Rock Village commending both parties and stating that he hopes that both continue to plan

and develop wisely. Borgmeyer addressed his concern for multiple accesses to his property and the boarding development. Borgmeyer stated that he has no issues with the Preliminary Subdivision Plan.

Rose moved, Marchand seconded and carried to recommend that the Preliminary Subdivision Plan be approved with the following stipulations:

- 1. Prior to submittal of a Development Engineering Plan application, redlined comments shall be addressed or an Exception to the Infrastructure Design Criteria Manual or the Standard Specifications, as applicable, shall be obtained. The redlined comments and/or copies of the approved Exceptions shall be submitted with the Development Engineering Plan application;**
- 2. Prior to approval of the Development Engineering Plan application, 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 Professional Engineer;**
- 3. Upon submittal of a Development Engineering Plan application, a stormwater plan shall be submitted for review and approval demonstrating that the stormwater facility for Red Rock Meadows, Phase 4 has been designed for quantity and quality control to accommodate the proposed lots or an additional stormwater facility shall be provided;**
- 4. Prior to approval of the Development Engineering Plan application, a Development Agreement shall be entered into with the City for additional stormwater control improvements if needed;**
- 5. Upon submittal of a Development Engineering Plan application, a cost estimate shall be submitted for review and approval if additional stormwater control improvements are needed;**
- 6. Prior to submittal of a Final Plat application, any pending Infrastructure Development Partnership Fund payments shall be paid. In addition, a copy of the receipt verifying payment shall be submitted with the Final Plat application;**
- 7. 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,**
- 8. 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), and;**

That the Final Planned Development Overlay to allow a single family residential development be approved with the following stipulations:

- 1. An Exception is hereby granted to reduce the minimum required setback to a section line highway from 58 feet to 51 feet. Any further reduction to the section line highway setback shall require the review**

- and approval of a Major Amendment to the Planned Development. A minimum front yard setback of 25 feet shall be provided;
2. An Exception is hereby granted to reduce the minimum required rear yard setback from 25 feet to 20 feet;
 3. A building permit shall be obtained prior to any construction and a Certificate of Occupancy shall be obtained prior to occupancy;
 4. Prior to issuance of a building permit, a Development Engineering Plan shall be approved;
 5. Prior to issuance of a Certificate of Occupancy, a Final Plat shall be approved;
 6. Upon submittal of a building permit, an erosion and sediment control plan shall be submitted for review and approval;
 7. Upon submittal of a building permit, plans shall be prepared and stamped by a licensed Architect or Professional Engineer as per SDCL 36-18A;
 8. Temporary or permanent site stabilization shall be achieved prior to issuance of a Certificate of Occupancy;
 9. All provisions of the Low Density Residential District shall be met unless otherwise specifically authorized as a stipulation of this Final Planned Development Overlay or a subsequent Major Amendment;
 10. All applicable provisions of the adopted International Fire Code shall continually be met; and,
 11. The Final Planned Development Overlay shall allow for a single family residential development. Any change in use that is a permitted use in the Low Density Residential District shall require a building permit. Any change in use that is a Conditional Use in the Low Density Residential District shall require the review and approval of a Major Amendment to the Planned Development. (10 to 0 with Beatty, Braun, Brewer, Marchand, Popp, Raterman, Rolinger, Rose, 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.

10. Discussion Items
None
11. Staff Items
None
125. Planning Commission Items
None
13. Committee Reports
 - A. City Council Report (August 5, 2013, 2012)

The City Council concurred with the recommendations of the Planning Commission.

- B. Sign Code Board of Appeals
- C. Zoning Board of Adjustment
- D. Capital Improvements Subcommittee
- E. Tax Increment Financing Committee

There being no further business, Rose moved, Scull seconded and unanimously carried to adjourn the meeting at 8:46 a.m. (10 to 0 with Beatty, Braun, Brewer, Marchand, Popp, Raterman, Rolinger, Rose, Scull and Swank voting yes and none voting no)