

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
January 24, 2013

MEMBERS PRESENT: John Brewer, Linda Marchand, Dennis Popp, Cody Raterman, Kay Rippentrop, Steve Rolinger, Tim R. Rose and Jan Swank.

MEMBERS ABSENT: Carlos Beatty Jr., Sandra Beshara, Erik Braun, Andrew Scull. John Roberts, Council Liaison was also absent.

STAFF PRESENT: Brett Limbaugh, Vicki Fisher, Fletcher Lacock, Robert Laroco, Kip Harrington, Patsy Horton, Ted Johnson, Carla Cushman 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.

Motion by Marchand seconded by Swank and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 7 in accordance with the staff recommendations. (8 to 0 with Brewer, Marchand, Popp, Raterman, Rippentrop, Rolinger, Rose and Swank voting yes and none voting no)

---CONSENT CALENDAR---

1. Planning Commission approved the January 10, 2013 Planning Commission Meeting Minutes.
2. No. 12VR009 - Sections 26 and 27, T1N, R7E
A request by Highway 16 Properties, LLC to consider an application for a **Vacation of a Section Line Highway** for Lot A of the SW1/4NW1/4 of Section 26 and Lot A of the SE1/4NE1/4 of Section 27, all located in T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located west of South U.S. Highway 16 and south of Catron Boulevard.

Planning Commission recommended that the Vacation of a portion of section line highway be approved with the following stipulation:

1. **Prior to approval by City Council, a utility easement shall be submitted for review and approval for the portion of section line highway to be vacated. The utility easement shall be recorded at the Register of Deeds in conjunction with the vacation of section line highway.**
3. No. 12RZ019 - Section 18, T1N, R8E
A request by Renner and Associates, LLC for Parkview Estates LLC to consider an application for a **Rezoning from Low Density Residential District to Medium Density Residential Distinct** for a portion of the W1/2 of the NW1/4 of the SW 1/4, Section 18, T1N, R8E, BHM, Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at south section 1/16th corner, on the west line of Section 18, T1N, R8E, BHM, common to the east line

of Section 13, T1N, R7E, BHM, and the point of beginning; Thence, first course: N00°11'02"E, along the section line common to said Sections 13 and 18, a distance of 500.00 feet; Thence, second course: S89°17'02"E, a distance of 165.05 feet, to a point on the westerly boundary of Tract A, of Block 19, of Robbinsdale Addition No. 10; Thence, third course: S00°14'30"E, along the westerly boundary of said Tract A, a distance of 500 feet, to a point on the northerly boundary of Lot H1 in Lot A Revised of the N1/2 of Government Lot 4, Section 18, T1N, R8E, BHM, common to the section 1/16th line; Thence, fourth course: N89°18'01"W, along the said section 1/16th line, a distance of 168.76 feet, to the said point of beginning, more generally described as being located east of Parkview Drive and south of East Minnesota Street.

Planning Commission recommended that the Rezoning from Low Density Residential District to Medium Density Residential District be continued to the April 4, 2013 Planning Commission meeting.

*4. No. 12PD045 - Prairie Meadows Subdivision

A request by Sperlich Consulting, Inc. for Freeland Meadows LLC to consider an application for an **Initial Planned Development Overlay to Allow a Residential Development** for a portion of Tract A of Prairie Meadows Subdivision, and A portion of "Government" Lot 4 of Section 18, All Located "Government" Lot 4, Section 18, T2N, R8E, B.H.M., Rapid City, Pennington County, South Dakota, more fully described as follows: Commencing at the northwesterly corner of Tract A of Prairie Meadows Subdivision, common to a point on the easterly edge of the Dedicated Right-of-Way of West Nike Road, Thence, N45°30'00"E, along the northwesterly boundary of said Tract A of Prairie Meadows Subdivision, a distance of 112.03 feet, to a corner on the northerly boundary of said Tract A of Prairie Meadows Subdivision, and the Point of Beginning; Thence, first course: N89°51'00"E, along the northerly boundary of said Tract A of Prairie Meadows Subdivision, a distance of 117.38 feet, to a corner on the northerly boundary of said Tract A of Prairie Meadows Subdivision; Thence, second course: N89°51'00"E, a distance of 12.47 feet; Thence, third course: S15°55'30"E, a distance of 115.03 feet; Thence, fourth course: southeasterly, curving to the right on a curve with a radius of 157.50 feet, a delta angle of 51°32'24", an arc length of 141.68 feet, a chord bearing of S78°19'42"E, and a chord distance of 136.95 feet, to a point of compound curvature; Thence, fifth course: southeasterly, curving to the right on a curve with a radius of 7366.79 feet, a delta angle of 00°17'01", an arc length of 36.46 feet, a chord bearing of S52°24'59"E, and a chord distance of 36.46 feet; Thence, sixth course: N37°43'31"E, a distance of 82.25 feet; Thence, seventh course: S56°03'40"E, a distance of 504.87 feet; Thence, eighth course: S32°49'54"W, a distance of 100.00 feet; Thence, ninth course: S57°10'06"E, a distance of 22.01 feet, to a point on the northeasterly boundary of said Tract A of Prairie Meadows Subdivision; Thence, tenth course: S33°11'00"W, along the northerly boundary of said Tract A of Prairie Meadows Subdivision, a distance of 52.00 feet, to a point on the northerly boundary of said Tract A of Prairie Meadows Subdivision; Thence, eleventh course: S32°49'54"W, a distance of 127.66 feet; Thence, twelfth course: S32°28'06"W, a distance of 108.93 feet; Thence, thirteenth course: S32°16'21"W a distance of 52.00 feet; Thence, fourteenth course: N57°43'39"W, a distance of 22.83 feet; Thence,

fifteenth course: S32°16'21"W, a distance of 113.77 feet; Thence, sixteenth course: N60°00'00"W, a distance of 33.24 feet, to a corner on the southerly boundary of said Tract A of Prairie Meadows Subdivision; Thence, seventeenth course: N60°00'00"W, along the southerly boundary of said Tract A of Prairie Meadows Subdivision, a distance of 142.50 feet, to a corner on the southerly boundary of said Tract A of Prairie Meadows Subdivision; Thence, eighteenth course: N71°25'00"W, along the southerly boundary of said Tract A of Prairie Meadows Subdivision, a distance of 108.00 feet, to a corner on the southerly boundary of said Tract A of Prairie Meadows Subdivision; Thence, nineteenth course: S89°56'00"W, along the southerly boundary of said Tract A of Prairie Meadows Subdivision, a distance of 24.54 feet, to a point on the southerly boundary of said Tract A of Prairie Meadows Subdivision; Thence, twentieth course: S00°07'25"W, a distance of 34.69 feet; Thence, twenty-first course: N89°52'35"W, a distance of 296.09 feet, to a point on the westerly boundary of said Tract A of Prairie Meadows Subdivision, common to a point on the easterly edge of the Dedicated Right-of-Way of said West Nike Road; Thence, twenty-second course: N00°07'25"W, along the westerly boundary of said Tract A of Prairie Meadows Subdivision, common to the easterly edge of the Dedicated Right-of-Way of said West Nike Road, a distance of 145.00 feet, to the southwesterly corner of said Tract A of Prairie Meadows, common to a point on the easterly edge of the Dedicated Right-of-Way of said West Nike Road; Thence, twenty-third course: N00°07'25"E, along the westerly boundary said Tract A of Prairie Meadows Subdivision, common to the easterly edge of the Dedicated Right-of-Way of said West Nike Road, a distance of 489.54 feet, to a point on the southwesterly boundary of said Tract A of Prairie Meadows, common to a point on the easterly edge of the Dedicated Right-of-Way of said West Nike Road; Thence, twenty-fourth course: N33°29'27"E, a distance of 144.97 feet, to a corner on the northerly boundary of said Tract A of Prairie Meadows Subdivision, and the Point of Beginning., more generally described as being located along the east side of West Nike Road North of Country Road.

Planning Commission approved the Initial Planned Development Overlay to allow a residential development with the following stipulations:

- 1. An Exception to reduce the rear yard setback from 25 feet to 20 feet for Lots 1 through 7 of Block 3 is hereby granted;**
- 2. A building permit shall be obtained prior to any construction. A Certificate of Occupancy shall be obtained prior to occupancy.**
- 3. Prior to issuance of a building permit, all redline comments shall be addressed and returned to Community Planning and Development Services Department;**
- 4. Prior to issuance of a building permit, a Final Planned Development Plan and Development Engineering Plans shall be approved. Prior to issuance of a Certificate of Occupancy for each individual lot, a Final Plat shall be recorded at the Register of Deeds office;**
- 5. Upon submittal of a Final Development Plan and/or Development Engineering Plan application, a water and sanitary sewer analysis and improvements plan in compliance with the Infrastructure Design Criteria Manual and the Rapid City Municipal Code shall be submitted for review and approval;**

6. Upon submittal of a Final Development Plan and/or Development Engineering Plan application, a drainage analysis and improvements plan in compliance with the Infrastructure Design Criteria Manual and the Rapid City Municipal Code shall be submitted for review and approval;
7. Upon submittal of a Final Development Plan and/or Development Engineering Plan application, South Dakota Department of Environment and Natural Resources approval of all utility improvements shall be submitted for review and approval;
8. Upon submittal of a Final Development Plan and/or Development Engineering Plan application, a geotechnical report and pavement design in compliance with the Infrastructure Design Criteria Manual and the Rapid City Municipal Code shall be submitted for review and approval;
9. Upon submittal of a Final Development Plan and/or Development Engineering Plan application, a recorded covenant agreement, homeowners agreement, or other arrangement specific to the perpetual ownership and maintenance of all proposed drainage lots and improvements shall be submitted for review and approval;
10. Upon submittal of a Final Development Plan and/or Development Engineering Plan application, the Master Plan shall be revised to show a complete street and utility layout to include a 12 inch water main connection to a future water main to be located in Country Road;
11. Upon submittal of a Final Development Plan and/or Development Engineering Plan application, a fire flow calculation shall be provided showing that adequate fire flows exists for the proposed development. All provisions of the adopted International Fire Code shall be continually maintained;
12. Prior to submittal of a Final Development Plan application, an Exception to increase the number of units to be accessed via a single access point from 40 to 42 shall be obtained, or a second access point shall be provided. Upon submittal of the Final Development Plan application, a copy of the approved Exception shall be submitted;
13. All development of the site shall comply with the requirements of the Rapid City Municipal Code unless specifically stipulated as a part of this Initial Planned Development, the Final Planned Development, or a subsequent Major Amendment to the Planned Development, and;
14. This Initial Planned Development shall allow for development of single family residences. Uses permitted in the Low Density Residential District shall be permitted. Conditional uses in the Low Density Residential District shall require 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.

5. 13TP001 - Authorize staff to advertise the Request for Proposals for the Box Elder Master Transportation Plan

Planning Commission recommended approval of the Request for Proposals for the Box Elder Master Transportation Plan and for the Rapid City Area Metropolitan Planning Organization and to authorize staff to advertise the Request for Proposals.

6. 13TP002 - 2013-2017 Transportation Improvement Program Amendment #13-001

Planning Commission recommended approval of the 2013-2017 Transportation Improvement Program Amendment #13-001

7. 13TP003 - Resolution for Transportation Improvement Program Projects funded by the Urban Systems Program in 2014-2018

Planning Commission recommended approval of the Resolution for Transportation Improvement Program Projects funded by the Urban Systems Program in 2014 – 2018.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

- *8. No. 12PD035 - Section 26, T1N, R7E
A request by James Letner for Thomas Letner to consider an application for an **Initial Planned Development Overlay to allow the Construction of a Multi-Family Development** for the E1/2 of the W1/2 of the NE1/4 of the NW1/4 and the W1/2 of the E1/2 of the NE1/4 of the NW1/4; excepting therefrom a portion of Lot H1 of the NE1/4 of the NW1/4 of Section 26, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located northwest of the intersection of Catron Boulevard and Wellington Drive.

Lacock presented the application and reviewed the slides. Lacock noted that this item has been before the Planning Commission previously to allow review of the photo simulations received from the applicant. Lacock noted that staff supports the height exception with the stipulation that the ground floor elevation will be 16 feet below existing grade, as indicated on the applicants site plan, and that as part of the Final Planned Development staff requests that structural elevations and color and material schemes for the structures be provided.

Lacock noted that the applicant has met with the neighbors and has agreed to reduce the number of units from 304 to 240 which will reduce the length of the buildings. Lacock noted that this change is noted on the revised stipulations provided to the Planning Commission as a handout. However, staff has since realized that this change reduces the parking requirements. Lacock noted that

stipulation #9 will be revised to reflect that the minimum parking spaces be reduced from 405 to 360, the handicap spaces be reduced from 9 to 8 and the van accessible spaces be reduced from 2 to 1. Lacock stated that staff recommends approval of the **Initial Planned Development Overlay to allow the Construction of a Multi-Family Development** with stipulations as revised.

Pat Hahn, 1105 Regency Court, stated that she was representing the general concerns of the neighbors in regards to the traffic impact study and what the options were if it is determined that a light is not called for at the intersection of Catron Boulevard and Wellington Drive. Hahn asked when the traffic study would be done, as she noted that summer traffic is much heavier than other seasons. Fisher stated that one of the stipulations requires the applicant to provide construction plans based on the traffic study and that should a light not be warranted, there might be acceleration and deceleration lanes to help move the traffic away from the through traffic which would be the available to the public.

Karen Bulman, 1311 Edinburgh Drive, thanked the Planning Commission for allowing the time for the neighborhood to review this application. Bulman noted that she has met with the applicant and looks forward to the applicant moving forward in a positive manner to produce a quality apartment facility. Bulman reiterated that there are concerns regarding the traffic impacts and asks that she be included as this project progresses.

Swank moved, Rose seconded and unanimously carried to approve the Initial Planned Development Overlay to allow the Construction of a Multi-Family Development with the following revised stipulations:

- 1. An Exception is hereby granted to increase the maximum allowed height from 3 stories or 35 feet to 4 stories with a maximum height of 52 feet provided that a landscaping buffer be provided along the south and east lot lines and that the ground floor elevation will be 16 feet below existing grade as indicated on the applicant's site plan;**
- 2. Upon submittal of a Final Planned Development Overlay, the applicant shall submit structural elevations and proposed color schemes for the structural development;**
- 3. Upon submittal of a Final Planned Development Overlay, the applicant shall demonstrate that sufficient domestic and fire flows are available for the proposed development. All applicable provisions of the adopted International Fire Code shall continually be met;**
- 4. Upon submittal of a Final Planned Development Overlay, a Traffic Impact Study shall be submitted for review and approval. In addition, construction plans as per the recommendation of the Traffic Impact Study shall be submitted for review and approval;**
- 5. Upon submittal of a Final Planned Development Overlay, a revised site plan shall be submitted showing property line sidewalk or the applicant shall obtain an Exception from Chapter 12.08.060 of the Rapid City Municipal Code. In addition, a revised site plan shall be submitted identifying pedestrian circulation and bicycle facilities**

- within the property;
6. Upon submittal of a Final Planned Development Overlay, a signed and sealed engineering stormwater report addressing quality and quantity control shall be submitted for review and approval;
 7. Upon submittal of a Final Planned Development Overlay, an erosion and sediment control plan shall be submitted for review and approval;
 8. Upon submittal of a Final Planned Development Overlay, a sign package shall be submitted for review and approval. All signage shall conform to the Sign Code;
 9. Upon submittal of a Final Planned Development Overlay, a revised parking plan shall be submitted in compliance Chapter 17.50.270 of the Rapid City Municipal Code. In particular, a minimum of 360 parking spaces shall be provided for the proposed apartment complex. In addition, eight of the parking spaces shall be handicap accessible. One of the handicap spaces shall be "van accessible." All provisions of the Off-Street Parking Ordinance shall be continually met;
 10. Upon submittal of a Final Planned Development Overlay, a landscaping plan shall be submitted for review and approval. All provisions of Section 17.50.300, the Landscaping Regulations of the Rapid City Municipal Code shall be continually met. In addition, a landscaping buffer shall be provided along the south and east lot lines as per Chapter 17.12.090 of the Rapid City Municipal Code. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;
 11. All provisions of the Medium Density Residential District shall be met unless otherwise specifically authorized as a stipulation of this Initial Planned Development Overlay or a subsequent Final Planned Development Overlay;
 12. An Air Quality Construction Permit shall be obtained prior to any surface disturbance of one acre or more;
 13. All outdoor lighting shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-way and to not be a hazard to the passing motorist or constitute a nuisance of any kind; and,
 14. The Initial Planned Residential Development shall allow for an apartment complex with a total of 240 units and a community building. The community building shall only be for the use of the residents of the apartment complex. A Final Planned Residential Development shall be obtained prior to issuance of a building permit. (8 to 0 with Brewer, Marchand, Popp, Raterman, Rippentrop, Rolinger, Rose 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.

Limbaugh requested that items 9, 10, 11, 12, 13 and 14 be handled concurrently:

9. No. 12OA009 - Ordinance Amendment
A request by City of Rapid City to consider an application for an **Ordinance Repealing Section 17.50 Through Section 17.50.010 Regarding the Chapter Title (Chapter 17.50: (Supplementary Regulations Applicable to Some or All Districts), Article I Title (Article I. Development Standards for Conditional Uses), and General Regulations Section and Adopting New Chapter Title (Chapter 17.50: Supplementary Regulations), Article Title (Article I. Development Requirements and Standards for Conditional Uses, Planned Development Overlay Districts, Planned Unit Development Zoning Districts, and Administrative Exceptions), and General Provisions Section.**
10. No. 12OA010 - Ordinance Amendment
A request by City of Rapid City to consider an application for an **Ordinance Amending Section 17.50.050(F)(4) Regarding Public Notice Requirements for the Planned Development Overlay District (PD).**
11. No. 12OA011 - Ordinance Amendment
A request by City of Rapid City to consider an application for an **Ordinance Repealing Sections 17.50.080 Through 17.50.100 Titled Reserved and Adopting New Signage, On-Premises Signage, and Off-Premises Signage Regulations previously codified in Title 15 with amendments.**
12. No. 12OA012 - Ordinance Amendment
A request by City of Rapid City to consider an application for an **Ordinance Adopting a New Section 17.50.340 Regarding Regulations for Fences and Walls.**
13. No. 12OA013 - Ordinance Amendment
A request by City of Rapid City to consider an application for an **Ordinance Repealing Section 17.50.380 Regarding a Redundant Section Regulating Off-Premises Signage as a Conditional Use.**
14. No. 12OA014 – Ordinance Amendment
A request by City of Rapid City to consider an application for an **Ordinance Adopting a New Section 17.54 Regarding Administrative Enforcement Regulations.**

Limbaugh noted that these Ordinances have been before the Planning Commission previously and had been continued to allow the boards to review and give their input on the individual amendments. Limbaugh stated that some of the ordinances are benign but others are more extensive and requested to address each Ordinance Amendment separately and allow the audience and the Planning Commission to address their concerns as they relate to the various Ordinance Amendments.

Before beginning the individual reviews, Limbaugh clarified that the Sign Code and Fence and Walls Sections are currently in Section 15, which is the Building Code, and in order to allow the Board of Adjustment to hear and address these items they need to be moved into Section 17, which is the Zoning Code.

Limbaugh stated that Ordinance Amendment 12OA009 generally covers the table of contents which has been revised and therefore is generally clerical and organizational in nature. Limbaugh noted that it addresses clarification of titles and sets up where the items that are being moved from Section 15 to Section 17 will be placed. Limbaugh also noted that this Ordinance Amendment addressed items that had been approved previously, providing clarification and definitions of processes including the Planned Development Overlay District, and added the Planned Unit Development Zoning District and Administrative Exceptions.

In response to question from Brewer, Limbaugh reiterated that this is moving the Signage and Fence and Wall Sections from Chapter 15 to Chapter 17 and is in essence creating place holders for those items in Chapter 17. Limbaugh noted that these sections will have to be repealed in Chapter 15 to avoid repetition.

Swank moved, Marchand seconded to approve.

Rolinger questioned if the Planning Commission wanted to take motions after each item is presented or wait until all of the Ordinances Amendments have been reviewed and take motions at that time. It was agreed to take motions after all the Ordinance Amendments have been presented and discussed.

Swank withdrew his motion.

Limbaugh stated that Ordinance Amendment 12OA010 addresses the City's Public Notice Process which current requires mailing of Certified Mail on certain items. Limbaugh stated that they are requesting that this be changed to 1st Class mail as they feel that this requirement is cost prohibitive for the applicants. In response to a question from Brewer, Limbaugh stated that staff would still provide the mailing list to the applicant; the applicant would complete the mailing and be required to sign an affidavit stating that they have completed the mailing. Limbaugh stated that the amendment allows for staff to complete the mailing in the event that they feel the control of the mailing needs to be retained.

Limbaugh stated that Ordinance Amendment 12OA011 moves the Sign Code from Section 15 to Section 17 and in most part it keeps intact the Sign Code as adopted by Council with only minor changes. Limbaugh stated that they have worked with the sign companies on the areas of concern including changing the \$75 Annual Off-Site License Fee due date from January 10 to February 1 and that any remaining funds from these fees be placed in the General Fund rather than directed to the Beautification Committee. Limbaugh stated that the fees collected are included as part of the calculated budget that is used to pay Code Enforcement Inspectors.

Limbaugh also stated that the annual renewal fee is being changed from a

codified fee to a resolution based fee, thus allowing a review and adjustment of the fee by Council approval without requiring an amendment to the Ordinance. In response to questions regarding fee changes, Limbaugh confirmed that any such change would be notified and that the sign companies would be included in discussion prior to any change.

Terry Olson, Lamar Advertizing, addressed his concerns on the off-site sign fee stating that this cannot be a revenue generating tool as it would be akin to taxing free speech. Olson noted that Rapid City is one of only three cities in the state that require an annual fee. Olson feels that the majority of funds paid by off-site sign owners go to pay Code Enforcement officers to address on-sight violations and as such would like to see the fee remain a codified, set amount that would not fluctuate annually. Discussion followed.

Limbaugh stated that an additional change addressed by this amendment is the elimination of the Sign Code Board of Appeals, moving those functions to the Board of Adjustment. Limbaugh also noted that the membership requirements for the Historic Sign Board have been modified to allow for a broader range of individuals to select from to serve on this board.

In response to a question from Swank, Limbaugh noted that the changes discussed are included in the ordinance before the Planning Commission with the exception of the change to the renewal fee due date and that any funds remaining from this fee being placed in the General fund rather than towards beautification. Those two items will be addressed before the ordinance goes forward.

Limbaugh stated that Ordinance Amendment 12OA012 allows properties that are annexed that have barbed wire fencing to retain their fencing until such time as they redevelop the property, allows the height of fences on sports facilities to be 24 feet with use of mesh and net screening. The amendment also allows the Director and staff to administratively approve alternative materials and allows the applicants ability to appeal decisions to the Board of Adjustment.

Limbaugh stated that Amendment 12OA013 removes Off-Premises Signage as a Conditional Use from Section 17, since Off-Premises Signage as a Conditional Use has been moved to the Sign Code. This eliminates redundancy.

Brewer called for the audience to address their concerns at this time.

Terry Olson, Lamar Advertizing, noted his agreement with changing the Certified Mailing Notification to 1st Class mailing. Olson stated that he disagrees with the Conditional Use Permit requirement on the replacement of off-site signs as this is cumbersome and restrictive.

Janelle Fink, Fisk Land Surveying, thanked staff for the time and work put into these changes. Fink addressed her concerns regarding 12OA012. Fink feels the fence height limitations, in the section addressing industrial and mining of earth resources areas that limiting combined height to 8 feet, is restrictive and that the

wording is confusing. In response to question from Popp, Fink stated she would like to see the wording remain as it is. A discussion followed. In response to a question from Brewer, Limbaugh stated that applicants can request an Administrative Exception for a variance of 20% or less, or appeal to the Board of Adjustment. Limbaugh stated staff would clarify this language.

Regarding 12OA014 Fink stated that she is concerned about the limitation of the non-use period for a Conditional Use Permit being reduced from two years to one year. Fink also stated that she disagrees with the approval of a Conditional Use Permit being tied to the applicant and not to the property. Fink stated that the applicant is not always the owner and that this process may restrict the sale and value of property.

Limbaugh stated that this language allows the Planning Commission the opportunity to approve the Conditional Use Permit for the applicant or for the property. Fink stated she feels that a Conditional Use should be tied to the property with the licensing being tied to the applicant. Limbaugh stated that he feels that the Planning Commission should be reviewing Conditional Uses per the applicant rather than the property. Discussion followed.

John Herr, 4041 Penrose Place, speaking as business owner, stated that it has always been the assumption that the Conditional Use Permit is tied to the land and not the applicant and that changing it will cause confusion for the applicants.

Fink clarified that she feels that the default application of a Conditional Use Permit should fall to the property with the exception falling to the applicant.

Fink noted her objection to the change of mailing notification requirements. Fink feels that the first class mailings leave room for error in notification and that this is an accountable user cost. Brewer thanked Fink for her comments and for her service on the 2nd Floor Committee.

Herr stated that he also feels that the mailing notification should remain certified. He feels a manner of verifying receipt of mailings should remain with the applicant and not the City. He stressed that the certified mailing ensured that the all parties were notified.

Herr addressed his concerns with the combination of boards and the term limits. He stated that the term limits would create issues with learning curve of board members because he feels the terms are too short. Herr questioned why the boards are being limited whereas others such as the Mayor, City Council, and Planning Commission terms are not limited.

Rolinger noted that he serves on the Variance Board and stated that he has concerns with the term limits and the changes to the mailing requirements. Rolinger stated that the certified mailing provides physical proof that each and every mailing was sent and the Variance Board feels that this is very important.

Rolinger also discussed the combination of the two boards and the importance of

the criteria on which to grant a variance. He thanked Limbaugh for his work to conform the criteria more towards state based criteria, providing a model on which to base variance recommendations. Rolinger commended the fee restructure, he feels it allows for easy identification of fees and it also allows the public to bring the item before City Council if they feel it needs to be changed. Rolinger stated he feels that his term limits are that he serves at the preference of the Mayor.

Brewer asked that they take motions on the items one-by-one, addressing issues as they arise.

Regarding 12OA010, Brewer presented the option of 1st Class mail with Return Receipt. Discussion on who would be responsible for mailing, return receipt options and possible fees followed. Brewer summarized that the Planning Commission recommends approval, with the amendment that the mailing notification be changed to 1st Class Mail with Return Receipt.

Brewer summarized that the Planning Commission recommends approval of 12OA011 with the amendments that the Annual Off-Site Sign License Renewal deadline be changed from January 10 to February 1 and that any remaining monies from this fee be placed in the General Fund.

Brewer summarized that Planning Commission recommends approval of 12OA0012 with the amendment that the language regarding fence height be changed to measure from the highest grade on either side of the retaining wall.

Brewer noted his concern regarding 12OA014 with the 12 month no-use expiration period for Conditional Use Permits and stated that he would like to see it remain 24 months. Discussion followed.

Brewer stated that changing the language regarding what or who the Conditional Use Permit applies to allows for error and would like the language to remain unchanged. Discussion followed.

Brewer summarized that the Planning Commission recommends approval of 12OA014 with the amendments that the Conditional Use Permit period of no-use remain at two years, that the Conditional Use Permit approval be to the property unless Planning Commission recommends approval be to the applicant, that term limits are removed and that the mailing notification be changed to 1st Class Mailing with Return Receipt.

Rolinger thanked the staff for all their hard work.

Rolinger moved, Marchand seconded and unanimous carried to recommend approval of Ordinance Repealing Section 17.50 Through Section 17.50.010 Regarding the Chapter Title (Chapter 17.50: (Supplementary Regulations Applicable to Some or All Districts), Article I Title (Article I. Development Standards for Conditional Uses), and General Regulations Section and Adopting New Chapter Title (Chapter 17.50:

Supplementary Regulations), Article Title (Article I. Development Requirements and Standards for Conditional Uses, Planned Development Overlay Districts, Planned Unit Development Zoning Districts, and Administrative Exceptions), and General Provisions Section. (12OA009)

Rolinger moved, Marchand seconded and unanimously carried to recommend approval of an Ordinance Amending Section 17.50.050(F)(4) Regarding Public Notice Requirements for the Planned Development Overlay District (PD) with amendment. (12OA010)

Rolinger moved, Rose seconded and unanimously carried to recommend approval of an Ordinance Repealing Sections 17.50.080 Through 17.50.100 Titled Reserved and Adopting New Signage, On-Premises Signage, and Off-Premises Signage Regulations previously codified in Title 15 with amendments. (12OA011)

Rolinger moved, Popp seconded and unanimously carried to recommend approval of an Ordinance Adopting a New Section 17.50.340 Regarding Regulations for Fences and Walls with amendment. (12OA012)

Swank moved, Marchand seconded and unanimously carried to recommend approval of an Ordinance Repealing Section 17.50.380 Regarding a Redundant Section Regulating Off-Premises Signage as a Conditional Use. (12OA013)

Rolinger moved, Popp seconded and unanimously carried to approve an Ordinance Adopting a New Section 17.54 Regarding Administrative Enforcement Regulations with amendments. (12OA014)

15. Discussion Items
None

16. Staff Items
Fisher reminded the Planning Commission of the TIF Training Session that is scheduled for February 1, 2013 in the Council Chambers from 11:30 to 1:00 p.m.

In response to a question from Rolinger, Horton stated that there is a TIF meeting scheduled for February 5, 2013.

17. Planning Commission Items
None

18. Committee Reports
None

There being no further business, Raterman moved, Rolinger seconded and unanimously carried to adjourn the meeting at 8:49 a.m. (8 to 0 with

**Brewer, Marchand, Popp, Raterman, Rippentrop, Rolinger, Rose and Swank
voting yes and none voting no)**