

DRAFT

MINUTES OF THE
RAPID CITY PLANNING COMMISSION
February 6, 2013

MEMBERS PRESENT: Erik Braun, John Brewer, Linda Marchand, Brett Monson, Kay Rippentrop, Tim R. Rose, Andrew Scull, and Jan Swank. Amanda Scott, Council Liaison was also present.

MEMBERS ABSENT: Karen Bulman, Dennis Popp, Steve Rolinger, Walt Swan, Jr.

STAFF PRESENT: Brett Limbaugh, Vicki Fisher, Fletcher Lacock, Robert Laroco, Tim Behlings, 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 Rose seconded by Marchand and unanimously carried to recommend approval of the Consent Agenda Items 1 thru 3 in accordance with the staff recommendations. (8 to 0 with Braun, Brewer, Marchand, Monson, Popp, Rippentrop, Rolinger, Rose, Scull, Swan and Swank voting yes and none voting no)

---CONSENT CALENDAR---

1. Planning Commission approved the January 23, 2014 Planning Commission Meeting Minutes and the corrected Minutes of the January 9, 2014 Planning Commission Meeting.

2. No. 13CA017 - Section 28, T1N, R7E

Summary of Adoption Action for a request by Dream Design International, Inc to consider an application for an **Amendment to the Comprehensive Plan to revise the Major Street Plan to realign a proposed principal arterial street and a proposed collector street** for that part of the east 480 feet of the SE1/4 of the SW1/4 north of Moon Meadows Drive; the SW1/4 of the SW1/4 lying north of Sheridan Lake Road less right-of-way; the NE1/4 of the SW1/4 less right-of-way; the NW1/4 of the SE1/4 less right-of-way; the W1/2 of the NE1/4 of the SE1/4 less right-of-way and that part of the SW1/4 lying south of Sheridan Lake Road less the east 480 feet and less Moon Meadows Subdivision and right-of-way; all located in Section 28, T1N, R7E, BHM, Pennington County, South Dakota, more generally described as being located approximately 2,500 east of the intersection of Dunsmore Road and Sheridan Lake Road.

Planning Commission approved the summary and authorize publication in the Rapid City Journal.

*3. No. 14PD001 - Minnesota Park Subdivision

A request by FMG Inc. for Rapid City Medical Center LLP, Atten. Andy Langenfeld to consider an application for a **Final Planned Development to**

allow a parking lot for the southern portion of existing Lot 2 of Block 2 of Minnesota Park Subdivision, located in the N1/2 of the SE1/4 of Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located south of Minnesota Street, west of Wisconsin Avenue.

Planning Commission approved the Final Planned Development to allow a parking lot with the following stipulations:

- 1. An Exception to reduce the required number of landscaping islands from one to zero is hereby approved, contingent upon a minimum of 42,570 points of landscaping being provided as shown on the submitted plans. All landscaping shall continually comply with the requirements of the Rapid City Landscaping Ordinance;**
- 2. The previously approved Exception to reduce the required number of handicap parking spaces from three to zero is hereby acknowledged, contingent upon the provision that sufficient handicap parking shall be provided on the adjacent lot legally described as Lot 1 of Block 1 of the Minnesota Park Subdivision, Section 14, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota**
- 3. Prior to issuance of a building permit, all redline comments shall be addressed. In particular, submitted plans shall be revised to include the Rapid City Standard Detail 41-1 Utility Trench Patch Detail. In addition, the property owner and engineer shall sign the submitted erosion and sediment control plans in order to obtain the required erosion and sediment control permit. All redline comments shall be addressed and returned to Community Planning and Development Services;**
- 4. A building permit shall be required prior to construction. Final approval shall be required prior to use of the parking lot;**
- 5. Prior to issuance of a building permit, final construction plans signed and stamped by a registered professional architect and/or engineer, as applicable, shall be submitted;**
- 6. Prior to final approval of the parking lot, temporary or permanent erosion and sediment control measures shall be achieved;**
- 7. All signage shall comply with the requirements of the Rapid City Sign Code. No electronic or Light Emitting Diode (LED) signage is being permitted as a part of this Final Planned Development. The addition of electronic or LED signage shall require a Major Amendment to the Planned Development. A sign permit shall be required for each sign;**
- 8. All outdoor lighting shall be designed 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;**
- 9. All requirements of the International Fire Code shall continually be maintained;**
- 10. All requirements of the Office Commercial District shall continually be maintained, unless specifically stipulated as a part of this Final Planned Development or a subsequent Major Amendment to the**

Planned Development, and;

- 11. This Final Planned Development shall allow for the construction of a parking lot. Uses permitted in the Office Commercial District shall be permitted contingent upon an approved building permit and provision of sufficient parking. Conditional uses in the Office Commercial 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.

---END OF CONSENT CALENDAR---

---BEGINNING OF REGULAR AGENDA ITEMS---

4. No. 14OA001 - - Ordinance Allowing for Maintenance of Legal Non-Conforming Signs by Amending Section 17.50.080(A) of the Rapid City Municipal
A request by City of Rapid City to consider an application for **an Ordinance Allowing for Maintenance of Legal Non-Conforming Signs by Amending Section 17.50.080(A) of the Rapid City Municipal.**

Cushman presented the ordinance noting that it is a simplification of the ordinance to allow sign owners to repair digital signs.

Scull moved, Marchand seconded and unanimously carried to recommend that the Ordinance Amending the Definition of Structural Alteration Within the Sign Code to Permit Maintenance of Existing Signs by Amending Section 17.50.080 of the Rapid City Municipal Code be approved. (8 to 0 with Braun, Brewer, Marchand, Monson, Popp, Rippentrop, Rolinger, Rose, Scull, Swan and Swank voting yes and none voting no)

Fisher called for a motion to reconsider Item No. 4 in order to clarify the Ordinance being revised.

Scull moved, Marchand seconded and unanimously carried to reconsider Agenda Item No. 4.

Cushman clarified that the ordinance before the Planning Commission had been revised from the version that had been linked to the agenda. The revised Ordinance includes language which allows for “changing up to and including replacing the entire digital cabinet and adjusting the mounting methods as necessary, so long as the change does not require any other changes or modifications to the sign structure in addition to the device being installed”.

Rose moved, Scull seconded and unanimously carried to recommend that

the Ordinance Amending the Definition of Structural Alteration Within the Sign Code to Permit Maintenance of Existing Signs by Amending Section 17.50.080 of the Rapid City Municipal Code be approved as revised. (8 to 0 with Braun, Brewer, Marchand, Monson, Popp, Rippentrop, Rolinger, Rose, Scull, Swan and Swank voting yes and none voting no)

*5. No. 14UR001 - Feigels Subdivision

A request by M. J. Adams for Amanda Martinez to consider an application for a **Conditional Use Permit to allow an on-sale liquor establishment in conjunction with a full service restaurant** for Tract A and the S1/2 of vacated part of alley adjacent to Tract A of Block 2 of Feigels Subdivision, located in Section 31, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1012 East North Street.

Lacock presented the application and reviewed the slides noting that this property was previously a mexican restaurant with beer and wine on-sale. However, the use had been discontinued for over two years requiring that a Conditional Use Permit application be approved to allow for the on-sale use for the new restaurant. Lacock noted that one of the stipulations restricts the facility capacity to 50, inclusive of staff. Otherwise, the entire building would need to be fire sprinkler protected and that the proposed on-sale liquor use is in conjunction with a full service restaurant. Lacock 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.

Rose moved, Scull 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 any construction and a Certificate of Occupancy shall be obtained prior to occupancy;**
2. **A minimum of 47 parking spaces shall be provided. Two 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;**
3. **A minimum of 12,231 landscaping points shall be provided. All provisions of Section 17.50.300, the Landscape Regulations of the Rapid City Municipal Code shall be continually met. All landscaping shall be continually maintained in a live vegetative state and replaced as necessary;**
4. **All provisions of the General Commercial District shall be met;**
5. **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;**
6. **All signage shall continually conform to the Sign Code. No new electronic signs are being approved as a part of this Conditional Use Permit. Changes to the proposed sign package, which the Community Planning and Development Services Director determines to be**

consistent with the original approved sign package, shall be allowed as a Minimal Amendment to the Conditional Use Permit. All signage not in conformance with the Sign Code shall require a Major Amendment to the Conditional Use Permit. Any electronic reader board signs shall require the review and approval of a Major Amendment to the Conditional Use Permit. Lighting for the signs shall be designed to preclude shining on the adjacent properties and/or street(s). A sign permit shall also be obtained for each individual sign;

7. The maximum occupancy for the restaurant shall be 50, including staff. If the occupancy exceeds 50 including staff, the structure shall be fully fire sprinkler protected and fire alarmed/protected or an Exception shall be obtained from the International Fire Code. All applicable provisions of the adopted International Fire Code shall continually be met; and,
8. The Conditional Use Permit shall allow for an on-sale liquor establishment in conjunction with a full service restaurant for the property. Any expansion to the on-sale liquor use shall require a Major Amendment to the Conditional Use Permit. Any change in use that is a permitted use in the General Commercial District in compliance with the minimum requirements of the Zoning Ordinance shall require a building permit. All conditional uses shall require the review and approval of a Major Amendment to the Conditional Use Permit. (8 to 0 with Braun, Brewer, Marchand, Monson, Popp, Rippentrop, Rolinger, Rose, Scull, Swan 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.

6. Discussion Items
None

7. Staff Items
 - A. Discuss Exparte Communication Training

Fisher noted that the exparte communication training has been scheduled for the March 27, 2014 Planning Commission meeting. Fisher stressed that it is important that the newest Planning Commissions, Walter Swan Jr. and Brett Monson be in attendance for the training.

Fisher stated that the training will be a published item on the agenda and it is anticipated that the presentation and questions should take no longer than 20 minutes to a half hour in total.

7.
 - B. Review Recent Ruling on Casino Lawsuit and pending Ordinance

Joel Landeen requested that this item be continued to the February 20,

2014 Planning Commission meeting, noting that Wade Nyberg is the attorney who is most informed and he would be the best person to review and discuss the issue. Landeen did point out that the City Council has decided not to appeal the lawsuit.

In response to a question from Brewer, Joel briefly reviewed the previous ordinance attempting to address the separation issue that was not successful. Joel noted that once a specific separation is defined it would remove the decision from the Planning Commission and the City Council, regardless of neighborhood input.

Discussion followed.

C. Lehe Report – Review recommendations and the anticipated changes.

Limbaugh briefly summarized the history of the Lehe Study. Limbaugh noted that the recommendations and work plan had been attached to the Planning Commission Agenda and hoped that the Planning Commissioners had had a chance to review the recommendations and asked if they had any question regarding recommendations.

Limbaugh noted that a number of the recommendations will involve a rewrite of the Zoning Ordinance and Subdivision Ordinance essentially creating a single document called a Unified Development Code so that all of the regulations are in one place, which involve significant reorganization of the document. Limbaugh explained that currently each individual Chapter that has district designations defining the land uses that are allowed and the land uses that are conditional, then further outlines setbacks, height allowances and other criteria. The Unified Development Code would simplify this information into table format so that land uses in one chart could be compared across all districts. The additional building criteria would also be combined into a single table. Limbaugh stated that staff will begin working on this project in the near future and will bring that product to the Planning Commission for review.

Limbaugh referenced the recent discussion regarding casinos noting that with the Unified Development Code uses such as Casinos or Adult Ordinated Businesses could be made a Conditional Use and the restrictions for this conditional use would be clearly defined including buffering requirements, screening and other restrictions. Limbaugh noted this this would be clearly laid out in the Unified Development Code.

Brewer stated that it appears that the proposed platting process will remove the opportunity for the general public to have input or to be noticed on new development and that he hopes that the new provisions does not completely remove any hearing.

In response to Brewer's question on the consolidation of Historic Sign Board and the Historic Preservation Commission, Limbaugh stated that

the State Historic Preservation Office did not have any issue with this consolidation and that the new consolidated Historic Preservation Commission would remain separate from Planning Commission.

Limbaugh reviewed how the Comprehensive Plan can be used as a guide as staff works through rewriting the Ordinance and also as a tool for staff to reference when making recommendations to applications by pointing to criteria listed in the Plan.

Monson left the dais at this time.

Limbaugh addressed how the repeal of Planned Developments Ordinance and the implementation of Conditional Zoning would shift the process developers use to obtain variances from the Planning Commission to the Board of Adjustment. A Conditional Zoning application would require a conceptual plan that could require additional restrictions on that zone district. The applicant would have to agree to the restrictions and the Conditional Zoning would provide an additional tool for defining the zoning.

In response to Braun's question whether Limbaugh felt that repealing the Planned Development Ordinance works with the Comprehensive Plan Limbaugh noted a Plan "Unit" Development would allow the developer to essentially create their own zoning district defining land uses, conditional uses, and additional restrictions and suggested zoning by area.

In response to a question from Scull, Limbaugh confirmed that the existing Planned Developments would remain in effect, but would allow the developer to request a change to a Conditional Zoning or a Planned Unit Development.

Scull commended the Planning Staff on the work they have done to make application process simpler and providing strong customer service.

With respect to the Comprehensive Plan, Scull stated that he feels that smaller groups works better to allow participants to feel comfortable and offer more feedback. Limbaugh stated the new Comprehensive Plan is a dynamic document and suggested bi-annually or annual updates could be made to keep it affective. Limbaugh stated that they have been receiving many comments now that the draft Comprehensive Plan has been created and that this plan will have to come back for review before it is finalized. Limbaugh stated that they anticipate the draft will be going to City Council in March for a study session and will come to the Planning Commission before going to City Council for adoption.

Scott agreed that the expertise on the Planning Commission is important in the review of the Comprehensive Plan and believes that the review of the Planning Commission is vital even though the City Council will be the approving body.

8. Planning Commission Items

None

9. Committee Reports

- A. City Council Report (January 21, 2014)
The City Council concurred with the recommendations of the Planning Commission.
- B. Building 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 7:50 a.m. (7 to 0 with Brewer, Marchand, Popp, Rippentrop, Rose, Scull and Swank voting yes and none voting no)