

MINUTES OF THE  
RAPID CITY PLANNING COMMISSION  
December 6, 2012

MEMBERS PRESENT: Carlos Beatty Jr., Erik Braun, Linda Marchand, Dennis Popp, Kay Rippentrop, Steve Rolinger, Tim R. Rose and Jan Swank. John Roberts, Council Liaison was also present.

MEMBERS ABSENT: Sandra Beshara, John Brewer, Andrew Scull, and Josh Snyder.

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

Marchand called the meeting to order at 7:02 a.m.

**Marchand 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 Braun seconded by Popp and unanimously carried to recommend approval of the Consent Agenda in accordance with the staff recommendation. (7 to 0 with, Braun, Marchand, Popp, Rippentrop, Rolinger, Rose and Swank voting yes and none voting no)**

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

1. Planning Commission approved the November 21, 2012 Planning Commission Meeting Minutes.

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

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

- \*2. 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 stated that this application had been continued from the previous Planning Commission meeting to allow the applicant to provide additional information. However, the applicant has requested additional time to prepare the information and, as such, staff recommends that the Initial Planned Development Overlay to allow the ConstructiMn of a Multi-Family Development be continued to the January 10, 2013 Planning Commission meeting

**Rose moved, Popp seconded and unanimously carried to continue the Initial Planned Development Overlay to allow the Construction of a Multi-**

Family Development to the January 10, 2013 Planning Commission meeting. (7 to 0 with, Braun, Marchand, Popp, 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.*

\*3. No. 12PD037 - Rushmore Crossing

A request by Target Corporation to consider an application for a **Major Amendment to a Planned Development to Allow an On-Sale Liquor Establishment in a General Commercial Zoning District** for Tract D of Block 2 of Rushmore Crossing, located in Section 29, T2N, R8E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located at 1415 Eglin Street.

Lacock presented the application noting that the applicant is requesting to only use the off-sale use of the license, but since it is a combined license they have to go through the conditional use process. Lacock stated that should the applicant decide to utilize the on-sale portion of the license they would have to request a Major Amendment to the Planned Development. Lacock advised that staff recommends approval of the Major Amendment to a Planned Development to Allow an On-Sale Liquor Establishment in a General Commercial Zoning District with stipulations as noted in the staff report.

**Rolinger moved, Rose second and unanimously carried to approve the Major Amendment to a Planned Development to Allow an On-Sale Liquor Establishment in a General Commercial Zoning District with the following stipulations:**

- 1. The Major Amendment to a Planned Development shall allow for the use of the off-sale portion of the Retail (on-off sale) Wine License. No on-sale use shall be allowed on the property. Any on-sale liquor use shall require the approval of a Major Amendment to a Planned Development;**
- 2. The landscaping plan shall continually comply with all requirements of Chapter 17.50.300 of the Rapid City Municipal Code. All landscaping shall continually be maintained in a live vegetative states and replaced as necessary;**
- 3. A minimum of 572 parking spaces shall be provided. In addition, 12 of the parking spaces shall be handicap accessible. Two of the handicap spaces shall be "van accessible." All provisions of the Off-Street Parking Ordinance shall be continually met;**
- 4. All signage shall continually conform to the Sign Code. No electronic signs are being approved as a part of this Major Amendment to a Planned Development. 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. All signage not in**

conformance with the Sign Code or any electronic reader board signs shall require the review and approval of a Major Amendment to the Planned Development. 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 the proposed signs;

5. All applicable provisions of the adopted International Fire Code shall continually be met;
6. All provisions of the General Commercial District shall be met unless otherwise specifically authorized as a stipulation of this Major Amendment to the Planned Development or a subsequent Major Amendment; and,
7. 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. (7 to 0 with, Braun, Marchand, Popp, 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 reviewed items No. 4 through No. 9 together.

4. 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.**
5. 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).**  
Beatty entered the meeting at this time.
6. 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.**
7. 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.**

8. 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.**
9. 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.**

In an overview of the ordinances being proposed, Limbaugh noted that back in August the City Council acknowledged a memorandum to consolidate the Sign Code Board of Appeals and the Zoning Board of Adjustment and as such the following ordinances were needed to address those changes. Limbaugh noted that the recently approved Sign Code Ordinance is included in Section 15 of the Rapid City Municipal Code, as are the regulations for fences and walls. These items are being moved to Section 17 of the Rapid City Municipal Code to enable the Zoning Board of Adjustment to hear variances for signs, fence and walls.

Limbaugh briefly reviewed each of the ordinances.

Limbaugh stated that Ordinance Amendment 12OA009 is generally a house cleaning action to adjust the table of contents to reflect recent changes including the removal of Section 17.50.580 and the incorporation of the previously approved Planned Development Overlay Districts, Planned Unit Development Zoning and the Administrative Exception Ordinance requirements and processes.

Limbaugh stated Ordinance 12OA010 addresses mailing notification for Planned Development Overlays. Limbaugh said it is the practice of the staff to require mailing notices to be sent by certified mail to those properties within 250 feet of the property. Cost, inconvenience and the public's general dislike of Certified Mail prompted staff to request that the notices be made by 1<sup>st</sup> Class mailing, with the applicant signing an affidavit stating that they have mailed the required notices. Limbaugh stated that this change is present in some of the companion amendments.

Limbaugh stated Ordinance 12OA011 eliminates the Sign Code Board of Appeals, removes the sign ordinance from Building Code Title 15 moving it to Zoning Ordinance Chapter 17 and consolidating the Conditional Use Permit requirement from Section 17.50.380 into the sign code.

Terry Olson, Lamar Advertising, Olson noted his concerns regarding the ordinance including the fee being set by resolution instead of ordinance, which he feels may allow changes without notice, that the date of annual licensing be in February instead of January and the \$75 per structure inspection fee. Olson questioned the appropriation of any remaining funds to be used by Beautification Committee, citing state statute that the fee cannot be more than the cost of the

permit and that excess funds must be refunded to the applicant. Olson also noted that the majority of issues on signs are with on-premise signs and not with off-premise signs and that on-premise signs do not pay a fee. Discussion followed.

Beatty entered the meeting at this time.

Roberts requested staff research what if any amount has been left over previously from permit fees. Roberts also requested the attorney's office check into the legality of the use of the fee monies.

Limbaugh stated that Ordinance 12OA012 addresses the transfer of regulations for fences and walls from Chapter 15 to Chapter 17, removes the need for alternate building materials to be approved by City Council, allows for agricultural property owners to use and maintain barbed wire fencing on properties being used for agricultural purposes, allows higher fences for recreational uses such as tennis courts and baseball fields and allows the Director to permit alternative fencing materials.

Limbaugh stated that Ordinance 12OA013 transfers the regulation of off premise signs as a conditional permit from Section 17.50.380 to 17.50.100 and deletes section 17.50.380.

Limbaugh reviewed Ordinance 12OA014 stating that the major items it addresses are transferring variances for signs including height, area, setback and number to the Board of Adjustment, sets term limits of two terms for Board of Adjustment members, added language defining the primary duties of City Council and staff and updating the public notice requirements. It is noted that if this ordinance is approved the members of the Board of Adjustment will need to be reappointed.

When asked by Popp if these change have been vetted by the committees or boards they affect, Limbaugh indicated that they had been. Popp suggested that the items be continued until individual changes have been presented to and reviewed by the committees or boards that will be affected. Discussion followed.

**Popp moved that all of the items be continued until the January 24, 2013 Planning Commission to allow the Board of Adjustment to review each of the ordinances. Rose seconded.**

Braun's requested that the deadline for the off-premise sign licenses be adjusted from January to February per Olson's request; Limbaugh stated that they would review this request.

**Popp moved, Rose seconded and unanimously carried to continue the new ordinance sections to the January 24, 2013 Planning Commission meeting. (8 to 0 with Beatty, Braun, Marchand, Popp, Rippentrop, Rolinger, Rose, and Swank voting yes and none voting no)**

- \*10. No. 12UR022 - Minnesota Park Subdivision  
A request by Kennedy Design Group Inc. for Fertile Ground LLC to consider an

application for a **Conditional Use Permit to Allow a Daycare Center in an Office Commercial Zoning District** for a portion of Lot 2 of Block 2 of Minnesota Park Subdivision, located in Section 13, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota more fully described as follows: Commencing at the southeast corner of said Lot 2 of Block 2 of Minnesota Park Subdivision as the point of beginning, Thence, first course; in a westerly direction along a curve to the right with a radius of 536.00 feet, a delta angle of 3°8'22", a length of 29.37 feet, a chord bearing of S24°54'8"W, and a chord distance of 29.36 feet, thence, second course; continuing long a curve to the right with a radius of 303.62 feet, a delta angle of 48°53'39", a length of 259.10 feet, a chord bearing of S47°46'47"W, and a chord distance of 251.31 feet to the southwesterly corner of said Lot 2, thence, third course; N29°42'11"W along the westerly boundary of said Lot 2, a distance of 136.0 feet to the northwesterly corner of said Lot, thence, fourth course; N50°33'00"E, a distance of 213.77 feet to the northeasterly corner of said Lot, thence, fifth course; in a southeasterly direction on the westerly edge of Wisconsin Avenue along a curve to the left with a radius of 350.0 feet, a delta angle of 19°9'47", a length of 117.06 feet, a chord bearing of S59°53'24"E, and a chord distance of 116.52 feet to the point of beginning, more generally described as being located south of the current southern terminus of Wisconsin Avenue.

Laroco presented the application and reviewed the slides. Laroco noted the items of concern had been addressed and that staff recommends approval of the Conditional Use Permit to Allow a Daycare Center in an Office Commercial Zoning District with the stipulations noted in the staff report.

**Rolinger moved, Braun seconded and carried unanimously to approve the Conditional Use Permit to Allow a daycare center in an Office Commercial Zoning District with the following stipulations:**

1. **Prior to approval by Planning Commission, a revised letter of intent shall be submitted which includes the maximum number of proposed children as well as the proposed hours of operation for the Center;**
2. **Prior to approval by Planning Commission, revised plans shall be submitted showing the interior layout of the proposed structure, including a calculation of interior play space. In addition, revised plans shall include elevations of the required fence and a calculation of the square footage of exterior play area;**
3. **A building permit shall be obtained prior to any construction. A Certificate of Occupancy shall be obtained prior to occupancy;**
4. **An Air Quality Construction Permit shall be obtained prior to any surface disturbance of one acre or more;**
5. **Prior to issuance of a building permit, all redlined comments shall be addressed and all redlined plans shall be returned to Community Planning and Development Services;**
6. **Prior to issuance of a building permit, revised plans shall be submitted showing building elevations and building height;**
7. **Prior to issuance of a building permit, revised plans shall be submitted showing the required fire sprinkler protection system is being provided. All applicable provisions of the adopted International Fire Code shall continually be met;**



8. Prior to issuance of a sign permit, revised plans shall be submitted showing that the proposed sign is located a minimum of 10 feet from all property lines or is a minimum of 10 feet above grade. All signage shall comply with Chapter 15.28 the Rapid City Municipal Code. No electronic signage is being approved as a part of this Conditional Use Permit. Changes to the sign package which the Director of Community Planning and Development Services determines to be consistent with the original approved sign package may be approved as a Minimal Amendment to the Conditional Use Permit. All signage not in conformance with Chapter 15.28 of the Rapid City Municipal Code or electronic reader boards shall require the review and approval of a Major Amendment to the Conditional Use Permit. Lighting for all signage shall be designed to preclude shining on adjacent properties and/or street(s). A sign permit must be obtained for each sign.
9. All outdoor lighting on the property shall be reflected within the property boundaries so as to not shine onto adjoining properties and rights-of-ways and not be a hazard to the passing motorist or constitute a nuisance of any kind;
10. Upon submittal of a building permit, plans shall be prepared and stamped by a licensed Architect or Professional Engineer as per SDCL 36-18A;
11. Temporary or permanent site stabilization shall be achieved prior to issuance of a Certificate of Occupancy;
12. A minimum of 16 parking spaces, including 1 van accessible handicap space and 1 loading/unloading space shall be provided as shown in the approved plans. All parking shall comply with Chapter 17.50.270 of the Rapid City Municipal Code;
13. A minimum of 32,020 points of landscaping shall be provided as shown on the approved site plan. All landscaping shall be installed and maintained per Chapter 17.50.300 of the Rapid City Municipal Code;
14. All provisions of the Office Commercial District shall be continually met, unless otherwise specifically authorized as a stipulation of this Conditional Use Permit or a subsequent Major Amendment, and;
15. This Conditional Use Permit shall allow the construction and operation of a day care center. Any changes in the operation of the day care center shall be in compliance with Chapter 17.50.150 of the Rapid City Municipal Code. Any change in use that is a permitted use in the Office Commercial District shall require the review and approval of a Minimal Amendment. Any change in use that is a Conditional Use in the Office Commercial District shall require the review and approval of a Major Amendment to the Conditional Use Permit. (8 to 0 with Beatty, Braun, Marchand, Popp, 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.***

11. Discussion Items

None

12. Staff Items

A. Planning Commission Committees and Membership

Fisher reviewed the inactive and dissolved committees. Fisher stated that the Kay Rippentrop, who had served on the .16 Utility Fund Oversight Committee, will continue to serve on the newly formed Utility Support Fund SAB Oversight Committee. Erik Braun will also serve on this committee. Fisher stated that staff will continue to work with the Mayor's office on assigning Planning Commission committee representatives and keep the Planning Commissioners informed.

13. Planning Commission Items

None

14. Committee Reports

None

**There being no further business, Braun moved, Rose seconded and unanimously carried to adjourn the meeting at 7:45 a.m. (8 to 0 with Beatty, Braun, Marchand, Popp, Rippentrop, Rolinger, Rose, and Swank voting yes and none voting no)**