MINUTES
PUBLIC HEARING AND ADMINISTRATIVE MEETING
OMAHA CITY PLANNING BOARD 1:30 P.M. – July 11, 2012
LEGISLATIVE CHAMBER - OMAHA/DOUGLAS CIVIC CENTER
1819 FARNAM STREET

Certification of Publication: Planning Board Administrator certifies publication of this agenda in the Daily Record, the official newspaper of the City of Omaha on Monday, July 2, 2012.

MEMBERS PRESENT: Thomas O. Kelley, Chair
John Hoich
Anna Nubel
R. J. Neary
Van C. Deeb
Greg Rosenbaum

MEMBERS NOT PRESENT: Arnold Nesbitt, Vice Chair

STAFF PRESENT: Rick E. Cunningham, Planning Director
David Fanslau, Manager, Current Planning
Eric Englund, Current Planning
Alan Thelen, Law Department
Debbie Hightower, Recording Secretary

Mr. Kelley, Chair, called the meeting to order, introduced the Planning Board members as well as the Planning Department staff, and explained the Planning Board’s public hearing procedures.

PUBLIC HEARING AND ADMINISTRATIVE MEETING

The requests listed below were voted on concurrently in accordance with the Planning Department’s recommendation report.

No one appeared in opposition.

PUBLIC HEARING AND ADMINISTRATIVE MEETING

(HOLD OVER CASES)

Special Use Permits

2. C8-12-065
   Sobir Samaritdinov
   LOCATION: 4902 Northwest Radial Highway
   REQUEST: Approval of a Special Use Permit to allow
   Automotive sales in a GC District

At the Planning Board meeting held on July 11, 2012, Mr. Kelley stated that the case was withdrawn at the request of the applicant.
(REGULAR AGENDA)

Rezonings

16. C10-12-125 (D)  
    Raymond L. Christensen, Jr.  
    REQUEST:  Rezoning from DR to R4  
    LOCATION:  4859 South 60th Street

At the Planning Board meeting held on July 11, 2012, Mr. Hoich moved for approval. Ms. Nubel seconded the motion which carried 6-0.

17. C10-12-126 (D)  
    Perry Poyner  
    REQUEST:  Rezoning from DS to CBD (said property is located within an ACI-1(PL) Overlay District)  
    LOCATION:  1316 Jones Street

At the Planning Board meeting held on July 11, 2012, Mr. Hoich moved for approval. Ms. Nubel seconded the motion which carried 6-0.

18. C10-96-261 (D)  
    Quick Silver, LLC  
    REQUEST:  Approval of a Major Amendment to a Mixed Use District Development Agreement for Altech Business Park  
    LOCATION:  3730 South 149th Street, Suite 105

At the Planning Board meeting held on July 11, 2012, Mr. Hoich moved for approval subject to submittal of an acceptable final mixed use district development agreement amendment prior to forwarding the request to the City Council for final action. Ms. Nubel seconded the motion which carried 6-0.

19. C10-05-208 (D)  
    Roanoke Development, LLC  
    REQUEST:  Approval of a Major Amendment to a Mixed Use District Development Agreement for Roanoke  
    LOCATION:  11811 Fort Street

At the Planning Board meeting held on July 11, 2012, Mr. Hoich moved for approval subject to submittal of an acceptable final mixed use district development agreement amendment prior to forwarding the request to the City Council for final action. Ms. Nubel seconded the motion which carried 6-0.

Vacations

25. C14-12-122 (D)  
    Property Owner  
    REQUEST:  Vacation of the east/west alley between Izard and Nicholas Streets from 18th Street to Florence Boulevard

At the Planning Board meeting held on July 11, 2012, Mr. Hoich moved for approval of the proposed vacation subject to any necessary easements being included in the vacating ordinance. Ms. Nubel seconded the motion which carried 6-0.

ADMINISTRATIVE MEETING ONLY

Subdivisions

1. C12-12-110  
    Matt Tarr  
    REQUEST:  Final Plat approval of PACIFIC POINTE ESTATES REPLAT THREE, a subdivision outside the city limits  
    LOCATION:  North of 194th Avenue and Walnut Circle
At the Planning Board meeting held on July 11, 2012, David Fanslau, Current Planning Manager, Planning Department, stated that the department recommends approval subject to submittal of an acceptable final subdivision agreement prior to forwarding the request to the City Council.

Mr. Rosenbaum moved for approval of the Final Plat subject to submittal of an acceptable final subdivision agreement prior to forwarding the request to the City Council. Mr. Deeb seconded the motion which carried 6-0.

(REGULAR AGENDA)

Master Plan Referrals

3. C3-12-123 REQUEST: Approval of a Chapter 55 Amendment Planning Department on behalf of the City of Omaha LOCATION: Omaha and 3-mile extraterritorial jurisdiction regarding site plan review procedures

At the Planning Board meeting held on July 11, 2012, David Fanslau, Current Planning Manager, Planning Department, stated that the request is an amendment to Chapter 55 regarding the 15 day turn around on site plan reviews. Mr. Fanslau stated that the department recommends approval.

Mr. Neary moved to approve. Mr. Deeb seconded the motion which carried 6-0.

4. C3-12-124 REQUEST: Approval of a Chapter 53 Amendment Planning Department on behalf of the City of Omaha LOCATION: Omaha and 3-mile extraterritorial jurisdiction regarding final plats

At the Planning Board meeting held on July 11, 2012, David Fanslau, Current Planning Manager, Planning Department, stated that the request is an amendment to Chapter 53 to clean up one typo, and to require that applicants submit five copies of the Final Plat instead of four. Mr. Fanslau stated that the department recommends approval.

Ms. Nubel moved to approve. Mr. Rosenbaum seconded the motion which carried 6-0.

5. C3-12-136 REQUEST: Approval of a Chapter 55 Amendment Planning Department on behalf of the City of Omaha LOCATION: Omaha and 3-mile extraterritorial jurisdiction regarding parking lot landscaping

At the Planning Board meeting held on July 11, 2012, David Fanslau, Current Planning Manager, Planning Department, stated that the request is an amendment to Chapter 55 to clarify the way the code has been applied and interpreted since 1987 regarding requirements for perimeter parking lot landscaping. Mr. Fanslau stated that the department recommends approval.

Mr. Rosenbaum moved to approve. Mr. Deeb seconded the motion which carried 6-0.

6. C3-12-130 REQUEST: Approval of FEDERAL OFFICE BUILDING Planning Department on behalf of the City of Omaha LOCATION: 106 South 15th Street TIF REDEVELOPMENT PROJECT PLAN

At the Planning Board meeting held on July 11, 2012, Bridget Hadley, Planning Department, presented the request. Ms. Hadley stated that the proposed project represents an adaptive reuse and conversion of the former Federal Office Building into a Residence Inn by Marriott hotel product. She stated that the property has been vacant since 2008. The project will make the building productive again for the tax rolls, provide more density and infill in the downtown area and preserves a historic building. There are some public infrastructure improvements along 15th Street that are still being negotiated. Also, part of the project will involve public infrastructure improvements to the city owned Omaha Park garage and is
intended to be used for hotel clientele parking. Ms. Hadley offered to answer any questions.

In response to Mr. Kelley, Ms. Hadley explained that the TIF committee meetings are not open to the public but the vote was 6-2 in favor of the TIF project.

In response to Mr. Rosenbaum, Ms. Hadley verified that the original amount of TIF requested was $2.1 million but $2.4 million is being requested from the TIF committee to allow for increased project costs. She pointed out that the TIF applications are reviewed by the City Planning Department’s Economic Development staff before the project is presented to the TIF committee.

In response to Ms. Nubel, Ms. Hadley stated that the public improvements would include making the garage more safe and secure, the lighting is inadequate and there are deferred maintenance issues.

Ms. Nubel moved to approve. Mr. Deeb seconded the motion which carried 5-1 with Mr. Kelley dissenting.

At the Planning Board meeting held on July 11, 2012, Bridget Hadley, Planning Department, presented the request. Ms. Hadley stated that the proposed project represents the rehabilitation of an office building that has been vacant since 2008. The property will house approximately 676 new office staff for Nebraska Furniture Mart as a result of expansion in the company. There have been huge incentives from Dallas, Texas for Nebraska Furniture Mart to relocate their headquarters. The public infrastructure improvements include the relocation or replacement of an existing pedestrian bridge because of flooding that occurs when the structure of the bridge causes damming. A new trail will be added in the area to connect the new pedestrian bridge to the project site where there will be additional parking available to the public. The pedestrian bridge will also connect to the Nebraska Furniture Mart campus. Ms. Hadley offered to answer any questions.

Patrick McAtee, 7531 Howard Street, appeared before the board in support of the request. Mr. McAtee stated that he uses the roadway on the south side of the trail and requested that the roadway be improved as part of the project.

In response to Mr. Kelley, Ms. Hadley stated that the TIF committee vote was 6-2 in favor of the TIF project. She went on to explain that once the Community Development Designation was approved, the City agreed that they would not pursue TIF projects west of the Papio Creek. Ms. Hadley added that the project was presented to the City and subsequently there was a letter received from the Westside School District in support of the project.

In response to Mr. Neary, Ms. Hadley stated that the TIF amount is $886,520.00.

In response to Mr. Neary, Larry Jobeun, 11440 West Center Road, attorney on behalf of the applicant, answered that the cost of the bridge would be $350,000.00 and would include the relocation of the bridge, trail and parking area. Mr. Jobeun stated that improvements on Jackson Street have never been discussed. He showed a site plan indicating the location of the existing bridge, location of the proposed bridge and the trail system that will provide access to the north side of Papio Creek.

In response to Mr. Kelley, Ms. Hadley stated that an existing bridge may be relocated from the Aksarben Village area for the proposed project. Mr. Jobeun further explained that there are three bridges in Aksarben Village but there has to be a determination as to who owns the bridges before a decision is made to relocate an existing bridge or to build a new bridge.

In response to Mr. Neary and the comparison between the cost of the pedestrian bridge related to this
request and the Ameritrade pedestrian bridge, Ms. Hadley pointed out that there is no comparison because the proposed TD Ameritrade pedestrian bridge would be larger and more expansive. Mr. Cunningham added that there is no comparison between the two bridges because the location, the creek and the flood area are different. He further pointed out that there will be a new access from the parking area therefore there will be no need to use Jackson Street.

Mr. Rosenbaum moved to approve. Mr. Deeb seconded the motion which carried 5-1 with Mr. Kelley dissenting.

8. C3-12-099 REQUEST: Approval of the Transportation Element of the City of Omaha Master Plan
Planning Department on behalf of the City of Omaha
LOCATION: Omaha and 3 mile extraterritorial jurisdiction

At the Planning Board meeting held on July 11, 2012, Derek Miller, Planning Department, presented the request. Mr. Miller stated that the Transportation Element was originally heard by the Planning Board in May 2012 and recommended for approval to the City Council. Since that date there have been two major changes to the Transportation Element which includes a revision of the evaluation metrics and removal of the prioritized project list. He stated there were a few minor grammar and spelling changes along with the addition of the Street Design Guidelines which was developed in conjunction with the project. Mr. Miller offered to answer any questions.

Mr. Neary moved for approval contingent upon the Staff Working Group working for implementation revising the evaluation metrics and developing a final prioritized transportation project list, all of which will be amended to the Transportation Element no later than one year after City Council approval. Ms. Nubel seconded the motion which carried 6-0.

The following two cases were heard together:

**Subdivisions**

9. C12-12-121 REQUEST: Preliminary and Final Plat approval of KNUTSON ADDITION, a minor plat outside the city limits
Verizon Wireless
LOCATION: Northeast of Northern Hills Drive and Calhoun Road

**Special Use Permits**

22. C8-12-100 REQUEST: Approval of a Special Use Permit to allow a Broadcast tower in DR-ED, with a waiver of Section 55-108 Height to 158 feet and approval of a Special Use Permit to allow development in the North Hills Environmental Resources Overlay District
C8-12-101
Verizon Wireless
LOCATION: Northeast of Northern Hills Drive and Calhoun Road

At the Planning Board meeting held on July 11, 2012, Ralph Wyngarden, Faulk & Foster, 588 3 Mile Road NW Suite 102, Grand Rapids, Michigan 49544, appeared before the board to present the request. Mr. Wyngarden suggested a language change to the recommendation report for the subdivision request to read as follows: 'Vehicular access onto Highway 75 shall be limited to access points approved by the Nebraska Department of Roads (NDOR). He stated that there is an existing driveway to the home on the property but the second access point is a pre-identified access point that the NDOR has on their map. Mr. Wyngarden stated that there is a need for cell service in the area and Verizon has had numerous complaints from customers who lose calls. He requested that the total height of the monopole be approved as requested at 158' (150' monopole with an 8' lighting rod) as opposed to 110' to allow the co-
locators to be at 135’ and 120’ to avoid future applications for another cell tower. Mr. Wyngarden also requested that the surface of the access drive to be crushed rock or gravel as opposed to a hard surface without requiring a waiver from the Zoning Board of Appeals (ZBA). Mr. Wyngarden offered to answer any questions.

David Fanslau, Current Planning Manager, Planning Department, stated that the plat received showed one access drive to the east and a temporary drive that would go away after construction therefore the existing drive along Highway 75 would be the only drive. He stated that the height of a tower is a balancing act, the applicant is required to provide coverage maps and the surrounding land uses are reviewed. The department reviewed all information provided but did not feel that there is a big difference with regard to coverage at a height of 158’ or 110’. Mr. Fanslau stated that the code states that any parking facilities, which include driveways, are required to be hard surfaced with concrete or asphalt. He stated that the department has routinely requested drives in the North Hills area but the area is environmentally sensitive and the department typically supports a waiver from the ZBA board. He pointed out that non-paved surfaces that abut public rights-of-way and public streets becomes a hazard to anyone using the street because gravel, dust and dirt can be pulled out onto the highway. The department typically supports the first 50 feet of the driveway to be concrete or asphalt.

Ryan Haas, City of Omaha Public Works, stated that ultimately the jurisdiction of access is at the discretion of the NDOR. He stated that Public Works would require an access restriction on the plat if there is a second access approved.

In response to Mr. Kelley, Mr. Fanslau answered that he does not know how many towers are over 150’ but based on the maps received, the department feels that 110’ is appropriate for the proposed tower.

In response to Mr. Kelley, Mr. Wyngarden stated that the map that were reviewed show incremental changes at each height but the proposed location and the area to the south has gaps around I-680 therefore a height of 150’ would better meet the needs of the site and provide future needs for co-locaters. He indicated that if the tower is 110’ the coverage would be less than optimum and there may be no takers for co-location therefore there will be a need for an additional tower to the south in the future.

In response to Mr. Neary, Mr. Wyngarden indicated on a drawing that the existing driveway is located on the southern portion of the parcel but the temporary construction access is not acceptable to the NDOR on a permanent basis. He stated that the second drive that is requested would be located across the street from the northern branch of North Hills Drive.

Special Use Permits

22. C8-12-100
    C8-12-101
    Verizon Wireless

REQUEST: Approval of a Special Use Permit to allow a Broadcast tower in DR-ED, with a waiver of Section 55-108 Height to 158 feet and approval of a Special Use Permit to allow development in the North Hills Environmental Resources Overlay District

LOCATION: Northeast of Northern Hills Drive and Calhoun Road

Mr. Fanslau stated that the department recommends approval of the Special Use Permit to allow development in the North Hills Environmental Resources Overlay District subject to the two conditions in the staff recommendation report and the department recommends approval for the Special Use Permit for a broadcast tower in the DR-ED District, with a waiver of height, subject to the nine conditions in the staff recommendation report.

In response to Mr. Kelley, Mr. Fanslau stated that the department recommends that the applicant request a waiver from the ZBA because under Section 55-740(e) requires that parking facilities/driveways are to be paved. He stated that the Planning Board does not have the authority to approve the waiver.
Mr. Neary moved for approval of a Special Use Permit to allow development in the ED-North Hills Environmental Resources Overlay District subject to: 1) Complying with the proposed grading, sediment and erosion control plans; as also approved by the NDOR; and 2) Implementing the tree canopy mitigation and landscaping plans and maintaining the plantings. Approval of the Special Use Permit to allow a Broadcast tower in the DR-ED District, with a waiver of Section 55-108 Height, subject to: 1) The applicant obtaining a Zoning Board of Appeals waiver for the surfacing of the access drive to allow a gravel surface except within 50 feet of the public right-of-way; 2) Submittal of an amended site and landscape plan prior to issuance of a building permit that provides for proposed tree mitigation and a landscape screen consisting of a hedge or row of evergreen trees having a minimum width of six feet and a minimum height of 15 feet at maturity immediately adjacent to the fenced area; 3) Submittal of an amended fencing plan that includes a solid wood fence not to exceed 6 feet in height and includes no barbed wire atop; 4) Submittal of an amended tower elevation prior to issuance of a building permit that limits the overall height of the monopole to 110 feet; 5) The lease area being large enough and tower being of sufficient structure integrity to allow for co-location of at least two additional providers; 6) Compliance with the revised site, landscaping and elevations; 7) Compliance with the proposed operating statement; 8) Providing a governmental access statement; and 9) Submittal of an annual report that describes the location and operating characteristics of all broadcast towers within the City and its extraterritorial jurisdiction. Ms. Nubel seconded the motion which carried 5-1 with Mr. Rosenbaum dissenting.

**Subdivisions**

9. C12-12-121
   Verizon Wireless  
   **REQUEST:** Preliminary and Final Plat approval of KNUTSON ADDITION, a minor plat outside the city limits
   **LOCATION:** Northeast of Northern Hills Drive and Calhoun Road

Mr. Fanslau stated that the department recommends approval of the Preliminary and Final Plat approval subject to amending the recommendation that puts a note on the Final Plat mylar that restricts the access to two drives as approved by the NDOR.

Ms. Nubel moved for approval of the Preliminary Plat, subject to the applicant adding a note to the Final Plat mylars that states that there shall be no more than two vehicular driveways onto Highway 75 as approved by the NDOR. Approval of the Final Plat, as amended by the condition of Preliminary Plat approval, subject to submittal of an acceptable final subdivision agreement. Mr. Neary seconded the motion which carried 6-0.

10. C12-12-127
    Dave Akiens  
    **REQUEST:** Preliminary and Final Plat approval of R.C. PLATTS 1ST ADDITION REPLAT 1, a minor plat inside the city limits
    **LOCATION:** 4534 Madison Street

At the Planning Board meeting held on July 11, 2012, Dave Akiens, appeared before the board and offered to answer any questions.

David Fanslau, Current Planning Manager, Planning Department, stated that the department recommends approval of the Preliminary Plat subject to: 1) Providing for the improvements of Madison Street to City standards between 46th Street and 48th Street; 2) Removal of all accessory structures (sheds, garages and barns) on proposed Lot 2 prior to forwarding the Final Plat to City Council; and approval of the Final Plat subject to the conditions of the Preliminary Plat and submittal of an acceptable subdivision agreement prior to forwarding the Final Plat to City Council.
In response to Mr. Kelley, Mr. Fanslau explained that the improvement of inner city streets is a standard request by Public Works and the removal of all accessory structures on the new lot are required because they are not considered primary uses on residential lots.

Mr. Akiens stated he has a concern with the cost of improving the streets. He stated that the property was originally a horse farm and he intends to remove the buildings and improve the property to resale. Mr. Akiens requested that the case be laid over to allow more time to determine the cost of the street improvements.

In response to Mr. Neary, Mr. Fanslau indicated that the street improvements are required because once the property is platted and zoned there could be a number of uses on the site therefore permits could be issued and any potential traffic cannot be on a dirt road.

Mr. Deeb moved to layover until the September 5, 2012 meeting to allow the applicant time to determine the cost of street improvements. Mr. Hoich seconded the motion which carried 6-0.

11. C12-12-128
Prime Real Estate
REQUEST: Preliminary and Final Plat approval of PRIME BUSINESS PARK, a minor plat inside the city limits
LOCATION: 22145 West Maple Road

At the Planning Board meeting held on July 11, 2012, Doug Kellner, Thompson, Dreessen & Dorner, 10836 Old Mill Road, appeared before the board on behalf of the applicant and offered to answer any questions.

David Fanslau, Current Planning Manager, Planning Department, stated that the department recommends approval of the Preliminary Plat subject to the four conditions listed on the recommendation report and approval of the Final Plat as amended by the conditions of the Preliminary Plat and submittal of an acceptable final subdivision agreement.

Mr. Hoich moved for approval of the Preliminary Plat subject to: 1) Amending Note #2 on the plat to contemplate a 25 foot ingress/egress easement; or the applicant needs to show a 50 foot easement on the plat; 2) Correcting the numbering of the notes on the Final Plat; 3) Compliance with all stormwater management policies and ordinances; and 4) The applicant applying for the MCC Overlay District designation for the two lots included in the proposed plat. Approval of the Final Plat as amended by the conditions of Preliminary Plat approval and submittal of an acceptable final subdivision agreement. Mr. Deeb seconded the motion which carried 6-0.

The following four cases were heard together:

**Overlay Districts**

12. C10-12-132
Planning Department on behalf of the City of Omaha
REQUEST: Approval of an ACI-4(PL)-Area of Civic Importance Overlay District
LOCATION: West Dodge Road from 90th to 96th Streets and 120th to 132nd Streets

13. C10-12-133
Planning Department on behalf of the City of Omaha
REQUEST: Approval of an ACI-2(65) and ACI-4(PL)-Area of Civic Importance Overlay District
LOCATION: South 72nd Street, I-80 to Pacific Street
At the Planning Board meeting held on July 11, 2012, Jed Moulton, Planning Department, appeared before the board and offered to answer any questions.

In response to Mr. Kelley, Mr. Moulton explained that in 2007, the Urban Design element of the Master Plan was accepted with a conceptual plan which identified primary influential corridors within the city to add supplemental zoning changes to establish minimum design standards. Mr. Moulton stated that there has been an incremental on-going implementation of the plan to allow time to notify each property owner, answer any questions and complete additional projects. He stated that each property owner receives grandfather rights for existing property and the change will only affect new development in the future and primarily large retail projects.

Mr. Rosenbaum moved to approve. Ms. Nubel seconded the motion which carried 6-0.

Mr. Deeb moved to approve. Mr. Rosenbaum seconded the motion which carried 6-0.

Mr. Neary moved to approve. Ms. Nubel seconded the motion which carried 6-0.

Ms. Nubel moved to approve. Mr. Rosenbaum seconded the motion which carried 6-0.

**Rezonings**

20. C10-98-193
   AT&T Mobility
   REQUEST: Approval of a Major Amendment to the Mixed Use District Development Agreement for Legacy to allow a 95 foot tall Broadcast tower (cell tower)
   LOCATION: 2710 Oak Drive
At the Planning Board meeting held on July 11, 2012, Steve Ward, Ward Development, 15 Park Place, Quincy, Illinois, appeared before the board on behalf of the applicant. Mr. Ward offered to answer any questions.

David Fanslau, Current Planning Manager, Planning Department, stated that the department recommends approval of a Major Amendment to the Mixed Use District Development Agreement to allow a 95 foot tall broadcast tower subject to the submittal of an acceptable, final mixed use district development agreement subject to the two items listed on the recommendation report.

Mr. Deeb moved for approval subject to submittal of an acceptable, final mixed use district development agreement amendment that includes: 1) An amended site and landscape plan that provides for a landscape screen consisting of a hedge or row of evergreen trees having a minimum width of six feet and a minimum height of 15 feet at maturity immediately adjacent to the fenced area; and 2) A lease area that is large enough and the tower being of sufficient structure integrity to allow for co-location by at least one additional provider. Mr. Neary seconded the motion which carried 5-1 with Mr. Rosenbaum dissenting.

Special Use Permits

REQUEST: Approval of a Special Use Permit to allow a Broadcast tower in a GC District with a waiver of Section 55-406 Height to 150 feet

LOCATION: 3509 Center Street

At the Planning Board meeting held on July 11, 2012, Sam Mandolfo, 2611 South 117 Street, appeared before the board to present the request on behalf of the applicant. Mr. Mandolfo requested a layover to allow more time to revisit with the department to discuss the requested height of 150’ as opposed to the recommended height of 110’ for the tower. He stated that the proposed location was considered because a 150’ antenna was located on the property for approximately 20 years before it recently fell down.

In response to Mr. Kelley, Mr. Mandolfo confirmed that he has the authority from the applicant and cell tower provider and agrees to an extension of the “shot clock” as long as necessary.

Sue Schlesinger, appeared before the board in opposition. Ms. Schlesinger stated that she owns 3522 and 3528 Center Street and is also representing Patricia A. Zieg, partner with Stinson Morrison Hecker LLP; Richard Huntzinger, tenant and the owner of Ritchie’s Restaurant; and the owner of Collector’s Choice which is adjacent to her property. She stated that there are three major concerns: 1) the safety impact, 2) physical impact; and 3) commercial impact. Ms. Schlesinger explained that the safety impact relates to the health risks of children in the area because there are two grade schools within walking distance and two residential day care centers. She questioned the height of the structure and the physical impact of the entire perimeter including, and not limited to, any type of physical impediment around the building (fences, safety fences, access, etc.) and what the negative impact might represent in a residential area. Ms. Schlesinger further stated that the residential activity is alive and well in the Field Club and Hanscom area so there is concern with regard to the commercial impact of a permanent structure.

In response to Mr. Deeb, Ms. Schlesinger stated that the applicants have not met with the neighbors. She asked if the tower would be a benefit to the veterans and an opportunity for improved communication. Ms. Schlesinger questioned if there would be a better site in the area that is within the logistics required.

Ian Swang, 3540 Center, appeared before the board in opposition. Mr. Swang stated that signatures were acquired and submitted from 70% of the property owners including the majority of the business owners within 300’ feet of the tower. He stated that over 90% of the property owners that were contacted were against the tower. Mr. Swang stated that Field Club Elementary School is one block away and the 600 children that attend the school do not have representation at this time. He stated that the previous
tower was a radio tower that fell down in a storm and could have hit a house or traffic on Center Street. The proposed tower would be aesthetically out of place and would ruin the charm of the area. He stated that there are only small studies about the health issues and cell towers but overall there has not been enough studies to form a general scientific consensus. He stated there should be more studies to determine the health effects of cell phone tower radiation. The health risks from radiation are cumulative and higher levels of radiation leads to negative health effects including cancer. Mr. Swang stated that he and his wife moved into the neighborhood to raise a family but he does not want to raise his children in an industrial zone.

In response to Mr. Neary, Mr. Swang answered that he would be willing to meet with the applicant.

David Fanslau, Current Planning Manager, Planning Department, stated that the original recommendation report was to approve the Special Use Permit subject to seven items on the recommendation report but the department would be in favor of a layover.

Mr. Deeb suggested that the applicant spend time with the neighbors and address all concerns and answer questions before the board votes on the request.

Ms. Nubel asked Mr. Mandolfo if other locations have been researched and considered and is the tower specifically for the benefit of the VA. Mr. Mandolfo stated that he worked with the VA for two years to get a roof top location but the VA Hospital is in the process of building a new hospital with a green roof therefore there is no opportunity for any antennas or towers. He stated that a tower is presently located on the Center Mall but alternative locations to the west are not acceptable because it is all downhill. Mr. Mandolfo stated that because of the demands for data and service, within the metropolitan areas, AT&T is in the process of upgrading the network capacity and the original intent was to drive better service within the hospital. He stated that he is willing to meet with the neighbors at any time and with regard to safety, a new cell tower was recently installed between Monroe Middle School and Benson High School.

In response to Mr. Kelley, Mr. Mandolfo answered that the Douglas County Hospital has an existing tower and there is no additional ground space available.

Mr. Swang asked the board to vote and not consider a layover.

Ms. Schlesinger commented that the presence of the AT&T towers on properties that are already well suited for the sites should be revisited.

In response to Mr. Neary, Mr. Thelen stated that if the case is laid over, he will discuss the federal limits on the ability to deny a cell tower with the board.

Mr. Neary moved for a layover until the September 5, 2012 meeting. Ms. Nubel seconded the motion which carried 5-1 with Mr. Hoich dissenting.

23. C8-05-175
Rainwood Hill Properties, LLC

REQUEST: Approval of a Major Amendment to a Special Use Permit to allow a Nonputrescible landfill in AG

LOCATION: Southwest of 120<sup>th</sup> Street and Rainwood Road

At the Planning Board meeting held on July 11, 2012, Mark Williams, Parsonage Vandenack Williams, 5332 South 138<sup>th</sup> Street, appeared before the board on behalf of the applicant. Mr. Williams offered to answer any questions.

Helen Hadan, 11906 Hadan Street, appeared before the board in opposition. Ms. Hadan stated that she lives on the east side of the landfill and questioned why the Planning Department would allow the landfill to continue. Ms. Hadan stated that there are two entrances to the landfill, 117<sup>th</sup> and State Street and 120<sup>th</sup> and Rainwood Road. There will be a new middle school in the fall of 2012 at 126<sup>th</sup> and State Street.
and the only entrance into the school is on State Street. There is also a grade school on 114th and State Street. Ms. Hadan stated that she is concerned for the safety of the school children regarding dump trucks being on the same road as school children and buses. Ms. Hadan stated that an original agreement limited the landfill for five years with dust control, the mud was to be scraped from the road and the trucks were to only run on Rainwood Road. The trucks still drive down Hadan Road and State Street and there has been no water trucks at the facility to clean the cement dust and mud from the road. She also stated that she is still waiting for the cement dust to be cleaned from her windows. Ms. Hadan suggested that the landfill in Irvington or the one on Dutch Hall Road could be used.

In response to Mr. Deeb, Ms. Hadan verified that nothing has been done, that was agreed upon, since the last hearing in 2010.

Eric Geiger, Mid Continent Properties, appeared before the board. Mr. Geiger stated that Mid Continent Properties manages a farm on the north side of Rainwood Road near 122nd. He verified that there is an agreement in place that if any structure is built on the Masonic Lodge site then the landfill operation would cease within six months. In response to Mr. Neary, Mr. Geiger stated that the ground has not sold and is presently being operated as farm land.

In response to Mr. Rosenbaum, Mr. Williams responded that there is no longer any concrete grinding done on the site. He further stated that several attempts were made to contact the Hadan’s and they were provided the necessary information to follow-up with their requests. Mr. Williams explained that the landfill project was intended to last at least ten years and as part of the original approval process, an agreement was made with the Masonic Lodge and a subsequent amendment to the contract, to renew every five years and continue to meet the obligation and honor the commitment to close down the landfill when something is developed on the Masonic Lodge land. The purpose of the request is to have the renewal process to be consistent with the State process.

David Fanslau, Current Planning Manager, Planning Department, stated that the department recommends approval subject to the seven items listed on the recommendation report.

In response to Mr. Deeb, Ms. Hadan answered that she did not make any attempts to contact Mr. McArdle.

Mr. Hoich moved for approval subject to: 1) To the extent it is determined by the applicant to be commercially reasonable, excavate, recycle and properly dispose of prior buried materials; 2) Continue to farm the area currently under cultivation (the green area on the colored plans); 3) Comply with the amended site and operating plans; 4) Comply with Chapter 33 of the Municipal Code and all state and county requirements; 5) Re-evaluation and renewal of the Special Use Permit prior to September, 2017, and thereafter, every five (5) years by the Planning Department, Planning Board and City Council; 6) Compliance with the Agreement between Rainwood Hill Properties, LLC and York Rite Masonic Temple dated December 15, 2005, and as amended by the August 31, 2010, Husch Blackwell correspondence agreeing to removal of the five (5) year term which is attached to and incorporated into this Exhibit “B”; and 7) All other original conditions of approval as applicable. Mr. Rosenbaum seconded the motion which carried 6-0.

24. **C8-10-060**

   **Sadoff Iron & Metals Company**

   **REQUEST:** Approval of a Major Amendment to a Special Use Permit to allow Scrap and salvage services in a GI District

   **LOCATION:** 4918 F Street

At the Planning Board meeting held on July 11, 2012, Mark Westergard, E & A Consulting Group, 330 North 117th Street, appeared before the board on behalf of the applicant. Mr. Westergard stated that a revised site plan was recently submitted. He stated that the project includes the expansion of the facility, addition of a scale and changing the parking lot. Mr. Westergard offered to answer any questions.

David Fanslau, Current Planning Manager, Planning Department, stated that the department originally
recommended a layover but revised information was received prior to the hearing therefore the department recommends approval of the Special Use Permit subject to: 1) Compliance with the revised site and landscape plan; 2) Compliance with the submitted operating statement; and 3) Compliance with all other applicable regulations.

In response to Mr. Neary, Mr. Westergard answered that the applicant is proposing some canopies that will keep materials and equipment under cover and/or in buildings with an opaque/concrete block wall that will meet the requirements for visibility.

Ms. Nubel moved for approval subject to: 1) Compliance with the revised site and landscape plan; 2) Compliance with the submitted operating statement; and 3) Compliance with all other applicable regulations. Mr. Rosenbaum seconded the motion which carried 6-0.

APPROVAL OF MINUTES

Ms. Nubel moved to APPROVE the meeting minutes of June 6, 2012 as written. Mr. Rosenbaum seconded the motion which carried 6-0.

ADJOURNMENT

It was the consensus of the board to ADJOURN the meeting at 3:55 pm.

_________________________________________
Date Approved

_________________________________________
Thomas O. Kelley, Chair

_________________________________________
Debbie Hightower, Planning Board
Recording Secretary