MINUTES  
Administrative Board of Appeals  
March 27, 2017

MEMBERS PRESENT:  
David C. Levy, Chairman  
Ann O’Connor, Vice Chair  
Brian W. Kruse  
Mark Santo  
Jeffrey Beals

MEMBERS NOT PRESENT:  
Ryne Bessmer, Alternate

STAFF PRESENT:  
Timothy Himes, Law Department  
Jay Davis, Planning Department  
Rikki Flott, Recording Secretary

ROLL CALL:  
Mr. Levy called the meeting to order at 1:00 pm. The Board received as Exhibit 1 in each of this meeting's cases the contents of the City's file on each case.

Cases:

1.  
16-05-032 (heldover from 05/23/16, 08/22/16 & 11/28/16)  
REQUEST: Appeal City Fire Department Invoice  
(RE: M's Pub Fire, January 9, 2016)  
Robert S. Keith, Engles, Ketcham, Olson & Keith, P.C.  
1350 Woodmen Tower  
Omaha NE 68102

Robert Keith appeared before the Board. Bernard in den Bosch, Law Department, appeared before the Board.

Mr. in den Bosch stated that he requested a layover to allow time for pending litigation and responsibility for the fire. He briefly discussed the details of the pending litigation and noted that the City was not a party to the litigation at this point and that the lawsuit was evolving. He explained that the City had a pending court claim against MUD and noted that responsibility for the invoice needed to be determined before bringing the case before the Board. He then stated that to avoid inconsistency in information and avoid excessive amounts of time to present the case for appeal, he requested to layover for 3 months to allow revelation of pending litigation.

Mr. Keith stated that he was involved in the litigation and explained that multiple cases currently existed for this particular incident. He explained that the City had a statutory waiting period of 6 months before proceeding with their claim against MUD. He also mentioned the extensive amount of time needed to present the case to the Board and that he was in favor to holdover the meeting for 6 months to allow resolution of pending litigation.

Motion to HOLDOVER UNTIL THE SEPTEMBER 25, 2017 MEETING by Mr. Kruse. Second by Mr. Beals.

AYES: Beals, Santo, Kruse, O’Connor, Levy

Motion carried 5-0.
REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 84th Street & West Dodge Road, Children’s Hospital)

Troy Meyerson, HDR, Inc. and Mike Brown, Executive for Children’s Hospital, appeared before the Board. Ryan Haas, Public Works, appeared before the Board.

Mr. Haas submitted a site plan of the site (Exhibit 2) and stated that the project was a renovation and expansion of the existing hospital facility. He mentioned that the site was large and noted that driveway regulations limited each site to only 1 driveway. He explained that the western portion of the site as outlined in yellow on Exhibit 2 contained 5 existing driveways and that the applicant requested to maintain all 5 driveways on this section of the site. He then explained that the eastern corner of the site as outlined in blue on Exhibit 2 was an existing bank and that the applicant partnered with the bank to integrate a new bank facility on the first floor of the proposed parking structure at this location. He added that the bank proposed to retain all 4 existing driveway accesses and that the integrated portion of the site increased overall parking for the hospital. Mr. Haas explained that the center portion of the site as outlined in red on Exhibit 2 contained 2 accesses to serve the parking garage and that concern was expressed for the access number 10 along the high-speed, high-volume West Dodge Road. He stated that a traffic study was completed and led to a tentative agreement between Children’s Hospital and the City of Omaha (Exhibit 3) regarding participation in a prospective improvement project for the 84th Street and Indian Hills Drive intersection in consideration for approval of an ingress point along West Dodge Road for garage access. He then stated that the Department was not objected to the requested waivers, but requested a deceleration lane and ingress-only for driveway 10 and agreement to improvements as outlined in the Exhibit 3 letter agreement. He noted the shared jurisdiction for West Dodge Road and explained that plans were discussed and supported by the NDOR.

Mr. Brown briefly discussed an overview of the proposed renovation and expansion and stated that the timeframe for the project was approximately 6 years. He explained that parking and access was crucial with movement of health care facilities during renovation and construction and that time constraints with leases required moving forward quickly with necessary approvals.

In response to the Board, Mr. Meyerson briefly discussed the necessity for each requested driveway access on the hospital facility site. He stated that the applicant was in agreement with the Department’s requested conditions regarding improvements to the 84th and Indian Hills Drive intersection and driveway improvements and restrictions for access number 10 along West Dodge Road. He then stated that the preliminary plans for the 84th and Indian Hills Drive intersection improvements were discussed with the City, but right of way access has not been discussed with Swanson Tower. Mr. Brown added that the proposed hospital plans were discussed with Swanson Tower, but traffic improvements were not discussed. Mr. Haas stated that should challenges with the intersection improvements arise, reconfiguration and alternate options would be discussed between the Department and the applicant. He added that the financial commitment was stated in the letter agreement and that final commitment would be outlined in the Subdivision Agreement finalized with approval by City Council. Mr. Meyerson stated that the applicant agreed to continue working with the City regarding intersection improvements and that a final agreement would be outlined in the Subdivision Agreement.

Motion to APPROVE SUBJECT TO DRIVEWAY #10, AS SHOWN ON EXHIBIT 2, BEING LIMITED TO INGRESS ONLY AND SUBJECT TO CHILDREN’S HOSPITAL PARTNERING WITH THE CITY OF OMAHA FOR IMPROVEMENTS TO THE NORTH 84TH STREET AND INDIAN HILLS DRIVE INTERSECTION PER THE SUBMITTED LETTER AGREEMENT DATED MARCH 20, 2017 (EXHIBIT 3). by Mr. Kruse. Second by Mr. Mr. Beals.
AYES: Beals, Santo, Kruse, O’Connor, Levy

Motion carried 5-0.

3. 17-03-028
Caleb Snyder
Lamp Rynearson & Associates
14710 West Dodge Road
Omaha NE 68154

REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 10th Street & Capitol Avenue)

Joe Flaxbeard, Lamp Rynearson & Associates, appeared before the Board. Ryan Haas, Public Works, appeared before the Board.

Mr. Haas stated that the site proposed new construction of a building on the southeast corner of 10th and Capitol Avenue. He then stated that the required corner spacing between the driveway and Capitol Avenue was 60 feet and that 10th street frontage and Dodge Street fronted lacked ability to meet this driveway requirements. He added that 9th Street was a low-speed, low-volume street and that the Department was not concerned with the access as proposed on the site plan.

Mr. Falxbeard stated that because of grade issues prevented an access along Capitol Avenue and that the driveway ramp along 9th Street was external with access to the lower-level parking area.

Motion to APPROVE by Mr. Beals. Second by Mr. Kruse.

AYES: Beals, Santo, Kruse, O’Connor, Levy

Motion carried 5-0.

4. 17-02-020 (heldover from 02/27/17)
Barry D. Tate
4957 South 48th Street
Omaha NE 68117

REQUEST: Appeal Police Department denial of firearm registration

Barry Tate appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board.

Lt. Sedlacek stated that Mr. Tate applied to register a firearm on January 31, 2017 and was denied due to a carry concealed weapon conviction dated November 15, 1990.

Mr. Tate stated that he was trying to obtain a carry concealed weapon permit and completed a carry conceal weapon class. He then stated that his job required he traveled to pick up paperwork during early morning hours and that he wanted a firearm for protection.

Motion to APPROVE by Mr. Kruse. Second by Mr. Beals.

AYES: Beals, Santo, Kruse, O’Connor, Levy

Motion carried 5-0.
5.  
17-02-021 (heldover from 02/27/17)
Daniel Partida
4602 Hamilton Street
Omaha NE 68132
REQUEST: Appeal Police Department denial of firearm registration

Daniel Partida appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board.

Lt. Sedlacek stated that Mr. Partida applied to register a firearm on January 30, 2017 and was denied due to a marijuana less than one ounce conviction dated March 30, 2010.

Mr. Partida stated that he recently had an intruder in his backyard and wanted the firearm for home protection.

Motion to APPROVE by Mr. Kruse. Second by Mr. Beals.

AYES: Beals, Santo, Kruse, O'Connor, Levy

Motion carried 5-0.

6.  
17-03-029
Ruben D. Gomez
3801 Frances Street
Omaha NE 68105
REQUEST: Appeal Police Department denial of firearm registration

Mr. Gomez was not present when his case was called. The Secretary stated that the applicant informed via email that he would not be in town for the meeting and requested a layover until the April 24th, 2017 meeting.

Motion to HOLDOVER UNTIL THE APRIL 24, 2017 MEETING by Mr. Kruse. Second by Mr. Santo.

AYES: Beals, Santo, Kruse, O'Connor, Levy

Motion carried 5-0.

7.  
17-03-030
Joseph Harr
11013 Harney Street
Omaha NE 68154
REQUEST: Appeal Police Department denial of firearm registration

Joseph Harr appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board.

Lt. Sedlacek stated that Mr. Harr applied to register a firearm on February 17, 2017 and was denied due to a carry concealed weapon conviction dated September 16, 1994.

Mr. Harr stated that the concealed weapon was a work knife in his pocket found when he was stopped for a DWI misdemeanor. He added that he was now married with a family and was trying to obtain a carry concealed weapon permit.
Motion to APPROVE by Mr. Beals. Second by Mr. Santo.

AYES: Beals, Santo, Kruse, O’Connor, Levy

Motion carried 5-0.

8.
17-03-031
Kahlil Eure
14823 Sprague Street
Omaha NE 68116
REQUEST: Appeal Police Department denial of firearm registration and revocation of firearm registration

Kahlil Eure appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board.

Lt. Sedlacek stated that Mr. Eure applied to register a firearm on February 16, 2017 and was denied due to a carry concealed weapon conviction dated November 30, 1999.

Mr. Eure stated that he was unaware of firearm laws at the time of the conviction and that he was now married, owned a home, and was expecting a child soon. He then stated that he wanted a firearm for protection of his home and family.

Motion to APPROVE by Mr. Santo. Second by Mr. Beals.

AYES: Beals, Santo, Kruse, O’Connor, Levy

Motion carried 5-0.

9.
17-03-032
Jordan A Tyree
5006 North 107th Street
Omaha NE 68134
REQUEST: Appeal Police Department denial of firearm registration

Jordan Tyree appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board.

Lt. Sedlacek stated that Mr. Tyree applied to register a firearm on February 27, 2017 and was denied due to two marijuana less than one ounce convictions dated June 6, 2012 and February 11, 2013.

Mr. Tyree stated that he was now employed by a cleaning service for approximately 2 years and was randomly drug tested. He then stated that his property was vandalized and that he wanted the firearm for family and home protection. In response to the Board, he stated that he was planning for financial stability and self-employment.

Motion to deny by Mr. Santo, second by Mr. Kruse. Motion failed 2-3, with Mr. Beals, Ms. O’Connor, and Mr. Levy dissenting.

Motion to APPROVE by Ms. O’Connor. Second by Mr. Beals.

AYES: Beals, O’Connor, Levy

NAYS: Santo, Kruse

Motion carried 3-2.
APPROVAL OF MINUTES:
Motion by Mr. Kruse to approve the minutes from November 28, 2016. Second by Ms. O’Connor.
AYES: Beals, Santo, Kruse, O’Connor, Levy
Motion carried 5-0.

ADJOURN:
Motion to adjourn by Mr. Kruse. Second by Ms. O’Connor.
AYES: Beals, Santo, Kruse, O’Connor, Levy
Motion carried 5-0. Meeting adjourned at 2:19 pm.