MINUTES
Administrative Board of Appeals
January 23, 2017

MEMBERS PRESENT:
Ann O’Connor, Vice Chair
Brian W. Kruse
Jeffrey Beals

MEMBERS NOT PRESENT:
David C. Levy, Chairman
Mark Santo
Ryne Bessmer, Alternate

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

ROLL CALL:
Ms. O’Connor 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. 17-01-001
Kenneth J. Hahn
Kenneth Hahn Architects
1343 South 75th Street
Omaha NE 68124
REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 3109 Pedersen Drive, Oak Valley Elementary)

Kenneth J. Hahn, Adam Sawyer and Ryan Haas, Public Works Department, appeared before the board.

Mr. Haas stated that the existing site has one access drive on Oak Street. For various reasons, the applicant was proposing to add a drop-off lane west of that access drive. He also stated that Oak Street is a local, low-speed/low-volume street. Regulations dictate that each site is granted one access; the proposed plan has 1 ½.

Mr. Hahn stated that, due to severe grade issues, handicapped accessibility would not be possible. He indicated that over the years a high percentage of severely handicapped students have attended the school. The proposed access would make it possible for there to be a drop-off point for those students and their parents. It would also make it possible for emergency vehicles to get to the front door of the school. The proposed exit would be one-way and would exit out of the existing 2-way driveway.

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

AYES: Beals, Kruse, O’Connor

Motion carried 3-0.
Joe Flaxbeard and Ryan Haas, Public Works Department, appeared before the board.

Mr. Haas stated that proposed building would be bounded on the west by 38th Avenue and on the east by 38th Street, on the north side of Leavenworth. The site will consist of ground-floor retail space, residential units above and a parking structure on the east half of the block. The proposed accesses included a two-way driveway on 38th Street on the east side with one-way in driveway on the north side of Leavenworth and one-way out driveway on 38th Avenue. The Public Works Department was concerned with minimizing the impact on 38th Street where there is a vertical curve on the top of the hill to the east. He indicated that the driveway should be eliminated or pushed as far to the west as possible.

Mr. Flaxbeard explained that the extra driveway was needed due to site constraints that made internal ramping impossible inside the 2-level parking structure. The extra driveway would allow cars to access the 2nd level of the structure.

In response to Mr. Beals, Mr. Flaxbeard stated that all of the existing structures currently on the site would be completely demolished.

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

AYES: Beals, Kruse, O’Connor

Motion carried 3-0.

Nate Buss and Ryan Haas, Public Works Department, appeared before the board.

Mr. Haas stated that the site is on the southwest corner of 50th Avenue and Center Street, just east of the where Saddle Creek Road terminates on Center Street. The existing site has two Center Street accesses with very short drive-through stacking. He added that the menu board for the proposed restaurant is on the west side of the building, which is no different from the existing site, with approximately 75 feet of stacking. In addition, the west driveway is very close to the signalized intersection. The proposed driveway would be 55 feet from the curb line of Center Street, 5 feet short of the required 60 feet. The only access on the site would be on 50th Avenue. In addition, stacking would be vastly improved from the existing situation.

Mr. Buss explained that the building currently had a basement underneath, which was not ideal for deliveries. He submitted an aerial overlay of the proposed building (Exhibit 2) that showed the difference between the existing and new buildings. He added that the new plan removed the basement and slightly expanded the building to the west and that the drive-through remained generally in the same location. He then stated that the applicant met with the adjacent church with no objections to the proposed plan.
Motion to APPROVE by Mr. Kruse. Second by Mr. Beals.

AYES: Beals, Kruse, O’Connor

Motion carried 3-0.

4.

Jeremy Shepherd
Olsson Associates
7157 Vista Drive
West Des Moines IA 50266

REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 7152 Pacific Street, Kum & Go)

Jeremy Shepherd, Olsson Associates, Siobhan Harman, Kum & Go, and Ryan Haas, Public Works Department, appeared before the board.

Mr. Haas stated that the proposed site was on the northeast corner of 72nd and Pacific Streets and that the existing Kum and Go, along with the commercial strip building to the northeast, would be removed. He then stated that the plan proposed a dedicated two-way access along Pacific Street and a shared two-way access along 72nd Street. He explained that the corner clearance for the 72nd Street access was 225 feet, less than the 230 feet regulation, but allowed delivery trucks to access the site.

Mr. Shepherd stated that the proposed plan allowed a fuel tanker truck to turn 180 degrees to access the site and construction of a new facility.

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

AYES: Beals, Kruse, O’Connor

Motion carried 3-0. Appeal granted.

5.

Jeremy Shepherd
Olsson Associates
7157 Vista Drive
West Des Moines IA 50266

REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 17925 Burt Street, Kum & Go)

Jeremy Shepherd, Olsson Associates, Siobhan Harman, Kum & Go, and Ryan Haas, Public Works Department, appeared before the board.

Mr. Haas stated that the proposed plan was a new Kum & Go facility on a vacant lot at 180th and Burt Streets. He explained that the access on north was a right-in right-out only and that the southeast access was a full movement shared access. He then stated that southeast driveway width at 35 feet exceeded the 30 feet requirement, but was beneficial for a shared access and allowed ease of movement for fuel delivery trucks.

Mr. Shepherd noted that because of the restricted northern access, the majority of traffic would utilize the southern access to reach the main intersection at 180th and Burt Streets.

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

AYES: Beals, Kruse, O’Connor

Motion carried 3-0. Appeal granted.
6.

17-01-006

Jeremy Shepherd
Olsson Associates
7157 Vista Drive
West Des Moines IA 50266

REQUEST: Appeal Public Works Department denial of
driveway permit
(RE: 55th & Center Streets, Kum & Go)

Jeremy Shepherd, Olsson Associates, Siobhan Harman, Kum & Go, Ryan Haas, Public Works
Department, and Murthy Koti, Public Works Department appeared before the board.

Mr. Haas submitted an aerial image of proposed site (Exhibit 2) and noted that the site included 2 parcels
with existing buildings. He explained that the buildings would be removed for construction of a new
Kum & Go facility and that the site would become a more intense trip generator for traffic. He further
explained that the sharp curve on Center Street had existing crash patterns and concern was expressed for
traffic heading west along Center Street turning left into the site, as well as traffic exiting the site with a
left turn onto Center Street. He added that the signalized intersection at 55th and Center Streets was
approximately 100 feet from the site and was non-compliant with the 230 feet minimum regulation.

Mr. Koti stated that the curve of Center Street created a concern for horizontal site distance, along with
full movement accesses and an established crash patterns. He displayed an 8-year crash pattern history on
his computer and noted the intensity of the land use had a direct correlation on the number of crashes.
Mr. Haas added that the non-compliance issues were the request for 2 driveways and the close proximity
of the driveway to the signalized intersection. He then stated that the Department recommended a
driveway placed further away from the signalized intersection with a deceleration lane for eastbound
traffic.

Ms. Harman stated that the proposed plan was for a new marketplace Kum & Go store with a 6,200
square foot convenience store. She then stated that a shared driveway was discussed with the League of
Human Dignity business to the east of the site, but the adjacent business was opposed to the plan. She
then explained the need for 2 access points for every site for tanker truck access and ease of customer
access to and from the site. She noted that the majority of their customer traffic was during morning
hours.

Mr. Shepherd stated that the applicant was in agreement with the addition of a deceleration lane to
decrease conflict points along Center Street, but the deceleration lane was not shown on the submitted site
plan. Mr. Koti stated that a deceleration lane at the western access alleviated some concern, but concern
remained for a second access and close proximity of the access to the signalized intersection. He further
explained that the main concern was the eastbound queue at the signalized intersection of 55th and Center
blocked the site distance of drivers exiting the site to turn left onto Center Street. He briefly discussed
traffic volumes during peak hours and again expressed concern for the more intense traffic generator of
the new use on the site. Ms. Harman explained that the use was not a traffic generator, but merely
generated trips from existing traffic. Mr. Shepherd also discussed traffic counts during peak hours and
stated that a traffic study was completed by the applicant with similar results as the study completed by
the Department. He added that the majority of traffic during morning peak hours traveled west and
evening peak hours traveled east, and that the majority of traffic would use the western access to avoid
traffic issues.

Mr. Koti stated that traffic lights were also timed for pedestrian activity and affected traffic queues
depending upon the time of the day. He noted that one westbound vehicle waiting to turn left into the
eastern driveway on the site negatively affected traffic queues of westbound traffic along Center Street.
Ms. Harman stated that a triangular median on the site was suggested to control a right-in/right-out eastbound traffic, but Mr. Koti added that these medians created wrong-way drivers and were not effective in Omaha. He explained that the Department worked on many scenarios with the applicant and was opposed to the submitted plan for safety concerns. In response to the Board, Ms. Harman stated that the site was under contract for purchase and explained that a 1-access facility was unsuccessful for other stores in Des Moines.

Mr. Kruse commented that development was important, but public safety must be considered.

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

AYES: Beals, Kruse, O’Connor

Motion carried 3-0.

7.

17-01-007
Matthew D. Gilkerson
8109 Northridge Drive
Omaha NE 68112

REQUEST: Appeal Police Department denial of firearm registration & revocation of firearm registration

Matthew Gilkerson appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Gilkerson applied to register a firearm on December 23, 2016 and was denied for a marijuana less than one ounce conviction dated March 30, 2010.

Mr. Gilkerson stated that he was young at the time of the conviction. He added that held a CDL license in Nebraska and previously held a hazmat license in Iowa. He then stated that he wanted the firearm for recreational purposes. In response to the Board, he stated that he was randomly drug tested by his employer.

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

AYES: Beals, Kruse, O’Connor

Motion carried 3-0.

8.

17-01-008
Alonzo C. Williams
4120 North 60th Street
Omaha NE 68104

REQUEST: Appeal Police Department denial of firearm registration

Alonzo Williams appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Williams applied to register a firearm on January 3, 2017 and was denied for a carry concealed weapon conviction dated April 8, 2011. The weapon involved was a loaded 25 caliber Titan handgun and that he served 10 days in jail.

Mr. Williams explained that he was moving from a hostile home environment and his belongings were packed in his vehicle, including the firearm. He was unaware of proper firearm transportation laws. He then explained that the woman he formerly lived with called to inform officials he was transporting a weapon and made accusations, but that she was truthful during his court hearing. He added that he was worked in the city jail and was now retired. In response to the Board Mr. Williams stated that his firearm was stolen in 1997 when he lived in Bellevue, Nebraska and recovered by the Bellevue Police Department. He also explained that the hostile situation was domestic and that the woman was upset he
was leaving. He added that he occasionally sees the woman but had no animosity toward her. He then stated that he just purchase a home and wanted a firearm for protection.

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

AYES: Beals, Kruse

NAYS: O'Connor

Motion carried 3-1.

9.
17-01-009
Jacob J. Kellerman
4310 North 37th Street
Omaha NE 68111

REQUEST: Appeal Police Department denial of firearm registration

Jacob Kellerman appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Kellerman applied to register a firearm on December 30, 2016 and was denied for a marijuana less than one ounce conviction dated June 5, 2014 and that the arrest date was April 19, 2013.

Mr. Kellerman stated that he recently moved to 11735 Evans Street and that he was a minor at the time of the conviction. He then stated that he battled with drugs, and since went through drug court and rehabilitation. He added that he was certified to teach self-defense and wanted a firearm for protection. He added that he was denied military enrollment for health issues and hoped to become a police officer.

Mr. Kruse noted the recent conviction date was approximately 3 years prior. In response to the Board, Mr. Kellerman stated that he was a self-employed remodeling contractor.

Mr. Beals noted the juvenile status at the time of the arrest and that the arrest was almost 5 years prior. A motion to approve by Mr. Beals failed.

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

AYES: Kruse, O'Connor

NAYS: Beals

Motion carried 2-1.

10.
17-01-010
Yusufu Njati
2075 North 20th Street East
Omaha NE 68110

REQUEST: Appeal Police Department denial of firearm registration& revocation of firearm registration

Yusufu Njati appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Njati applied to register a firearm on January 5, 2017 and was denied for a disturbing the peace conviction dated January 8, 2014. He noted the conviction was related to a domestic violence incident and he received 25 days in jail. Lt. Sedlacek stated that the incident occurred on December 13, 2013 at 1:00 a.m. and the report indicated that following an argument, the female victim was punched in the face by her spouse, Mr. Njati.
Mr. Njati stated that he worked with a mentor to join the law enforcement agency and that he wanted a firearm for shooting at the firing range with his mentor. In response to the Board, he explained that his wife dropped the charges that were then picked up by the State. He added that he served 25 days in jail waiting for the public defender to take the case back to court. Mr. Njati also explained to the Board that he did not punch his wife, but that she hit her face on the screen door trying to go inside their home during an argument as stated in her affidavit of support. He added that they were separated at the time of the incident and were now divorced.

Lt. Sedlacek explained that the police department treated the case as domestic violence, but because the victim did not testify, the judge ruled the case as disturbing the peace. He then explained that the domestic violence charge remained on the record for a lifetime.

Mr. Beals and Mr. Kruse commented on the recent date of the conviction. Mr. Njati explained that he completed a recovery program at the Open Door Mission where he now volunteered and that the program included anger management and substance abuse. He added that he was employed at a care facility for disabled persons.

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

AYES: Beals, Kruse, O’Connor

Motion carried 3-0.

11.

17-01-011
Earon H. Palmgren
453 South 86th Street
Omaha NE 68114

REQUEST: Appeal Planning Department Notice of Nuisance (RE: 453 South 86th Street)

Earon and Natalie Palmgren appeared before the Board. Roger Carroll, Planning Department, appeared before the Board.

Mr. Carroll submitted recent photos of the site (Exhibit 2) and stated that a complaint was received regarding a 28 foot camper with California license plates parked on dirt within the front yard setback of the residence. He noted the original nuisance issued had an error in address and was reissued with the correct address. Mr. Carroll explained to the residents that the camper was required to be parked on a paved surface with Nebraska registration, but that the 28 foot length violated the 20 foot front yard setback regulation.

Mr. Palmgren stated that the camper currently had Nebraska registration and that he planned to apply for permits to expand the driveway along the side of the home during warmer spring weather. He submitted photos and a plan, Exhibit 3 and Exhibit 4 and also noted that he removed a tree in preparation for the driveway expansion. Mrs. Palmgren stated that the camper was 23 feet in length.

Mr. Carroll explained the process and time frame for obtaining permits for the driveway, and then Mr. Davis stated that an issued permit was valid for 6 months.

Mrs. Palmgren questioned compliance with regulations and compliance during the time allowed to extend the driveway. Officer Stokes stated that the tires must remain on pavement at all times and that the paved strips must connect to the driveway.

Motion to DENY WITH 120 DAYS TO COMPLY by Mr. Kruse. Second by Mr. Beals.

AYES: Beals, Kruse, O’Connor

Motion carried 3-0.
Mr. Reppert was not present when his case was called before the Board. Dave Austin, Parks and Recreation Department, appeared before the Board. The Secretary confirmed that she spoke with Mr. Reppert in person on Friday regarding attendance at the meeting and that he had a plan drawn for the intersection where he resided at 17th and Martha Streets.

Mr. Austin stated that the nuisance resulted from an email received by the Public Works Department, Traffic Control citing the residence for planted trees in the right-of-way along Martha Street and 17th Street. He then stated that the inspector spoke with Mr. Reppert regarding the violation and Mr. Reppert stated he would remove the trees along Martha Street and place them along 17th Street. Mr. Austin explained that Martha Street was busy and although the trees were small they created a visual hazard for traffic (Exhibit 2). He added that the planting strip was narrow and the trees created a nuisance for vehicles parked along the curb. He then explained that a permit was granted for planting trees along 17th Street, but initially Mr. Reppert failed to obtain he required approvals from the forester for planting trees in the right-of-way. Mr. Austin stated that his department, traffic engineers and the forester agreed that removal of the trees was necessary.

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

AYES: Beals, Kruse, O’Connor

Motion carried 3-0.

**Election of Officers**

Motion to HOLDOVER THE ELECTION OF OFFICERS UNTIL THE FEBRUARY 27, 2017 MEETING by Mr. Beals. Second by Mr. Kruse.

AYES: Beals, Kruse, O’Connor

Motion carried 3-0.

**ADJOURN:**

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

AYES: Beals, Kruse, O’Connor

Motion carried 3-0. Meeting adjourned at 2:45 pm.