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 26, 2010.

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

MEMBERS NOT PRESENT: None

STAFF PRESENT: Rick E. Cunningham, Planning Director
Chad Weaver, Assistant Planning Director
Dave Fanslau, Manager, Current Planning
Cheri Rockwell, Current Planning
Alan Thelen, Law Department
Debbie Hightower, Recording Secretary

Ms. Nubel, Vice 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.

HOLD OVER CASES

Subdivision Plats

2. C12-09-058 (D) Timothy Hank Robinson

REQUEST: Preliminary and Final Plat approval of ROBINSON AND ROGER’S ADDITION, a minor plat outside the city limits, with a waiver of Section 53-9(9) Sidewalks of the Municipal Code

LOCATION: Southeast of 72nd Street and Rainwood Road

Mr. Hoich moved to APPROVE the waiver of Section 53-9(9) Sidewalks, of the Municipal Code and the preliminary and final plat, subject to the following items being addressed prior to forwarding the final plat to the City Council: 1.) Putting the building pad sites (building envelope) on the final plat mylars; 2.) Providing a note on the mylars that there shall be no vehicular access to 72nd Street; 3.) Providing the owner’s signatures on the mylars; and 4.) Submittal of an acceptable final subdivision agreement, if necessary. Mr. Deeb seconded the motion which carried 7-0.
Vacations

4. C14-10-028 (D) REQUEST: Vacation of 40th Street from Dewey Avenue to Emile Street

Property Owner

Mr. Hoich moved to APPROVE the vacation of 40th Street between Emile Street and Dewey Avenue, subject to UNMC’s approval of the proposed agreement prior to the vacation being approved by City Council. Mr. Deeb seconded the motion which carried 7-0.

(REGULAR AGENDA)

Subdivision Plats

11. C10-10-104 (D) REQUEST: Preliminary and Final Plat approval of THE RIDGES REPLAT 9, a minor plat inside the city limits, with rezoning from DR and R4 to DR and R4

C12-10-105
H. Stephen Shanahan and Shadow Ridge Limited Partnership

LOCATION: Northeast of 192nd and West Center Road

Mr. Hoich moved to APPROVE the rezoning from DR and R4 to DR and R4. Approval of the Preliminary and Final Plat, subject to submittal of an application for a minor amendment to the special use permit for outdoor sports and recreation (Case #C8-91-091) prior to forwarding the Final Plat to the City Council. Mr. Deeb seconded the motion which carried 7-0.

Rezonings

13. C10-10-107 (D) REQUEST: Rezoning from GI to R4

Planning Department on behalf of the City of Omaha

LOCATION: Northeast of 30th and Bondesson Streets

Mr. Hoich moved to APPROVE the rezoning from GI to R4. Mr. Deeb seconded the motion which carried 7-0.

HOLD OVER CASES

Subdivision Plats

1. C8-10-110 (D) REQUEST: Preliminary Plat approval of SMOKY RIDGE, a subdivision outside the city limits and approval of a Special Use Permit to allow development in the North Hills Environmental Resources Overlay District

C12-10-038
Irvington Volunteer Fire Department

LOCATION: Northeast of 72nd Street and Northern Hills Drive

Mr. Hoich moved to LAY OVER to allow the applicant additional time to: 1.) Revise the preliminary plat to provide the following: a) Dedication of an additional 10 feet of right-of-way for the first 300 feet at the intersection of 72nd Street and Northern Hills Drive; b) Dedication of 5 foot by 5 foot right-of-way at the corners of the internal streets; c) Relocation of the Street “B” connection to Northern Hills Drive to the 1/8 mile point for a future right-in, right-out connection; d) A street connection to the east to allow access to a future 1/4 mile access point; e) Straightening of Street “B” out to eliminate the two (2) reverse curves; f) A noise attenuation easement from 115 feet from the centerline on lots adjacent to 72nd Street and Northern Hills Drive; and g) Include all on-site wastewater treatment systems, reserve areas, and areas for structures including the dwelling or establishment, driveway, and outbuildings for all lots; and 2.) Submit a drainage study which includes a “no-net increase in runoff” analysis and “Post-Construction Storm Water Management Plan” in compliance with Section 32, including payment of fees, as outlined in the Municipal Code; 3.) Obtain NDEQ approval of on-site wastewater treatment systems that are proposed for any lot
less than three acres in size, based on the most recent lot layout; 4.) Submit an acceptable slopes analysis; 5.) Submit an acceptable tree canopy loss mitigation plan; 6.) Complete the airspace analysis based on the most recent lot layout, and further investigate whether or not constructing residential units in the runway protection zone for Lot 1, 2, 3, 12, 13 and 17 as indicated will be allowed; 7.) Provide for the paving of 72nd Street and Northern Hills Drive to three (3) lanes adjacent to the subdivision; 8.) Provide for a paved turnaround at the terminus of Street “A”; and 9.) Provide for the use, ownership and maintenance of the Outlot “A” in the subdivision agreement. Mr. Kelley seconded the motion which carried 7-0.

Conditional Use Permits

3. **REQUEST:** Approval of a Conditional Use Permit to allow Safety services in a DR-ED District
   **LOCATION:** Northeast of 72nd Street and Northern Hills Drive

Mr. Hoich moved to LAY OVER. Mr. Kelley seconded the motion which carried 7-0.

**REGULAR AGENDA**

Master Plan Referrals

7. **REQUEST:** Approval of an amendment to the Future Land Use Element of the City’s Master Plan from open space to a mixed-use area
   **LOCATION:** Southeast of 132nd and Pacific Streets

Mr. Hoich moved to LAY OVER to allow the applicant time to design a 36-acre (or less) mixed-use area that complies with the code and is within the quarter-mile. Mr. Kelley seconded the motion which carried 7-0.

Subdivision Plats

9. **REQUEST:** Preliminary Plat approval of STERLING RIDGE, a subdivision inside the city limits, with rezoning from DR to DR, R4, R6 and MU (portions of which property lie within the flood fringe and floodway)
   **LOCATION:** Southeast of 132nd and Pacific Street

Mr. Hoich moved to LAY OVER the proposed rezoning and subdivision for redesign in compliance with the zoning ordinance, subdivision ordinance and Master Plan. Mr. Kelley seconded the motion which carried 7-0.

Master Plan Referrals

5. **REQUEST:** Approval of an amendment to expand the Benson Business Improvement District Generally, Northwest Radial Highway on the north, Maple Street on the south, 57th Street on the east and 63rd Street on the west
   **LOCATION:**

At the Planning Board meeting held on August 4, 2010, Mr. Ken Johnson, Economic Development Manager, Planning Department, stated that the Benson Business Improvement District meets all the guidelines for the implementation of the BID and expanded version of the area.

Gregory Bourne, 6117 Maple Street, owner of Burke’s Pub, Chairman of the current Benson BID, member of the Benson-Alliance Steering Committee and a member of the B & A Neighborhood Association, appeared before the board. He stated that the proposed BID would assist the neighborhood
and community kick start and complete various projects by partnering with the City of Omaha and other associations and by applying for other grant dollars from other outside sources. Areas will be filled in that were not included in the original BID which will bring in additional business to the community with a fair assessment of dollars for the BID. The proposed BID will complete projects without having to go to the city including better lighting, signage, improved parking and the promotion of economic development by infilling empty store fronts. The board members were expanded from five to seven and will bring in a new perspective. The neighbors and business community are in favor of this request.

Mark Goodall, President of Benson Business Association, stated there is no opposition. The previous BID was much smaller and the methodology for improvement was limited.

Troy Arthur, 3306 Henry Drive, Council Bluffs, Iowa, represents a large commercial tenant, Bank of the West, and is the Chairman of the Benson Ames Alliance. He indicated that this would be a key piece for the ongoing success of the Benson community and the revitalization of the area.

Liz Moldenhauer, 2345 North 64th Street, President of the Benson Neighborhood Association, stated she is in full support of the BID district to further enhance the downtown Benson area.

Pete Festersen, Councilman of District 1, stated he is in support of the BID. Benson is on the move and this is the next step for the Neighborhood Job Creation Plan which will include infrastructure improvements.

Mr. Neary moved to APPROVE. Mr. Nesbitt seconded the motion which carried 7-0.

6. C3-10-098
   Larry Jobeun, attorney on behalf of Orange Development
   REQUEST: Approval of an amendment to the Future Land Use Element of the City's Master Plan from low density residential to office/commercial
   LOCATION: Southeast of 90th and Blondo Streets

Subdivision Plats

10. C10-10-102
    C12-10-103
    Orange Development
    REQUEST: Preliminary and Final Plat approval of WEST DODGE REPLAT 7, a minor plat inside the city limits, with rezoning from R2 and CC to CC with approval of a MCC-Major Commercial Corridor Overlay District
    LOCATION: Southeast of 90th and Blondo Streets

The above two cases were heard together.

At the Planning Board meeting held on August 4, 2010, Mr. Larry Jobeun, Fullenkamp Doyle & Jobeun, 11440 West Center Road, presented these requests on behalf of the applicant.

Mr. Jobeun introduced Mr. David Barnett, Carlson Consulting Engineers, Inc, whom is working on this project as well. Jobeun stated the Master Plan states specifically that it may be amended if: 1) there is a factual defect in the map, illustration or section of the plan with which the proposal is in conflict with; or 2) the proposal will further other important aspects of the Master Plan and its elements. This case has further policy ramifications that will impact other development areas of the city especially the older areas. With respect to this property there are five other important aspects to the Master Plan with this particular proposal;

1.) Allow the property to be redeveloped to improve the aesthetics of the property. The zoning through building placement requirements, landscaping requirements, streetscape requirements and retaining wall restrictions were all put into place by Omaha by Design standards.

2.) Allow the property to be more utilized as a commercial corner. A portion of the property is already zoned CC. The usable ground will only be .69 acres or 30,000 square feet of the original 1.26 acres after dedicating the required right-of-ways on 90th Street and Blondo Street, 30’ buffer yard
requirements for residential properties, 15’ buffer yard requirements on 90th Street, 15’ buffer yard requirements on Blondo Street and unusable area because of the slope. The property cannot be effectively redeveloped and/or developed without encroachments or additional property. The State of Nebraska has restricted access corridor along 90th Street and the distance requirements are met along Blondo or 90th Street. The sole access to this zoned commercial corner is from Parker Street. The only way to allow additional access for a major commercial corner is to allow additional property to have access to a main thoroughfare.

3.) There will be an increase in tax base. The property is currently owned by a tax-exempt entity.

4.) Increase in retail services and jobs. CVS will employ approximately 25 people with estimated annual expected sales in excess of $10,000,000.

5.) Improve the streetscape of 90th and Blondo Streets which will require street trees, design guidelines, landscaping requirements, building material requirements with respect to the elevations. CVS plans to reduce or eliminate the retaining walls along 90th Street and Blondo Street with the floor elevation of the store to match the grade of the 90th and Blondo Street intersection.

Mr. Jobeun stated the existing site is not attractive in the current condition and is underutilized and underdeveloped. Several slides were submitted showing the overall site area before and after the proposed development. Most of the property that will be acquired would be used for a buffer yard.

Mr. Jobeun addressed the planning department’s recommendation and suggested that the provisions of the Master Plan be reconsidered. Two other nearby locations (3060 North 90th Street and 8990 Boyd Street) were suggested by the planning department but are not comparable with regard to site selection and site choice. The site selection requirements for CVS are demographics, traffic volumes, access and spacing between stores. Mr. Jobeun submitted several support letters from individuals in the area.

Mr. Nesbitt questioned why CVS would consider the site when additional land had to be acquired. Mr. Jobeun answered that the corner is existing and viable but would not be buildable without adding additional property. The site will work if the amendment to the Master Plan is allowed.

Mr. Nesbitt asked why Orange Development and CVS continued with the site when there had to be an amendment made to the Master Plan. Mr. Jobeun stated there are other important elements of the Master Plan that are met by this proposal. Streetscapes and commercial corners, that are otherwise not developable, need to be developed. Mr. Nesbitt was concerned with setting a precedent by changing the Master Plan and not reviewing each proposal on a case-by-case basis. Mr. Jobeun stated this Master Plan amendment is for this location only.

Zach and Carrie Jacobson, 8821 Blondo Street, appeared before the board in support of this request. Mr. Jacobson stated that he purchased his property six years ago but is now concerned with the decline of his property value. This is not a neighborhood but individual houses sandwiched between commercial with interstate-like traffic. He stated he and his wife have regretted buying their home because of the steady decline of nearby neighboring homes and the noise and traffic affects their quality of life. He stated his home is one of the three homes that CVS is purchasing.

Harold and Laurie Hug, 8908 Parker, appeared before the board in support of this request. Ms. Hug stated their home is one of the three homes that CVS is purchasing. She stated that she believes the CVS store would improve the neighborhood which consists of vacant and overgrown lots, condemned property and rental homes. The CVS property would bring in more tax revenue because the nearby church and vacant lot are tax exempt.

Robert Irlbeck, 9967 Spring Circle, stated he is the son-in-law of Dorothy Williams who resides at 8907 Blondo Street, appeared before the board in support of the request. The city share of the tax would be between $20-25,000.00 for the CVS property along with the economic development, construction opportunities and sales tax revenue.

Joel Santo, 8932 Blondo Street, appeared before the board in support of the request. Mr. Santo stated he lives across the street on the north side of Blondo Street.
Mark Anderson, 8802 Parker Street, appeared in opposition. Mr. Anderson stated that he recently purchased the property located east of the proposed site and renovated the home where his daughter now resides. He stated he is concerned about the property value in the future.

Mr. Chad Weaver, Assistant Planning Director, Planning Department, pointed out that the neighborhood petitions submitted by CVS included two properties that were rezoned counter to the recommendation of the planning department. Also, two of the property owners that spoke out, stand to sell their property to CVS. Their opinions are valid but certainly not typical of the neighborhood. Clearly, the requested amendment to the Master Plan represents a greater change. The Master Plan addresses the issue of commercial development but the design guidelines do not improve strip commercial or destabilize neighborhoods. Redevelopment is difficult but the planning department analyzed and assisted CVS in the selection of the site that was acquired at 72nd and Maple which was expanded from existing commercial. Mr. Weaver addressed the five items that were mentioned by Mr. Jobeun: 1.) the site does not need to be redeveloped and is buildable; 2.) the city does allow commercial development; 3.) the commercial tax base is always greater than residential; 4.) retail services and jobs can happen anywhere that CVS will build; and 5.) streetscape improvements are in the code and commercial development happens in streetscape corridors. Essentially, the site has some problems and the neighborhood has some issues but the planning department does not believe that commercial development is the answer. If there is a hard line drawn in the sand, the residents that remain understand their investment but as the line keeps encroaching into the neighborhood, it becomes a question whether to invest in the residential property or sell for commercial.

Ms. Nubel questioned the driveway issue on Blondo Street and the distance from the intersection. Mr. Weaver stated that access would be allowed on Blondo Street because the site has to have access but access could be utilized from the south. The department’s recommendation is denial of the Master Plan change and denial of the rezoning.

Mr. Rosenbaum questioned the difference and restrictions between the developed northeast corner and the similar undeveloped southeast corner at 90th and Blondo. Mr. Jobeun explained that the undeveloped proposed site would only be .69 acres and is not a good commercial site in the current configuration. The residential area will be used primarily as a means of access and a buffer. The retaining walls will be eliminated and the floor level will meet the elevation of the street at 90th and Blondo. Mr. Neary agreed with Mr. Rosenbaum that the existing 30,000 square feet on the site could be developed as a 7,000 or 8,000 square foot office building.

Mr. Nesbitt questioned how long the site has been available as a commercial development and how many others have inquired about the property in the past five years. Mr. Jobeun indicated he was not aware of any other inquires but the church has owned the property for a number of years and planned to develop the property into a parking lot.

Mr. Jobeun verified for Mr. Kelley that the proposal is only related to the real estate as described in the application and does not include all of Blondo Street or a rezoning determination of the property across the street owned by Mr. Santo.

Ms. Nubel questioned why CVS would not find another site that is suitable to build. Mr. Jobeun answered that the current configuration is not suitable but the existing commercial site has the traffic count and the commercial corner in place. It makes sense to expand or add additional residential property as necessary to provide adequate access and require bufferyards to meet the site regulations under the MCC District. A minimal encroachment into the adjacent neighborhood can be viable without a major impact on the neighborhood. This location is the only location that meets all of the criteria for CVS in this quadrant in the City of Omaha.

Mr. Weaver stated the planning department would request that Orange Development/CVS to participate in another site selection on Blondo from 90th to 85th Street. The site selection criteria in the Master Plan should rein out over the site selection criteria for CVS. In response, Mr. Jobeun indicated that the neighborhood needs revitalization and the CVS store would be an improvement to the neighborhood.
Mr. Rosenbaum was concerned that Mr. Anderson recently bought and renovated his property with the understanding that there is a Master Plan and he would always be buffered from commercial. Mr. Jobeu stated that the development would be designed and built in accordance with the major overlay district for adjacent residential uses with double the buffer yard requirements and adequate landscaping. The goal is to make the development more compatible with adjacent residential uses and a viable commercial retailer.

Mr. Deeb moved to APPROVE. Mr. Nesbitt seconded the motion which carried 4-3 with Mr. Rosenbaum, Mr. Neary and Ms. Nubel dissenting.

8. C3-10-111 REQUEST: Approval of the 2011-2016 Capital Improvement Program
   Planning Department on behalf of
   the City of Omaha LOCATION: Omaha and 3-mile extraterritorial zoning jurisdiction

At the Planning Board meeting held on August 4, 2010, Mr. Chad Weaver, Assistant Planning Director, Planning Department, stated that the CIP Improvement Program is in conformance with the Master Plan and the City recommends approval.

Mr. Nesbitt moved to APPROVE the 2011-2016 Capital Improvement Program. Mr. Rosenbaum seconded the motion which carried 7-0.

Overlay Districts

12. C10-10-106 REQUEST: Approval of an ACI-1(PL)-Area of Civic Importance Overlay District
    Planning Department on behalf of
    the City of Omaha LOCATION: Riverfront Drive to 24th Street from Farnam to Cuming / Nicholas Streets

At the Planning Board meeting held on August 4, 2010, Mr. Chad Weaver, Assistant Planning Director, Planning Department, presented this request. He stated that notices were sent to adjacent landowners and he is not aware of any opposition.

Mr. Nesbitt moved to APPROVE the ACI Overlay District. Mr. Hoich seconded the motion which carried 6-0 with Mr. Deeb absent.

Ms. Nubel later indicated that there was no public hearing on the above case and suggested that the case be laid over.

Mr. Thelen suggested that the board make a motion to reconsider the vote that was previously taken.

Mr. Neary moved to RECONSIDER and LAY OVER the vote at the next meeting on September 1, 2010. Mr. Deeb seconded the motion which carried 7-0.

Special Use Permits

14. C8-10-108 REQUEST: Approval of a Special Use Permit to allow Automotive sales and Vehicle storage in a GC District
    C8-10-112 DK Enterprises LOCATION: 4425-4431 North 16th Street

At the Planning Board meeting held on August 4, 2010, Mr. Dale Kyle, 4425 North 16th Street, owner of DK Enterprises appeared before the board. Mr. Kyle stated he is requesting a Special Use Permit to build a repair shop.

Ms. Anna Steffens, 819 5th Street, Gretna, Nebraska, owns four rental properties in the area of North 16th Street. She stated she was the realtor for Mr. Kyle when he purchased the property which was listed for 1,555 days, off and on the market, from 1998 to 2009. The property was purchased by Mr. Kyle to be
used as storage for vehicles and to operate DK Towing. She stated his property is clean and tidy and does not look like a junkyard.

No one appeared in opposition.

Mr. Chad Weaver, Assistant Planning Director, Planning Department, stated the site is not large enough to accommodate three somewhat separate activities. There were improvements done on the site without privilege of a permit and activities were conducted without benefit of a CO (Certificate of Occupancy). There is more pavement than required and not enough space for parking, storage or move ability as required by code. The department recommends denial.

Mr. Kelley suggested acquiring nearby property with a purchase agreement conditional upon the approval of the Special Use Permit.

Mr. Kyle stated that when his building is completed he would repair vehicles and no longer sell vehicles. In response to Mr. Neary, Mr. Kyle stated office hours are 9:00 to 4:00 but the towing business is available 24 hours a day.

Mr. Kelley moved to LAY OVER. Mr. Deeb seconded the motion which carried 7-0.

**APPROVAL OF MINUTES**

Mr. Nesbitt moved to APPROVE the meeting minutes of July 7, 2010 as written. Mr. Hoich seconded the motion which carried 7-0.

**ADJOURNMENT**

Ms. Nubel moved to ADJOURN the meeting at 3:15 pm. Mr. Nesbitt seconded the motion which carried 7-0.

Date Approved

Anna Nubel, Chair

Debbie Hightower, Planning Board
Recording Secretary