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, April 25, 2011.

MEMBERS PRESENT: John Hoich, Chair
Arnold Nesbitt, Vice Chair
Anna Nubel
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

Mr. Hoich, 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.

Rezonings

11. C10-11-077 (D)
Lofts at 14th LLC

REQUEST: Rezoning from DS to CBD (subject property is located within an ACI-1(PL) Overlay District)
LOCATION: 802 South 14th Street

Mr. Kelley moved to APPROVE the rezoning from DS to CBD (subject property is located within an ACI-1 (PL) Overlay District). Ms. Nubel seconded the motion which carried 7-0.

12. C10-11-078 (D)
1301 Holdings LLC

REQUEST: Rezoning from DS to CBD (subject property is located within an ACI-1(PL) Overlay District)
LOCATION: 1301 Jones Street

Mr. Kelley moved to APPROVE the rezoning from DS to CBD (subject property is located within an ACI-1 (PL) Overlay District). Ms. Nubel seconded the motion which carried 7-0.
Special Use Permits

17. C8-11-083 (D) Fantastic Beginnings

REQUEST: Approval of a Special Use Permit to allow Day care (general) in a R5(35) District

LOCATION: 4102 South 13th Street

Mr. Kelley moved to APPROVE the Special Use Permit to allow Day care services (general) in a R5(35) District subject to the following conditions: 1) The applicant obtaining a waiver from the Zoning Board of Appeals to allow for the care of more than 12 individuals in a Day care services (general) facility in the R5(35) district; 2) Submittal of a more detailed operating statement prior to forwarding this request to the City Council; 3) Approval of an administrative subdivision (with the necessary cross access and parking easements) that creates a new lot for the daycare site; 4) Compliance with the proposed site plan; and 5) Compliance with all applicable development regulations. Ms. Nubel seconded the motion which carried 7-0.

Conditional Use Permits

19. C7-11-070 (D) Douglas County School District 0001

REQUEST: Approval of a Conditional Use Permit to allow Primary educational facilities in a CC District

LOCATION: 5141 “F” Street

Mr. Kelley moved to APPROVE the Conditional Use Permit to allow a Primary educational facility in a CC district. Ms. Nubel seconded the motion which carried 7-0.

20. C8-94-093 (D) C7-11-079 EHPV Real Estate Group LLC

REQUEST: Approval of a Conditional Use Permit to allow Outdoor sports and recreation in a GC District and approval of a Major Amendment to a Large Project Special Use Permit

LOCATION: 8100 Cass Street

Mr. Kelley moved to APPROVE the Conditional Use Permit to allow Outdoor sports and recreation in a GC district and approval of the Major Amendment to the Large Project Special Use Permit subject to: 1) Updating the operating statement to clarify if gates will be used; 2) Updating the operating statement to include the 10:30 shut off time for speakers and lighting; and 3) Providing a sidewalk connection from 83rd Street to the building. Ms. Nubel seconded the motion which carried 7-0.

Vacations

23. C14-11-073 (D) Planning Board

REQUEST: Vacation of the east/west alley between Farnam and Harney Streets from 13th to 14th Streets

Mr. Kelley moved to APPROVE the proposed vacation subject to retention of all necessary easements. Ms. Nubel seconded the motion which carried 7-0.

24. C14-11-074 (D) Planning Board

REQUEST: Vacation of the east 25 feet of 50th Avenue from “O” Street south 144.06 feet to the back property line of 5015 “O” Street

Mr. Kelley moved to APPROVE the proposed vacation subject to retention of all necessary easements. Ms. Nubel seconded the motion which carried 7-0.
(HOLD OVER CASES)

Subdivisions

3. C10-11-022 (D)  
   C12-11-023  
   Garden Ridge, L.P., a Texas  
   Limited Partnership (Laid Over  
   from 4/6/11)  
   REQUEST: Preliminary and Final Plat approval of  
             GARDEN RIDGE ADDITION, a subdivision  
             inside the city limits, with approval of an MCC  
             Overlay District  
   LOCATION: Northwest of 129th Avenue and West Center  
             Road

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

Rezonings

4. C10-11-004 (D)  
   Ruth L. Dailey (Laid Over from  
   1/5/11)  
   REQUEST: Rezoning from R4(35) and R8 to R8 and CC  
             LOCATION: 5821 and 5825 North 30th Street and 2907  
             Laurel Avenue

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

6. C10-11-050 (D)  
   Don Gardiner (Laid Over from  
   4/6/11)  
   REQUEST: Rezoning from MU to R6  
             LOCATION: East and West of North Main Street North of  
             Blondo Street

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

Overlay Districts

9. C11-11-082 (D)  
   Olsson Associates  
   REQUEST: Approval of a PUD-Planned Unit  
             Development Overlay District  
   LOCATION: Southeast of Sterling Ridge Drive and Pacific  
             Street

Mr. Kelley moved to LAY OVER. Laid over the PUD to allow the applicant additional time to submit the  
following: 1) A revised site plan in compliance with all applicable site development regulations; 2)  
Schematic architectural plans and elevations sufficient to indicate building height, bulk, materials and  
general architectural design; 3) A required off-street parking schedule in compliance with Article XIV of  
the Omaha Municipal Code; and 4) A statement of proposed compliance with Section 55-763(f)(1)-(3)  
Supplemental Regulations of the Omaha Municipal Code and/or the proposed floor plans indicating said  
compliance. Mr. Neary seconded the motion which carried 7-0.

Special Use Permits

13. C8-11-064 (D)  
    Holy Name Housing Corporation  
    REQUEST: Approval of a Special Use Permit to allow  
             Large group living in a R7 District and  
             “Reasonable Accommodation”  
    LOCATION: Northeast of Fort Street and Fontenelle  
             Boulevard

Mr. Kelley moved to LAY OVER. Laid over the Special Use Permit to allow Large group living subject to  
the applicant submitting the following information: 1) A parking study that shows required and provided  
off-street parking for all proposed uses on the St. Richard’s Campus. Mr. Neary seconded the motion  
which carried 7-0.
15. **C8-11-075 (D)**

REQUEST: Approval of a Special Use Permit to allow **Automotive sales** in a CC District

LOCATION: 10808 Blondo Street

Mr. Kelley moved to LAY OVER. Laid over to provide the applicant time to submit a revised site plan, an operating statement and make application for a rezoning of the site to include the MCC Overlay District designation. Mr. Neary seconded the motion which carried 7-0.

**Conditional Use Permits**

22. **C7-11-071 (D)**

REQUEST: Approval of a Conditional Use Permit to allow **Restaurant (drive-in or fast food)** in a LI District and a Major Amendment to a Conditional Use Permit to allow **General retail sales** in a LI District

LOCATION: 9939 Redick Circle (Suite 1)

Mr. Kelley moved to LAY OVER. Laid over to allow additional time for the applicant to submit revised site/landscaping plans, a grading plan, building elevations, impervious coverage and parking calculations. Mr. Neary seconded the motion which carried 7-0.

**ADMINISTRATIVE MEETING ONLY**

**Subdivisions**

1. **C10-11-027**

REQUEST: Final Plat approval of SOUTHERN VALLEY REPLAT ONE, a cluster subdivision inside the city limits, with rezoning from R4(35) to R5

LOCATION: Southwest of 17th and “Q” Streets

At the Planning Board meeting held on May 4, 2011, Chad Weaver, Assistant Planning Director, Planning Department, stated the department recommends approval of the final plat subject to the items listed on the recommendation report.

Mr. Nesbitt moved to APPROVE the final plat subject to: 1) Submittal of an amended subdivision agreement, if necessary; and 2) Including the required front and rear yard setback on the final plat mylars as was done on the final plat mylars for Southern Valley. Ms. Nubel seconded the motion which carried 7-0.

**PUBLIC HEARING AND ADMINISTRATIVE MEETING**

**(HOLD OVER CASES)**

**Master Plan Referrals**

2. **C3-11-051**

REQUEST: Approval of the BMAKK CORPORATION REDEVELOPMENT PROJECT PLAN

LOCATION: 1440 Read Street and 6924 North 14th Avenue

At the Planning Board meeting held on May 4, 2011, Bridget Hadley, Planning Department, presented the request. Ms. Hadley stated the project is a TIF redevelopment project that represents a $20,000,000 investment for manufacturing at a former industrial site. The site is zoned general industrial and the uses will comply with the current zoning with no proposed changes to the zoning. The uses of the site will
comprise of four different industries: solid waste industry, back office support for the solid waste industry, glass recycling, concrete manufacturing and dredging operation. The TIF redevelopment plan has the potential for 30 new jobs and the potential for a new glass recycling technology. The owner has secured rights to the specific technology related to the glass recycling business.

Dr. Bennett Achigbu, 3000 South 25th Street, appeared before the board to answer any questions concerning the redevelopment plan.

Mr. Neary questioned which of the buildings on the site exist and which buildings will be new. Jim Riskowski, Signa Development Service, 10404 Essex Court #300, showed the existing buildings on a site plan that was the former Pentzien site. Existing buildings on the site will be reutilized and a series of new buildings will be added. The solid waste business has grown to be the largest solid waste contractor for the military in America. He stated that Mr. Achigbu was named “SBA Businessman of the Year” in 2010. The new glass recycling is an advanced technology that came out of Japan and will be matched up with a concrete products manufacturing plant. The corporate offices will be co-located with other corporate offices located across the country. A dredging manufacturing and maintenance facility will be developed along with a materials handling recycling center that will prepare the glass for the glass recycling manufacturing process.

In response to Mr. Nesbitt, Mr. Riskowski answered that the facility is rail-in and rail out.

Mr. Kelley questioned if there are any environmental risks proposed by the facility and the by-products. Mr. Riskowski answered the technology is an advanced green technology that reduces carbon emissions by 62% and takes current hazardous material, with an extended life that fills up landfills, and produces an economically viable by-product.

Mr. Rosenbaum questioned the type of employment when fully operational. Mr. Achigbu confirmed there should be 30 employees at the site within the first two years to include technical support, sales and marketing jobs. The United States has problems with recycling glass. Recycled glass can be converted and be used for engineering and agricultural applications. He stated his vision is to put Omaha on the map with the cutting edge of green technology.

Chad Weaver, Assistant Planning Director, Planning Department, stated the department recommends approval.

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

**Rezonings**

5. C10-98-193 Continental 159 Fund, LLC (Laid Over from 4/6/11)  
   REQUEST: Approval of a Major Amendment to a Mixed Use District Development Agreement for Legacy  
   LOCATION: Southwest of 168th Street and West Center Road

At the Planning Board meeting held on May 4, 2011, Larry Jobeun, 11440 West Center Road, appeared before the board on behalf and with the applicant. Mr. Jobeun stated the major amendment to the mixed-use development is not for the use itself but the reason for the request is because the site has changed in relation to the open plaza space and the grouping of the buildings. The use is a permitted use under the mixed-use zoning classification and is one of the least permitted uses under the mixed-use classification. The solution is consistent with the intent of the mixed-use development agreement as approved by the City Council.

Sara Johnson, Continental Properties, W134N8675 Executive Parkway, Menomonee Falls, Wisconsin appeared before the board. Ms. Johnson showed a site plan of the Class “A” market rate apartment project consisting of 211 units with a mix of two and three story buildings. The amenities on site include a tenant clubhouse located to the north with a café that includes wi-fi access, community room to share as a public space, kitchen area with a pass through for food and beverages into the pool area. The pool
area includes a lounge area and fireplace. The center and southern portion of the site will include small gathering spaces that can be utilized by the tenants. She indicated a revised plan was recently drafted to create a plaza space with one-way drives and street parking so that the rest of the center can enjoy it as a public space. There will be 403 parking stalls provided for residents as opposed to the 380 parking stalls that are required by the city. The elevations will provide four-sided architecture with brick as the primary building material and will exceed the general majority calculation of 51% that is required. Aside from the brick, the remainder of the buildings will consist of hardy plank, lap, and board and batten siding.

A meeting was held with the neighbors on April 20, 2011 to hear concerns. Concerns were later addressed including traffic as a major issue. With the proposed site plan, the overall daily traffic count is less than half of what is currently planned for the site. The street landscaping and internal landscaping requirements from the city will be met or exceeded. Another comparison based on the code requirements in an R7 zoning classification would allow for 40 units per acre for the current site plan. The proposed site plan will be 20.67 units per acre and have exceeded the front and street side yard setbacks. The building height is less than required. In addition to working with the Legacy Homeowners Association, support letters were received from Lifetime Fitness, Bear Properties and individual tenants from the center.

Greg Scaglione, 3102 South 173rd Street, President of the Legacy Homeowners Association and Chairman of the Board appeared before the board in opposition to the application. Mr. Scaglione submitted a booklet outlining the argument as well as nine exhibits for consideration. He agreed that Continental Properties has provided information and has met with the neighbors and has been responsive to requests. The surrounding neighborhoods in the Legacy subdivision (Legacy subdivision, The Reserve subdivision, Legacy Villas) are well established with high-end improvements. The request for major amendments in the mixed-use agreement must fit into the well-established surroundings. However, with some modifications, the project could fit in and could be a welcome addition and compliment to the community. He requested a denial or an alternative 90-day lay over to allow time for further amendments, studies to be performed, and conferences with the city.

Mr. Scaglione asked for a show of hands of the opponents. He showed Exhibit 2 consisting of the names and address of everyone that lives in Legacy and The Reserve. As shown, Exhibit 3 is the Legacy subdivision that includes a lake at Outlot “H” that is surrounded by a 5’ walking path with established common areas. There are a total of 64 large lots ranging from ¾ of an acre to 3 acres. There are currently only three lots unsold in the established Legacy subdivision. The unique green space is surrounded on the west and south sides by the wet and woodlands of Zorinsky Lake with substantial established tree lines and trees in excess of 40 feet. In addition, within the interior of the subdivision many trees and common areas are established. The Reserve subdivision and Legacy Villas (east of the Lake) are gated communities with high-end finishes. The low-density area includes a private lake and private pond with oversized and landscaped medians throughout the subdivision that are maintained, sprinkled and mowed. The covenants (Exhibit 5) require many high-end external and internal finishes as well as certain size minimums of a home. The tax assessed value of the homes in Legacy range from $800,000 and in excess of $3,000,000. There are 20 lots in Legacy Villas and nine remain unsold. The Reserve has 25 lots and all have been sold and are tax assessed in excess of $500,000 up to $1,500,000. The existing commercial and retail area of Legacy stretches from 168th to 180th and borders West Center Road to the north and Zorinsky Lake to the south. There are restaurants, shops, banks, offices within the area as well as an existing apartment complex (The Grand Legacy Apartments) on the southeast corner of 180th and West Center Road which are high-end apartments that compliment the Legacy neighborhood unlike the apartments proposed by Continental. When Lifetime was approved, the board approved a substantial green buffer to the south and western edge of Lifetime. The proposed plan is inconsistent with the previous plan because of the exclusion of the buffer that was previously approved. A grand entrance into the area and shopping area was approved and designed to be a circle drive between 172nd and 173rd Street with landscaping on all sides. According to the plans by Continental, the grand entrance and road treatment will be removed without a service road, buffer or barrier. He stated the internal and external finishes will not be high-end and would not compliment the community as well as the existing landscaping plan. The three-bedroom apartments in The Grand Legacy Apartments are at a rent rate of $400 more per month than what Continental is suggesting to charge for a three-bedroom apartment. With respect to safety, he stated that the parking and traffic component will be a substantial problem and has not been addressed adequately. The 11-acre site is used everyday for employee parking by the Upstream Brewery and other tenants in the area, parking during high shopping periods...
and an overflow parking lot for Lifetime Fitness and also for special events. Mr. Scaglione asked the city to lay over and reconsider the following: 1) more densely landscaped area; 2) the proposed southern entrance/exit be closed with an alterative gated area; 3) buildings six and seven be two stories and move the three story buildings to buildings one and two; 4) consistent with existing covenants, every structure that faces the road must be fully bricked (facing the neighborhood and Oak Street); and 5) installation of a high end fence with brick pillars and wrought iron in-between and transition to an ornamental wall ranging from 6 to 8 feet. In conclusion, he stated the neighborhood is willing to work with Continental but would request that there be less density or more massive covering and an emphasis that would transition the proposed development into the Legacy development.

Mr. Deeb questioned the location of the Grand Legacy Apartments. Mr. Scaglione stated the Grand Legacy Apartments are located on the southeast corner of 180th and West Center Road but are within the Legacy Development.

Mr. Jobeun noted that the need for walls are unnecessary because the nearest adjacent home is lower in elevation and would not be able to see the development. He stated the proposed development would be a higher standard than the Grand Legacy Apartments on 180th Street. All city requirements are met or exceeded and the development will be compatible with the adjacent residential neighborhood as well as the adjacent office buildings.

Mr. Neary questioned the issue of the fence on the top of the retaining wall. Ms. Johnson stated the retaining wall is required because of grade changes along the western edge of the property with the highest point of the Type II retaining wall at approximately 10 feet. Lifetime Fitness and Upstream has a more substantial buffer but landscaping will be well in excess in the proposed smaller buffer. Exterior finishes will be brick/masonry and hardy board, which is more durable and longer lasting as opposed to vinyl on the Grand Legacy Apartments. She indicated that in addition to the required parking there would be on street parking stalls provided. According to the mixed-use agreement, internal circulation and pedestrian access are required therefore an entrance cannot be closed due to a fire safety issue. She pointed out that the rent will be lower because the size of the proposed Continental units will be 400 square feet less in size than the comparable Grand Legacy Apartments. Each building will have attached garages and are included in the parking count. The two-story product is a direct access unit but each unit is not a double unit and the three-story unit has a few shared access points without a long, shared corridor. There are multiple stakeholders, Lifetime Fitness and Bear Properties, who maintain the overall development, and have approval rights. Lifetime Fitness has required that the visibility be kept as well maintained as can be.

Leonard Harper, 17259 Valley Drive, appeared before the board to state that the original intent and original plating of the area did not include dense apartments.

Chad Weaver, Assistant Planning Director, Planning Department, stated the land use is appropriate; the density is less than it could be and the Master Plan calls for an allowance in the West Center corridor of unlimited density to promote transit and the mixed-use concept. Oak Street is a public street that provides access to all the users with no further restrictions. Traffic capacity is a wide right-of-way and is able to handle any kind of traffic. There could be some terms in regard to details in the style of the buildings but the building materials are appropriate. The department recommends approval subject to four listed items.

Mr. Rosenbaum moved to APPROVE. Approval of the Major Amendment to the Legacy Mixed Use Agreement provided the following conditions are addressed and an acceptable Mixed Use Development agreement is submitted prior to forwarding to City Council: 1) An application for subdivision; 2) Update all text changes that need to be addressed; 3) Refine the design details of the proposed park square feature; and 4) Work with the developer to determine the timing of the construction of sidewalks that should already have been constructed. Mr. Nesbitt seconded the motion which carried 6-1 with Mr. Hoich dissenting.
At the Planning Board meeting held on May 4, 2011, Jim Buser, 10250 Regency Circle and Jeff Lake, Olsson Associations, 2111 South 67th Street, appeared before the board on behalf of the applicant. Mr. Buser offered to answer any questions.

Mr. Nesbitt expressed concern for the personal pain and suffering and was displeased in the manner that the trees were removed from the property. Mr. Buser stated he understands and apologizes for the discomfort but deferred to Mr. Lake regarding the tree mitigation.

Mr. Lake provided an exhibit showing the current tree mitigation plan. He stated the existing codes and regulations for the actual tree mitigation were followed. In working with the Army Corp of Engineers and the NRD, the stream restoration project was part of the conditions to restore the site. The project will take the ponds out of its current configuration and replaces the channel back to its native condition. The area in the central part of the site on the north side was removed due to the requirements for drainage and detention requirements for the water quality management as per city code. There were 1,190 trees on the site and in conjunction with the landscape architect and landscape supplier, 12-15% of the trees were dead, dying or had a short life expectancy. During the mitigation, 245 trees will be replaced and at the end of the project there will be more than 2,700 trees on the site. Also, due to the environmental rules with bird nesting requirements, some of the trees had to go down within a certain time frame thus limiting the grading window. A planting plan will be refined to replace the trees that were removed. Several different species of trees were identified and will be blended together. The caliper size of the trees will be 3” on the majority of the street right-of-ways.

No opponents appeared before the board.

Chad Weaver, Assistant Planning Director, Planning Department, stated the department recommends approval subject to the changes of the original recommendation report as follows: Approval of the rezoning from DR to DR, R4, R6 and MU contingent upon submittal of an acceptable mixed use development agreement prior to forwarding to City Council. Approval of the revised preliminary plat provided the applicant addresses the following conditions to the satisfaction of the Planning Department prior to forwarding the request to the City Council: All items on recommendation report with the exception of: deleting item 6; change item 7 - Provide a minimum 40’ right-of-way connection between the existing Crawford Street stub and 127th Street. Work with staff to design an acceptable 10’ pedestrian/bicycle connection between 126th and 127th Streets; and add to item 8 - Provide a more continuous connection through the parking lots adjacent. Also, approve the final plat subject to the submittal of an acceptable subdivision agreement prior to forwarding to the City Council.

Mr. Kelley questioned if the department’s recommendation is consistent with the City Council’s approval of the preliminary plat with respect to recommendation item 7.

Mr. Weaver confirmed that item 7 is to allow for the right-of-way for a bicycle/pedestrian connection.

Mr. Kelley moved to APPROVE. Approval of the rezoning from DR to DR, R4, R6 and MU contingent upon submittal of an acceptable mixed use development agreement prior to forwarding to City Council. Approval of the revised preliminary plat provided the applicant addresses the following conditions to the satisfaction of the Planning Department prior to forwarding the request to the City Council: 1) Provide a note on the final plat that there will be no access to Sterling Ridge Drive from Lot 1 or 18 for the first 200 feet from Pacific Street; 2) Provide a letter from METRO (formerly MAT) indicating that the applicant has
worked with METRO to accommodate transit service now or in the future; 3) Provide for all improvements identified in the final, approved, traffic study; 4) Submit a Post Construction Storm Water Management Plan (PCSMP), as provided in Section 32-122, with a proposed implementation schedule or sequence of phase construction (Section 53-6(c)); 5) Submit an acceptable tree canopy loss analysis and mitigation plan; 6) Provide a minimum 40’ right-of-way connection between the existing Crawford Street stub and 127th Street. Work with staff to design an acceptable 10’ pedestrian/bicycle connection between 126th and 127th Streets; 7) Provide for a public right-of-way connection from 130th Street to the proposed private drive/easement and provide a more continuous connection through the parking lots adjacent; 8) Provide sanitary sewer to each lot as required by Section 53-9(5) of the subdivision ordinance; 9) Include provisions in the subdivision agreement for installation and maintenance of the sidewalks on the double fronted lots; 10) Show all utility easements on the plat; 11) Provide evidence of approval of a U.S. Army Corps of Engineers Section 404 permit; 12) Provide a Post Construction Storm Water Management Plan that demonstrates a no-net increase in storm water runoff from the 2, 10 and 100-year storm events, as well as control of the first ½ inch of storm water runoff; and 13) Coordinate with the Parks Department staff regarding all recreation and open space improvements. Approval of the final plat subject to compliance with all of the conditions of revised preliminary plat approval and subject to submittal of an acceptable subdivision agreement being submitted prior to forwarding to the City Council for final action. Ms. Nubel seconded the motion which carried 6-0 with Mr. Nesbitt abstaining.

8. C10-11-084 C12-11-085
Fort Street Senior Community, LLC

REQUEST: Preliminary and Final Plat approval of CYPRESS POINTE, a minor plat inside the city limits, with rezoning from CC to R6
LOCATION: Southwest of 60th Street and Hartman Avenue

At the Planning Board meeting held on May 4, 2011, Chad Weaver, Assistant Planning Director, Planning Department, stated the department recommends approval subject to two items on the recommendation report and approval of final plat subject to submittal of an acceptable final subdivision agreement, if necessary.

No opponents appeared before the board.

Mr. Nesbitt moved to APPROVE. Approval of the rezoning from CC to R6. Approval of the preliminary plat subject to: 1) Compliance with all applicable storm water management regulations; and 2) Working with METRO regarding the potential placement of a permanent bus shelter at this location. Approval of the final plat subject to submittal of an acceptable final subdivision agreement, if necessary. Ms. Nubel seconded the motion which carried 7-0.

Overlay Districts

10. C11-11-086
Fort Street Senior Community, LLC

REQUEST: Approval of a PUD-Planned Unit Development Overlay District
LOCATION: Southwest of 60th Street and Hartman Avenue

At the Planning Board meeting held on May 4, 2011, Chad Weaver, Assistant Planning Director, Planning Department, stated the department recommends approval of the PUD subject to submittal of schematic architectural plans and elevations sufficient to indicate building height, bulk, materials and general architectural design prior to forwarding the request to City Council.

No opponents appeared before the board.

Mr. Nesbitt moved to APPROVE. Approval of the PUD subject to submittal of schematic architectural plans and elevations sufficient to indicate building height, bulk, materials and general architectural design prior to forwarding the request to City Council. Mr. Deeb seconded the motion which carried 7-0.
Special Use Permits

14. C8-11-068
Fidelity Towers, Inc. and
AT&T Wireless

REQUEST: Approval of a Special Use Permit to allow a
Broadcast tower in an AG District with a
waiver of Section 55-87 Height to 125 feet

LOCATION: 17515 Pacific Street

At the Planning Board meeting held on May 4, 2011, Trevor Wood, SSC, 8500 West 110th Street Suite 300, Overland Park, Kansas, appeared before the board on behalf of the applicants. Mr. Wood stated that Matt Smith, RF Systems Performance Engineer for AT&T and Sam Mandolfo who has done some lease work for AT&T, also appeared before the board.

Mr. Wood stated AT&T Mobility is the second largest carrier, by subscriber, in the United States and has been working on a multi site build out and upgrade of overall network through Nebraska and Iowa and the United States. The improved services planned are improved building penetration and higher speed data for individual devices. The proposed site is on the Pacific Springs Assembly of God Church property with the location of the tower/monopine to be at the north end of the parking lot near an existing row of trees. The monopine will be an evergreen-look tree that will blend with the other trees. The proposed site is a predominately residential area and AT&T has a significant gap in service for the area. He stated that there is no better location for the tower because of the land use patterns and the AT&T infrastructure. Approximately 20-30 neighbors attended an on-site meeting that was held at the church. In response to questions about the location of the site, there are right-of-way issues with regard to the site on the property. Secondly, the church is a growing congregation and has a major site plan that shows a north and easterly expansion with future plans for the rear yard to the east. Additionally, there is a proposal to add 25 new evergreen trees that will significantly protect the view of the adjoining residences to the east, west and south. Significant landscaping will be brought to the perimeter of the property to mitigate views of individual homes to ensure views are being protected. At the neighborhood meeting, several individuals were in support of the project that will be used to support the church. From a land use prospective, the Pacific Street location to the east has a substation approximately one mile away.

Mr. Nesbitt indicated that AT&T Mobility and T-Mobile has a proposed merger and he was concerned that there will be an abundance of sites that are not needed in the future. Mr. Wood stated T-Mobile is a major client and has a compatible technology with the AT&T network. Mr. Nesbitt asked that AT&T provide the planning department with the AT&T and T-Mobile facilities.

Neil Wiser, Fidelity Tower, 7539 Stroh Road, Parker, Colorado, appeared before the board. Mr. Wiser stated that Fidelity Tower has been in business for 20 years and typically builds 30-40 towers per year. He added that his company takes great care to ensure that proposed sites are not single purpose facilities but multiple carrier sites. There are limited options for tower locations in suburban areas and large subdivisions. The types of sites in the future that have the available land are the local parks, schools or churches.

Mr. Hoich asked for a show of hands from the opponents.

Paul Yeaman, 1227 South 176th Avenue Circle, appeared before the board in opposition. Mr. Yeaman stated he lives in the Spring Ridge Villas subdivisions and is concerned about the erection of the proposed tower in his “back yard” and the unpleasant aesthetics of the monopine that “sticks out like a sore thumb” and looks like a “cheap Wal-Mart Christmas tree”. In addition, he stated there are concerns about health issues because there has been no conclusive evidence provided by the cell companies in relation to EMF (electronic magnetic frequency). Mr. Yeaman was also concerned about children climbing the tower and the possibility of falling ice during the winter. He suggested further studies and more consideration for the possibility of another location such as the HyVee at 180th & Pacific, Pacific Springs Golf Course, or the nearby OPPD transmission tower.

Bill Hansen, 17416 Poppleton Avenue, appeared before the board in opposition. Mr. Hansen stated he visited the tree pole located at 97th and Pacific and was hard to find because it was integrated within the trees. Mr. Hansen stated the existing pine trees are 35-45 feet tall and have died or are dieing from the
pine wilt therefore there is concern that the tower might stand alone in the future. He stated he was also concerned about property values and the eyesore of the utility building at the base of the tower.

Mr. Wood addressed several concerns mentioned by the neighbors. He stated that all climbing pegs are removed therefore the tower is hard to climb. The perceived health effects cannot be part of the determination for the appropriate land use. The facility and the pole itself has been set back the same distance as its height and in the event there is any ice load, it would fall within the church property and is not a danger to the surrounding residents. The FAA has approved the site including analysis of all the surrounding flight paths. The tree pole at 97th and Pacific is a very short site utilized only by Verizon which will not be utilized by other providers due to the shortness of the tree pole and the limited ground space. He suggested building a conventional monopole instead of the monopine but the intent was to build a high-end facility that is a 120’ camouflage structure that does not look like a big, steel pipe sticking in the air.

Chad Weaver, Assistant Planning Director, Planning Department, stated that the department staff would prefer to have a stealth monopole and agrees that the 120’ monopine looks ridiculous. He indicated that if the department thought the site would be appropriate then a closer look would be given to the site. The city would encourage AT&T to meet and work on a much broader scale with regard to the citywide needs. In some instances, there seems to be a bias toward a church or school because of the lease agreements. Mr. Weaver stated that the city would like the opportunity to work with commercial properties to promote acceptable locations. Generally speaking, the Federal legislation was designed to promote locations of the towers in terms of timing but when there are broader issues, the department feels compelled to deny the request. The department understands the service is needed but the department recommends a denial for the request.

Mr. Kelley asked Mr. Weaver for a distinction between the recommendation for this case and a similar request that was recently approved. Mr. Weaver stated that there are certain instances where coverage holes do not touch other sites and this is not the case with this site.

Mr. Kelley requested that Mr. Wood briefly address the broader issues. Mr. Wood stated that this request was not piecemealed together. The planning staff was contacted in November of 2009 and the project has been ongoing for almost 18 months. The neighborhood was looked at as thoroughly as possible and contact was made with the schools, HyVee and the owner of the open space and resulted in a non-responsive or a “no” response.

Mr. Kelly indicated that he understands the department’s recommendation and is sympathetic to the carrier but there may be alternatives and possibly a less obtrusive tower. The circumstances in relation to a previous case do seem different particularly the topography.

Mr. Weaver echoed that the service has to be provided and is mandated but is not mandated for any location. As the coverage is increased, the city has to ensure that there is due diligence and the locations are deliberate.

Mr. Rosenbaum moved to DENY. Mr. Neary seconded the motion which carried 7-0.

16. C8-11-081 Lakeside Auto Recycler’s, Inc. REQUEST: Approval of a Special Use Permit to allow Scrap and salvage services in a HI District LOCATION: 1404 Grace Plaza (1351 Locust Street and 2203 North 14th Plaza)

At the Planning Board meeting held on May 4, 2011, Larry Jobeun, 11440 West Center Road, appeared before the board on behalf of the applicant. He stated the project is an expansion of an existing facility located west of the proposed site. Mr. Jobeun offered to answer any questions.

No opponents appeared before the board.

Chad Weaver, Assistant Planning Director, Planning Department, stated the department recommends approval of the request subject to the 8 items listed on the recommendation report.
Mr. Neary questioned whether the applicant would need to comply with a previous Zoning Board of Appeals waiver. Mr. Weaver stated that the previous waiver would remain in place. Mr. Jobeun stated the proposed expansion of the existing use would be further away from the residential neighborhood located to the west.

In response to Mr. Rosenbaum, Mr. Jobeun stated the size of the expansion would be 2.798 acres.

Mr. Neary asked for a site plan and indicated that he was concerned about traffic and trucks stacking out on Grace Street and unloading offsite. Mr. Jobeun stated the survey was prepared and permitted. Mr. Jobeun stated the applicant confirmed that trucks would not be stacking out on Grace Street. He stated the expansion would not increase the number of semi-trucks. Mr. Neary asked that operator comply with the maintenance of weeds and screening and no stacking of cars as required in the salvage permit.

Mr. Neary moved to APPROVE. Approval of the Special Use Permit to allow Scrap and salvage services on the subject property subject to: 1) Compliance with the site plan(s); 2) Compliance with the attached operating statement; 3) Compliance with all applicable zoning regulations; 4) Compliance with Sections 30-81 through 30-110 of the Omaha Municipal Code; 5) Compliance with all other applicable regulations; 6) Properly subdividing the property and recording said subdivision with the Douglas County Register of Deeds prior to forwarding the request to the City Council; 7) Consolidation of all addresses used to one address as issued by the Current Planning Division of the Planning Department; and 8) Amending and expanding the salvage dealer’s license to include the appropriate address. Ms. Nubel seconded the motion which carried 7-0.

Conditional Use Permits

18. C7-11-069
C10-98-129
AT&T Wireless

REQUEST: Approval of a Conditional Use Permit to allow a Broadcast tower in a GI-MD District with a waiver of Section 55-506 Height to 150 feet and approval of a Major Amendment to a MD Overlay District Development Agreement

LOCATION: 5808 South 118th Circle

At the Planning Board meeting held on May 4, 2011, Rex Currie, SSC, 8500 West 110th Street Suite 300, Overland Park, Kansas, appeared before the board on behalf of the applicants. Mr. Currie requested a layover to allow time to seek out potential co-location opportunities for the site. He indicated that he would be willing to waive the shot clock deadline for an additional 60 days. Mr. Currie provided a brief overview of the project.

Mr. Nesbitt moved to LAYOVER. Laid over for 60 days. The applicant agreed to extend the “shot clock” for 60 days. Mr. Neary seconded the motion which carried 7-0.

21. C7-11-080
Divine Shepherd Lutheran Church

REQUEST: Approval of a Conditional Use Permit to allow Religious assembly in a R4(35) District

LOCATION: 15156 “R” Street (15005 “Q” Street existing church)

At the Planning Board meeting held on May 4, 2011, Mark Hannemann, Senior Pastor, Divine Shepherd Lutheran Church, 15005 “Q” Street, appeared before the board. Pastor Hannemann stated the church has been serving the community since 1973 and has grown significantly. The purchase of the proposed house would provide staff/office use and other similar activities used in the existing church building such as small group adult use. He stated he found no opposition with any of the neighbors. Pastor Hannemann indicated there would be no intention to purchase other homes in the near future. He stated the proposal would allow the church to serve the community better.

No opponents appeared before the board.

Chad Weaver, Assistant Planning Director, Planning Department, stated the church could purchase the
property and use it in a manner that would be compatible with the residential zoning. Mr. Weaver stated that the department recommends denial of the proposed request.

Mr. Rosenbaum questioned if the church would need to bring the home up to handicap standards. Mr. Weaver answered it would be a different occupancy type and could require possible changes.

Mr. Kelley asked Pastor Hannemann if he would be willing to change the hours of operation from 8:00 a.m. to 10:00 p.m. on weekdays and 6:00 p.m. and 8:00 p.m. on Saturday and Sunday, respectively to 8:00 p.m. on weekdays and 6:00 p.m. on weekends. Pastor Hannemann answered that church meetings and gatherings can spill over later in the evenings. Pastor Hannemann stated the church would not be interested in obtaining a certificate of occupancy with regard to ADA.

Rick Cunningham, Director, Planning Department, offered the required planning contacts information

Ms. Nubel asked if it was a possibility to maintain the home as a residence and have someone live in the home. Pastor Hannemann answered a residence would not fall under the proper funding.

Mr. Nesbitt questioned what could be done in the house that could not be done in the church. Pastor Hannemann answered the home would be used for civic groups and support groups because it would be private and quiet. The home would allow for more space during peak times (Sunday mornings and Wednesday evenings).

Ms. Nubel moved to DENY. Mr. Rosenbaum seconded the motion which carried 5-2 with Mr. Kelley and Mr. Hoich dissenting.

**APPROVAL OF MINUTES**

Mr. Nesbitt moved to APPROVE the meeting minutes of April 6, 2011 as written. Ms. Nubel seconded the motion which carried 7-0.

**ADJOURNMENT**

Ms. Nubel moved to ADJOURN the meeting at 4:25 pm. Mr. Deeb seconded the motion which carried 7-0.

_________________________________________
Date Approved

_________________________________________
John Hoich, Chair

_________________________________________
Debbie Hightower, Planning Board
Recording Secretary