Public Hearing and Administrative Meeting

OMAHA CITY PLANNING BOARD 1:30 P.M. – September 7, 2011
LEGISLATIVE CHAMBER - OMAHA/DOUGLAS CIVIC CENTER
1819 FARNAM STREET

Certification of Publication: Planning Board Administrator certifies publication of this agenda in the Daily Record, the official newspaper of the City of Omaha on Monday, August 29, 2011.

Members Present: Arnold Nesbitt, Vice Chair
Anna Nubel
R. J. Neary
Van C. Deeb
Greg Rosenbaum

Members Not Present: John Hoich, Chair
Thomas O. Kelley

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. Nesbitt, 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.

Public Hearing and Administrative Meeting

(Hold Over Cases)

Rezonings

3. C10-11-122 (D) REQUEST: Rezoning from G1-ACI-1(PL) to CC-ACI-1(PL)
Vicky Stadther
McDonalds USA LLC
(Laid Over from 8/3/11)

LOCATION: 2410 Cuming Street

Ms. Nubel moved to APPROVE. Mr. Deeb seconded the motion which carried 5-0.
(REGULAR AGENDA)

Subdivisions

8. C12-11-154 (D) Lakeside Plaza Holdings LP  
   REQUEST: Preliminary and Final Plat approval of LAKESIDE PLAZA REPLAT 2, a minor plat inside the city limits  
   LOCATION: 17370 Lakeside Hills Plaza

Ms. Nubel moved to APPROVE. Approval of the Preliminary Plat subject to the applicant placing reciprocal access and circulation between the proposed lots and a sidewalk from the fuel station to the grocery store; and approval of the Final Plat as amended by the condition of Preliminary Plat approval. Mr. Deeb seconded the motion which carried 5-0.

   REQUEST: Preliminary and Final Plat approval of SKYLINE OFFICE PARK, a minor plat inside the city limits with rezoning from CC to LO  
   LOCATION: Northeast of 210th Street and West Dodge Road

Ms. Nubel moved to APPROVE. Approval of the rezoning from CC to LO; approval of the Preliminary Plat subject to the applicant providing for a financial contribution toward the improvement of the adjacent streets and an easement to the east; and approval of the Final Plat as amended by the conditions of Preliminary Plat approval and subject to submittal of an acceptable final subdivision agreement. Mr. Deeb seconded the motion which carried 4-0 with Mr. Neary abstaining.

Overlay Districts

13. C10-11-153 (D) Dillon Real Estate Co., Inc.  
    REQUEST: Approval of a MCC-Major Commercial Corridor Overlay District  
    LOCATION: Northeast corner of 33rd and "Q" Streets

Ms. Nubel moved to APPROVE. Mr. Deeb seconded the motion which carried 5-0.

Rezonings

14. C10-02-262 (D) Mike Purdy Purdy & Slack Architects  
    REQUEST: Approval of a Major Amendment to the Mixed Use District Development Agreement for West Dodge Station  
    LOCATION: Northwest of 180th Street and West Dodge Road

Ms. Nubel moved to APPROVE. Approval of the Major Amendment to the West Dodge Station Mixed Use District Development Agreement subject to the following being submitted prior to forwarding the request to the City Council: 1) West Dodge Station Replat 7; 2) Operating statement; and 3) An acceptable final Mixed Use District Development Agreement Amendment. Mr. Deeb seconded the motion which carried 5-0.

Conditional Use Permits

15. C7-07-073 (D) The Nebraska Methodist Hospital  
    REQUEST: Approval of a Major Amendment to a Conditional Use Permit to allow Hospital services (general) in a GO District  
    LOCATION: 8303 Dodge Street

Ms. Nubel moved to APPROVE. Approval of a Major Amendment to a Conditional Use Permit to allow
Hospital services (general) in a GO-General Office District subject to: 1) Compliance with the proposed site plan; 2) Compliance with the proposed operating statement; and 3) Compliance with all other applicable rules and regulations. Mr. Deeb seconded the motion which carried 5-0.

**Vacations**

17. C14-11-150 (D)  
Property Owner  
REQUEST: Vacation of the east/west alley between Izard and Nicholas Streets from 12th to 13th Streets; and, vacation of a portion of right-of-way at the southeast corner of 13th and Nicholas Streets (795 sq. ft. more or less)

Ms. Nubel moved to APPROVE. Mr. Deeb seconded the motion which carried 5-0.

**ADMINISTRATIVE MEETING ONLY**

**Subdivisions**

1. C12-11-095  
Keith B. Edquist  
(Laid Over from 8/3/11)  
REQUEST: Final Plat approval of NORTHERN HILLS BUSINESS PARK (formerly NORTHERN HILLS AIRPARK), a subdivision outside the city limits  
LOCATION: Northeast of 72nd Street and Bennington Road

Chad Weaver, Assistant Planning Director, Planning Department, stated the applicant requests that the case be laid over. The department is in favor of the layover.

Mr. Rosenbaum moved to LAY OVER. Laid over as requested by the applicant. Mr. Neary seconded the motion which carried 5-0.

**PUBLIC HEARING AND ADMINISTRATIVE MEETING**

**(HOLD OVER CASES)**

**Overlay Districts**

2. C10-98-193  
AT&T Mobility  
(Laid Over from 7/6/11)  
REQUEST: Approval of a Major Amendment to the Mixed Use District Development Agreement for Legacy to allow a 95 foot tall Broadcast tower (cell tower)  
LOCATION: 2710 Oak Drive

No one appeared before the board in favor of the request.

Ken Oster, 15710 L Street, President of Oster Homes, appeared before the board. Mr. Oster indicated that he has a home for sale on the south side of Wright Street near the proposed tower. He stated he opposes the tower because it could have a detrimental effect on the sale of the property. The tower would be 50’ over the top of the trees and would have a detrimental effect on the aesthetics of the skyline.

Chad Weaver, Assistant Planning Director, Planning Department, stated there are some location issues with this application and there has been difficulty in getting information that is required to fully analyze the proposed tower. Without the information in hand, the department recommends denial.
Mr. Rosenbaum moved to DENY. Mr. Deeb seconded the motion which carried 5-0.

(REGULAR AGENDA)

Master Plan Referrals

4. C3-11-149
   Planning Department on behalf of the City of Omaha
   REQUEST: Approval of a Chapter 55 Amendment regarding fees
   LOCATION: Omaha and 3-mile extraterritorial zoning jurisdiction

Chad Weaver, Assistant Planning Director, Planning Department, stated that since 1997 the department has not evaluated and changed the fee structure. The increase is not tremendous and is in line with 11 other comparable communities in the United States. The department recommends approval.

Mr. Neary moved to APPROVE. Ms. Nubel seconded the motion which carried 5-0.

5. C3-11-145
   Planning Department on behalf of the City of Omaha
   REQUEST: Approval of the 1201 HOWARD, LLC TIF PROJECT REDEVELOPMENT PLAN
   LOCATION: 1201 Howard Street

Ken Johnson, Planning Department, presented the request. Mr. Johnson stated the project is a redevelopment of the site that is currently the location of the Maggie Moo’s and another restaurant on the corner that will be replaced. The three-story structure will be built; space will be created for Maggie Moo’s to return with 5,000 additional square feet for restaurant or retail with two floors of apartments. Mr. Johnson indicated that he and the developer are available to answer any questions.

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

Mr. Neary questioned if the TIF would be used for public improvements and to replace the sidewalks and alley. Mr. Johnson answered that the sidewalks and alley will be replaced in conjunction with the Hyatt project at 12th and Jackson.

Mr. Neary moved to APPROVE. Mr. Rosenbaum seconded the motion which carried 5-0.

6. C3-08-155
   Planning Department on behalf of the City of Omaha
   REQUEST: Approval of an Amendment to the 18th and LOCUST AREA REDEVELOPMENT PLAN
   LOCATION: Generally, Locust on the north, the alley right-of-way between 16th and 18th Streets on the east, a line following existing property lines approximately 115 feet south of Corby Street on the south and 19th Avenue on the west

Chad Weaver, Assistant Planning Director, Planning Department, stated that Shannon Heights would provide for construction of new single-family homes, rehab of some existing homes and driveway improvements. The department recommends approval.

Mr. Neary moved to APPROVE. Ms. Nubel seconded the motion which carried 5-0.

7. C3-11-160
   Planning Department on behalf of the City of Omaha
   REQUEST: Approval of the NO DO ZESTO DEVELOPMENT, LLC TIF REDEVELOPMENT PROJECT PLAN
   LOCATION: 1203 Mike Fahey Street
Ken Johnson, Planning Department, presented the request. Mr. Johnson stated the project is a proposal to build a new Zesto’s restaurant facility in downtown Omaha. The project meets all guidelines and was previous rezoned to provide for a drive in restaurant. The building will be a two-story facility with ground level commercial that will include an additional bay for retail. TIF will be first used as a right of offset for public improvements and other eligible TIF costs in the area. Mr. Johnson offered to answer any questions.

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

In response to Ms. Nubel, Mr. Johnson indicated that a diagonal piece of property located in the Central Business District does not mandate absolute parking but that there will be parking available on the street abutting the property site.

Ms. Nubel moved to APPROVE. Mr. Deeb seconded the motion which carried 5-0.

Subdivisions

    Kimley-Horn and Associates
    REQUEST: Preliminary and Final Plat approval of WEST
    BENSON REPLAT THIRTEEN, a minor plat inside the city limits with approval of a MCC-
    Major Commercial Corridor Overlay District
    LOCATION: 2451 North 90th Street

Larry Jobeun, 11440 West Center Road, appeared before the board to represent the applicant. Mr. Jobeun stated the project would be a Wal-Mart Neighborhood Market with a grocery and pharmacy concept. The project will be a noticeable improvement to the area that will replace the Hobby Lobby store. The proposed Wal-Mart store will be a 34,000 square foot store that will be approximately 58 feet away (as compared to 15 feet) from the adjacent residential neighborhood to the east with green parking areas as required by the Urban Design code and the MCC overlay. Mr. Jobeun presented several photos and site plans of the proposed project. There are significant drainage issues to the east that will be corrected. The proposed project will include a 30-foot buffer to the north with the green parking areas and the 15-foot landscape buffer along 90th Street. The 7% interior landscaping requirement is met under the Urban Design code regulations. The lighting poles will be shorter with downcast lighting to avoid spillage into the adjacent neighborhoods to the north and east. The truck traffic and circulation will be substantially better than the existing situation and a noticeable improvement to the neighborhood. Mr. Jobeun offered to answer any questions.

Muhammed (exact name unknown), owner of the adjacent gas station at 2475 North 90th Street appeared before the board in opposition. He indicated that he was concerned about encroachment onto his property and increased accidents with the additional truck traffic.

Charles Hartline, 2322 North 88th Street, appeared before the board in opposition. Mr. Hartline stated he was concerned about the traffic because the roads are narrow and there is no left turn signal at 90th and Lake Streets. He indicated he is against a liquor license because the area is over populated with bar establishments and the hours of operation are outrageous.

Cathy Long, 8834 Lake Street, appeared before the board in opposition. Ms. Long stated she lives directly to the north of the proposed project. She expressed concern regarding traffic during the winter. Ms. Long stated the noise would be an issue if the store were open 24 hours a day. She indicated the area is saturated with grocery stores and pharmacies. There is a concern for safety due to the fact that many children live nearby on Grant and Lake Streets.

Eric Carlson, 8819 Lake Street, appeared before the board in opposition. Mr. Carlson submitted petitions from nearby neighbors. He echoed the sentiments of the neighbors regarding the traffic and noise. The
other issue he expressed concerned the existence of the shell of the building to the south that is currently
used by Hobby Lobby.

Christine Wood, 8819 Lake Street, appeared before the board in opposition. Ms. Wood pointed out that
Lake Street can not handle a 54 foot tractor trailer turning from the south into the neighborhood without
obstructing oncoming traffic.

Randy (unknown), 2424 North 88th Street, appeared before the board in opposition. He indicated he was
concerned with additional trash and crime in the neighborhood.

Chad Weaver, Assistant Planning Director, Planning Department, stated the zoning allows for Wal-Mart
and any other business permitted under the existing zoning. The site is generally compliant with the MCC
overlay and the Urban Design code. Public Works has reviewed the traffic and the street is not required
to have four lanes for truck traffic. The department recommends approval.

Mr. Jobeun verified that the property owned by Muhammad is not included in the proposed plan. Mr.
Jobeun indicated in a drawing that a 67-foot truck could make the entire radius and the turns into the
proposed site. There is an exception in the Omaha Municipal Code that states a truck with a weight limit
of 12,000 lbs. can make deliveries. Mr. Jobeun stated that the hours of operation would be 24 hours.
Wal-Mart is concerned about security especially with regard to the pharmacy and will manage the
property accordingly. He stated that with respect to noise issues, there are noise ordinances within the
city.

Mr. Carlson mentioned that he found a study on the web indicating that Wal-Mart is reluctant to use after
hour security patrols. He asked that there be some sort of requirement to have a security monitoring
system as well as a roving patrol for the parking lot.

Mr. Neary questioned if the sidewalks will be provided along Lake Street. Mr. Jobeun answered that
there will have to be sidewalks. Mr. Neary questioned the drainage issue. Mr. Jobeun referred to the
consulting engineer, Will Matzek of Kimley-Horn and Associates. Mr. Matzek indicated that the present
drainage issue behind the existing Hobby Lobby is that the roof drains into a concrete swale and
discharges into the adjacent property. The proposed condition will be curb and gutter at the rear of the
store with catch basins that will route the storm water to a treatment device that will be on site that will
provide the initial treatment as required by ordinance and will discharge into a public storm main on site.
This will prevent erosion issues to adjacent homeowners.

Mr. Neary questioned the exterior of the building. Mr. Jobeun answered that the exterior will be a quick
brick or a masonry material that is acceptable under the code.

Ms. Nubel asked Mr. Jobeun to address the crime issue and the security of the building. Mr. Jobeun
answered that he would check on the crime issue between now and council but this is a commercial area
and Wal-Mart is concerned about safety for their customers.

Mr. Rosenbaum moved to APPROVE the MCC Overlay District; approval of the Preliminary Plat; and
approval of the Final Plat, subject to submittal of an acceptable final subdivision agreement, if necessary.
Mr. Deeb seconded the motion which carried 5-0.

**Overlay Districts**

11. C10-11-151
    Planning Department on behalf of
    the City of Omaha

    REQUEST: Approval of an ACI-1(PL)-Area of Civic
    Importance Overlay District

    LOCATION: Generally, North 30th Street from Sprague
    Street to Sorensen Parkway, Ames Avenue
    from North 28th Avenue to North 33rd Street
At the Planning Board meeting held on September 7, 2011, Mr. Chad Weaver, Assistant Planning Director, Planning Department, presented this request. He stated that this is an ongoing effort to apply specific overlays from the Master Plan within the 30th and Ames area. The Planning Department recommends approval.

No one appeared in opposition.

Mr. Neary moved to APPROVE. Mr. Rosenbaum seconded the motion which carried 5-0.

12. C10-11-152  
Planning Department on behalf of the City of Omaha  
REQUEST: Approval of an ACI-1(PL)-Area of Civic Importance Overlay District  
LOCATION: Generally, Farnam Street and Harney Street from Turner Boulevard to South 42nd Street

At the Planning Board meeting held on September 7, 2011, Mr. Chad Weaver, Assistant Planning Director, Planning Department, presented this request. He stated that this is an ongoing effort to apply specific overlays from the Urban Design and Master Plan by adding to the existing downtown ACI districts from Farnam to Harney. The Planning Department recommends approval.

No one appeared in opposition.

Ms. Nubel moved to APPROVE. Mr. Deeb seconded the motion which carried 5-0.

**Conditional Use Permits**

16. C7-11-036  
Five Points Bank  
REQUEST: Approval of a Major Amendment to a Conditional Use Permit to allow Financial services in a LO District  
LOCATION: 8820 Arbor Street

Larry Jobeun, 11440 West Center Road, appeared before the board on behalf of Five Points Bank. Mr. Jobeun indicated that the dumpster was to be located in the northeast corner and met all the code requirements of the Urban Design code. But because the motion, and the way it was approved, required that there is communication with the adjacent residential neighbor of the property located at the southeast corner. The owner of the property adjacent to the southeast corner did not have any objection to locating the dumpster in the southeast corner. But because the dumpster location was not shown in the original Conditional Use Permit then it would be a change of the use therefore it is required to amend the original Conditional Use Permit. The result of a negative recommendation by the Planning Department should satisfy the motion as approved by the City Council.

Rick Scarpello, 2309 South 89th Court, appeared before the board. He added that four neighbors that reside adjacent to the property had a meeting with Mr. Tom Kelley, Five Points Bank. Mr. Scarpello indicated that the amendment with City Council was that if the adjacent neighbor gave permission to have the dumpster in the southeast corner then the dumpster could be moved from the northeast corner.

Chad Weaver, Assistant Planning Director, Planning Department, stated that in order to maintain compliance, the department recommends denial.

Alan Thelen, Law Department, stated that if a Major Amendment is denied then the Conditional Use Permit will stand as originally passed but the denial could potentially be in conflict with City Council.

Mr. Deeb moved to DENY. Mr. Neary seconded the motion which carried 5-0.
APPROVAL OF MINUTES

Mr. Deeb moved to APPROVE the meeting minutes of August 3, 2011 as written. Mr. Neary seconded the motion which carried 5-0.

ADJOURNMENT

Mr. Neary moved to ADJOURN the meeting at 2:50 pm. Ms. Nubel seconded the motion which carried 5-0.

_________________________________________
Date Approved

_________________________________________
Arnold Nesbitt, Vice Chair

_________________________________________
Debbie Hightower, Planning Board
Recording Secretary