Urban Design Review Board

MINUTES

Thursday, September 17, 2015

Regular Meeting:
3:00 PM, Jesse Lowe Conference Room – 3rd Floor
Omaha/Douglas Civic Center
1819 Farnam Street

Meeting Minutes: This document states the minutes of cases before the Urban Design Review Board at their Public hearing and Administrative meeting held on Thursday, September 17, 2015.

Certification of Publication: Urban Design Review Board Administrator certifies publication of this agenda in the Daily Record, the official newspaper of the City of Omaha on Monday, September 7, 2015.

Members Present: Jeffrey Elliott - Chair
Robert Peters – Vice-Chair
Kurt Cisar
Christian Christensen
Brinker Harding – Non-Voting Ex-Officio Member
Larry Jobeun
Philip Webb

Members Not Present: David Ciaccio
Jay Noddle
Gerald Torczon
Katie Underwood

Staff Present: Jed Moulton, Manager of Urban Design & Preservation
Todd Swirczek, City Planner
Alan Thelen, City Law
Jennifer Taylor, City Law
Clinette Warren, Recording Secretary
Private Projects:

<table>
<thead>
<tr>
<th>UD-15-007</th>
<th>Name:</th>
<th>Off-Premise (LMS) Digital Sign</th>
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<tbody>
<tr>
<td>James Deitering</td>
<td>Location:</td>
<td>44th and Dodge (4409 Dodge Street)</td>
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<tr>
<td>Lamar Outdoor Advertising</td>
<td>Request:</td>
<td>Waiver of Section 55-617 Off-Premise Signs in an ACI District</td>
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At the Urban Design Review Board (UDRB) meeting held on September 17, 2015, Mike Degan (Husch Blackwell), Jim Deitering (Lamar Outdoor), and Sheila Kuehn (Lamar Outdoor) appeared before the Board.

Mr. Degan explained that the City of Omaha issued a sign permit to his client (Lamar Outdoor) to convert one side of the existing outdoor advertising sign in 2012. He stated that the sign was grandfathered as a legal, non-conforming at that time since it did not comply with the 700’ separation requirement with another sign located across the street and owned by Rainbow Studios. Following the issuance of that permit, the adjacent owner, Rainbow Studios, initiated litigation that included an injunction which enjoined Lamar Outdoor from proceeding with the steps that would allow them to comply with the electronic sign permit that it had received from the City. Following the issuance of that permit, the adjacent owner, Rainbow Studios, initiated litigation that included an injunction which enjoined Lamar Outdoor from proceeding with the steps that would allow them to comply with the electronic sign permit that it had received from the City. That injunction also enjoined the City from issuing any additional permits to Lamar that would violate the 700’ separation. The parties engaged in ongoing litigation that resulted in a trial determination in early 2015. The applicant appeared before the Zoning Board of Appeals (ZBA) seeking a waiver to the 700’ separation requirement, indicating that the hardship was the litigation which prohibited Lamar from complying with the requirements of the sign permit that had been issued by the City. In addition, the applicant needed a waiver due to the change in zoning to CC (Community Commercial District) that had been made by the owner of the property at 4409 Dodge Street (Lamar Outdoor leases the sign from the owner) in 2014. The applicant submitted a proposal along with the application to the Zoning Board of Appeals which included a take-down plan that Lamar would follow, which would exceed that take-down requirements that would normally apply to the sign located at 44th & Dodge. The plan stated that Lamar would completely remove four existing signs in exchange for the sign located at 4409 Dodge Street. Based on that proposal, the ZBA granted the waiver at its July 9, 2015 meeting. At that meeting, the City indicated that, in order for the applicant to proceed forward, the applicant must appeal before the UDRB regarding the sign. Mr. Degan stated that his client did not agree with the City; however, they felt that they were in compliance because the only issues that would bring Section 55-617 into play are the 700’ separation requirement and zoning change that had been waived by the ZBA. For those reasons, the applicant believed that there was no conflict with the sign. The applicant again offered the take-down plan that it presented to the ZBA to the UDRB in exchange for the waiver. He stated that three of the four signs that would be removed are in ACI districts; the fourth sign abuts the new Baxter Arena on 64th & Center Street.

There was some discussion about the sign’s status as a conforming/non-conforming sign. In response to Mr. Harding, Mr. Degan clarified that it was after initial sign approval by the City in 2012 that the owner of the property which the sign sit on had the property rezoned (in 2014) to CC (Community Commercial District). This meant that his client’s request for electronic messaging was not allowed and that ZBA approval was required.

Mr. Swirczek stated that the Planning Department recommended denial of the request based on information from the City Law Department, which stated that the sign was still non-conforming even
with the waivers from the ZBA. He added that the applicant had been given the opportunity to appear before the UDRB prior to appearing before the ZBA. He explained that it was the goal of the Planning Department, and specifically under the Urban Design code which prohibits new off-premise signs, to remove off-premise signs as redevelopment occurs in ACI districts and not to allow them to become more non-conforming.

In response to Mr. Webb, Mr. Degan explained that sign permit was issued with the condition that Lamar would remove its faces from the sign; however, before this could be done Rainbow obtained an injunction. The sign was then leased by a competitor, Waitt Outdoor Advertising. It was the applicant’s contention that there was a lease in place that stated that those faces belonged to Lamar and that they had a legal right to remove them. He stated that the City did not raise the issue of Section 55-617 before 2015.

Mr. Webb stated that he was sympathetic to the applicant’s situation. He felt that the applicant took the proper steps but was put in a position where another course of action had to be taken. He asked if there were any other options that would benefit the applicant while getting the best possible outcome for the city. Mr. Degan believed that the plan that had been presented to the ZBA and the UDRB already accomplished those goals.

Mr. Webb moved to APPROVE. Mr. Peters seconded the motion.

AYES: Peters, Cisar, Christensen, Webb, Elliott

MOTION CARRIED: 5-0
At the Urban Design Review Board (UDRB) meeting held on September 17, 2015, Jed Moulton - Manager of Urban Design & Preservation, appeared before the Board.

Mr. Moulton stated that there was a draft of the guidelines that had been prepared which addressed the use Planned Unit Redevelopment tool. Those guidelines were adopted to help facilitate infill development. The Planning Department continued to work with various parties to meet and discuss those guidelines. He explained that the draft was the first copy that had been prepared and that it would continue to be revised and amended as necessary to improve its content and application. He suggested that the board review the draft and provide their input.

Mr. Peters felt that the guidelines would be a valuable tool and agreed that some time should be taken for the Board to review the documents and make edits as necessary.

Mr. Peters moved to LAYOVER. Mr. Jobeun seconded the motion.

AYES: Peters, Cisar, Christensen, Jobeun, Webb, Elliott

MOTION CARRIED: 6-0

**Administrative Item:**

Approval of April 16, 2015 Meeting Minutes.

Mr. Christensen moved to APPROVE the minutes. Mr. Webb seconded the motion.

AYES: Peters, Cisar, Christensen, Webb, Elliott

ABSTAIN: Jobeun

MOTION CARRIED: 5-0-1

It was the consensus of the Board to adjourn the meeting at 3:42 p.m.