Certification of Publication: Zoning Board of Appeals Administrator certifies publication of this agenda in the Daily Record, the official newspaper of the City of Omaha on Monday, December 3, 2012 and Thursday, December 6, 2012.

MEMBERS PRESENT: Bert Hancock, Chair
Brian Mahlendorf, Vice Chair
Sebastian Anzado
Teri Teutsch, Alternate
Sean Kelley, Alternate

MEMBERS NOT PRESENT: Jonathan Nash, Jr.
Jacque Donovan

STAFF PRESENT: Rick Cunningham, Planning Director
Mike Carter, Zoning Board of Appeals Administrator
Rosemarie Lee Horvath, City Law
Clinette Warren, Recording Secretary

Mr. Hancock called the meeting to order at 1:00 p.m., introduced the board members, as well as the staff, and explained the procedures for hearing the cases.
LAYOVERS

1. Case No. 12-115  
   (over from 11-8-12)  
   Value Investment, LLC  
   Nash Qureishi  
   2607 North 157th Street  
   Omaha, NE 68116  
   REQUEST: Waiver of Section 55-187(e) – Variance to the front yard setback from 35’ to 16’9” to allow existing covered front deck and stairs to remain.  
   LOCATION: 3720 U Street  
   ZONE: R4(35)

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, Patrick Morgan with Slaggie Architects appeared before the Board.

Mike Carter, Zoning Board Administrator, stated that the request is for an existing covered front porch that was replaced without a permit. He added that the applicant needs a waiver to allow the deck and stairs to encroach 16’9” into the setback. The Planning Department recommended approval in accordance with the plans submitted.

Mr. Anzaldo moved to APPROVE in accordance with the plans submitted. Mr. Kelley seconded the motion.

AYES: Anzaldo, Mahlendorf, Teutsch, Kelley, Hancock

MOTION CARRIED: 5-0
NEW CASES

2. Case No. 12-120
First Savings Bank
3540 South 84th Street
Omaha, NE 68124
REQUEST: Waiver of Section 55-716, 55-717 and 55-740(g) - Variance to the buffer yard between CC and DR from 30’ to 16’, and 23’; and between CC & R3 from 30’ with screening to 10’ without screening and to the 4’ screening north of the parking area and drive-thru lane.
LOCATION: 3540 South 84th Street
ZONE: CC & CC-FF/FW

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, Joe Saniuk with The Architectural Offices, and Adam Watson with First Savings Bank appeared before the Board.

Mike Carter, Zoning Board Administrator, stated that the property is being redeveloped. He explained that there are some issues caused by the flood plain along the north side of the property and an OPPD easement on the east side which causes a practical difficulty with the redeveloping of the site. The applicant proposes to provide the required screening along the south side of the parking lot across from the park. The Planning Department supported the request and recommend approved in accordance with the plans submitted.

Mr. Saniuk stated that First Savings Bank is proposing to clear the existing building from the site and construct a brand new facility. He added that the MCC (Major Commercial Corridor District) guidelines are being applied to the project; therefore, the trash enclosure will be screened, the entrance is being pushed closer to 84th Street, and the drive-through window will be located on the creek side and will not visible from the intersection.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted. Ms. Teutsch seconded the motion.

AYES: Mahlendorf, Teutsch, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0
3. Case No. 12-124  
John Perlebach  
Buck’s Inc.  
4973 Dodge Street  
Omaha, NE 68132

REQUEST: Waiver of Section 55-366 & 55-928(e) - Variance to the front yard setback from 25’ to 0’ and 6.51’ and to the perimeter landscaping from 15’ to 5’ with a 3’ tall masonry screen wall.

LOCATION: 13736 and 13746 “Q” Street
ZONE: CC-FF(MCC Pending)

RECOMMENDATION: Approval, in accordance with the plans submitted, subject to the screen wall being moved closer to the north to accommodate the proposed landscaping.

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, Matthew Manning appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board Administrator, stated that the existing gas station and the former Southwest Tire property are being redeveloped. He explained that the site is narrow and elongated with 3 street frontages that limit the redevelopment options of the property. The applicant is proposing to incorporate the MCC (Major Commercial Corridor District) standards to the property. The waivers being requested are for the setback along “P” Street and the perimeter landscaping along “Q” Street, which was approved by the Urban Design Review Board at their November 15, 2012 meeting. The Planning Department recommended approval in accordance with the plans submitted, subject to the screen wall being moved closer to the north to accommodate the proposed landscaping.

Mr. Manning stated that the applicant agreed with the recommendation of the Planning Department.

Mr. Mahlendorf noted that the number of access points will be reduced down to three, which should be an improvement for the intersection.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted, subject to the screen wall being moved closer to the north to accommodate the proposed landscaping. Ms. Teutsch seconded the motion.

AYES: Teutsch, Kelley, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
4. Case No. 12-125  
James and Susan Monroe  
Box 633  
Valley, NE  68064  

REQUEST: Waiver of Section 55-786 - Variance to the residential fence regulations to allow a 5’ tall chain link fence in the front/street side yard setbacks. 

LOCATION: 6111 North 243rd Street  
ZONE: R4-FF  

RECOMMENDATION: Denial. 

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, James Monroe appeared before the Board. 

Mike Carter, Zoning Board Administrator, stated that the applicant is proposing to install a 5’ tall chain link fence where 4’ fences are allowed. Since there is no hardship or practical difficulty and because a legal fence can be installed, the Planning Department recommended denial. 

Mr. Monroe stated that he would like to install 5’ a fence as protection against his neighbor’s dogs, and also to keep his dog on his property. Mr. Anzaldo suggested that the property be cleaned up, which would include the cinder blocks that line part of the property. Mr. Monroe responded that the lot should be cleaned by the time the fence is installed, which would be approximately 4 – 5 weeks. 

Mr. Anzaldo moved to APPROVE subject to the removal of the cinder blocks and cleanup of the property within 4 - 6 weeks of the fence installation. Ms. Teutsch seconded the motion. 

AYES: Kelley, Anzaldo, Mahlendorf, Teutsch, Hancock  

MOTION CARRIED: 5-0
5. Case No. 12-126
DAAKE
 c/o Susan Linde
 17002 Marcy Street
Omaha, NE  68118
REQUEST: Waiver of Section 55-825(c) - Variance to the maximum size of a temporary sign from 32 sq. ft. to 720 sq. ft.
LOCATION: 4350 Dewey Avenue
ZONE: GO

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, Gaby Ryan with Signworks, Greg Daake with Dakke Design, and Crista Madsen with the Nebraska Medical Center, appeared before the Board.

Mike Carter, Zoning Board Administrator, stated that the applicant was requesting that a 720 sq. ft. banner be allowed on the west side of the property near 42nd and Dewey for 12 months. The Planning Department found that there was no hardship or practical difficulty. Mr. Carter explained that the Department has consistently approved these types of banners for special community events, such as the College World Series or the Swim Trials, for very limited times. He added that the request is basically advertising for the hospital; therefore, the Planning Department recommended denial.

Ms. Madsen stated that U.S. News and World Report ranked the Nebraska Medical Center as the number one hospital in the state, and that it was nationally ranked in five areas of specialty. She added that the banner would inform the citizens of Omaha of these rankings. Mr. Daake added that the banner would also provide hope for patients and their families.

Mr. Mahlendorf stated that he supports the waiver being requested only when related to areas of civic importance or for the benefit of the community as a whole. He added that, in his opinion, the request would only benefit the hospital. He noted that in the past, Mutual of Omaha has attached banners to their building, but were not allowed to include their logo on them. Ms. Madsen responded that the banner would prove to be a source of pride for Omaha.

Mr. Teutsch stated that there were already banners attached to the light posts in the area surrounding the hospital and a billboard in the area of 72nd and Dodge that promotes the hospital. She added that she was not in support of the request.

Mr. Kelley stated that he agreed with the City’s recommendation for this case.

Mr. Anzaldo felt that the banners would be advertisement for the hospital, especially since it would be in addition to the banners already in place on the light poles, the billboard at 72nd & Dodge, and television advertisements.

Mr. Anzaldo moved to DENY. Ms. Teutsch seconded the motion.

Ms. Ryan inquired as to whether the Board would approve fewer or smaller banners, since a 32 sq. ft. banner could legally be installed. Ms. Teutsch responded that the banners would still be considered as advertising for the hospital. Mr. Hancock added that the Board has consistently required that temporary banners not include advertisement, and was very reluctant to set a precedent in this matter. Mr. Kelley suggested that the applicant could work with the City to present a different proposal with a shorter time request.

AYES: Anzaldo, Mahlendorf, Teutsch, Kelley, Hancock

MOTION CARRIED: 5-0
6. Case No. 12-127
DAAKE
c/o Susan Linde
17002 Marcy Street
Omaha, NE 68118

REQUEST: Waiver of Section 55-825(c) - Variance to the maximum size of a temporary sign from 32 sq. ft. to 334 sq. ft.

LOCATION: 4242 Farnam Street
ZONE: GC

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, Gaby Ryan with Signworks, Greg Daake with Dakke Design, and Crista Madsen with the Nebraska Medical Center, appeared before the Board.

Mr. Anzaldo moved to DENY. Ms. Teutsch seconded the motion.

AYES: Mahlendorf, Teutsch, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0
7. Case No. 12-128  
DAAKE  
c/o Susan Linde  
17002 Marcy Street  
Omaha, NE  68118

REQUEST: Waiver of Section 55-825(c) - Variance to the maximum size of a temporary sign from 32 sq. ft. to 966 sq. ft.

LOCATION: 4111 Harney Street

ZONE: GC-ACI-1(PL)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, Gaby Ryan with Signworks, Greg Daake with Dakke Design, and Crista Madsen with the Nebraska Medical Center, appeared before the Board.

Mr. Anzaldo moved to DENY. Ms. Teutsch seconded the motion.

AYES: Teutsch, Kelley, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
8. Case No. 12-129
New Vision Home Improvement
6618 Parkview Lane
Omaha, NE  68104

REQUEST: Waiver of Section 55-786 - Variance to the residential fence regulations to allow a 6’ tall privacy fence in the street side yard setback
LOCATION: 3218 South 101st Street
ZONE: R2

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, Andrew Anderson with New Vision Home Improvement and China Flanigan, Property Owner, appeared before the Board.

Mike Carter, Zoning Board Administrator, stated that the applicant would like to utilize the existing sprinkler system on the property and has plans for a future outdoor area on the space. He added that the neighbor to west has a 6’ tall fence in a similar location. The Planning Department found that there was no hardship or practical difficulty since a legal fence can be constructed on the property. Mr. Carter also noted that few, if any, waivers have been granted for fences in this neighborhood and stated that the Planning Department recommended denial.

Ms. Flanigan explained that a 4’ fence would not be able to contain her 3 dogs, and that the existing 8’ fence is outside of the property line. She is proposing to place the fence inside of the property line which would be consistent with other fences in the neighborhood.

In response to Ms. Teutsch, Mr. Anderson stated that the fence being proposed will be 50% open with 5/4 cedar decking. He explained that if the fence were placed legally, it would be off-set from the neighbor’s fence behind the home. Mr. Carter informed the Board that there was no record of a permit or waiver being granted for the fence located on the property to the west. Mr. Mahlendorf stated that the fences on the properties to the west and to the north were not installed legally.

Mr. Anzaldo suggested a 5’ fence as a compromise between a legal 4’ fence and the request for a 6’ fence. Mr. Hancock stated that in the past he has supported 5’ fences that were 50% open. Mr. Carter clarified that the fence could not be off-set since that would be considered a privacy fence.

Mr. Anzaldo moved to approve a 5’ fence with 5.5” boards and 4” gaps. Mr. Hancock seconded the motion.

AYES: Kelley, Anzaldo, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0
9. Case No. 12-130
Dennis Moy
8655 Westridge Drive
Omaha, NE  68124

REQUEST: Waiver of Section 55-166 - Variance to the
front yard setback from 35’ to 21’ 8” to
allow construction of a 15’ 6” x 6’ deck and
stairs.

LOCATION: 8655 Westridge Drive
ZONE: R3

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, Dennis Moy appeared before the Board.

Mike Carter, Zoning Board Administrator, stated that the applicant had started construction of a deck on the front of his existing home to upgrade to the property. Mr. Moy submitted pictures of other homes in the neighborhood with similar decks. Mr. Carter stated that the Planning Department recommended denial since a landing and stairs, similar to the original design, could be built in compliance with the code. He noted that Department records show that there were a couple of waivers granted for similar types of requests in the 1980’s. One of those requests was denied.

Mr. Mahlendorf noted that the applicant’s request was similar to what has been done throughout the neighborhood.

In response to Mr. Hancock, Mr. Moy stated that the original steps will be enclosed with siding.

Mr. Mahlendorf moved to APPROVE. Mr. Kelley seconded the motion.

AYES: Anzaldo, Mahlendorf, Teutsch, Kelley, Hancock

MOTION CARRIED: 5-0
10. Case No. 12-131
Darin Smith
505 Walker Street
Woodbine, IA 51579

REQUEST: Waiver of Section 55-716, 55-740(f)(4) & 55-246 - Variance to the buffer yard between CC and R5 from 30’ to 21.7’; to the perimeter parking lot landscaping from 5’ to 1.6’ and 1.3’ and to the maximum impervious coverage from 70% to 90% to allow for redevelopment of the site.

LOCATION: 3101 South 24th Street
ZONE: CC-ACI-1(50)

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, Doug Kellner with Thompson, Dreesen and Dorner and Darin Smith appeared before the Board.

Mike Carter, Zoning Board Administrator, stated that applicant is proposing to redevelop this site using the existing building. The building will include 20 residential units. As part of the redevelopment, parking will be added to the north side of the building, and will be replaced on the south side of the building. Those improvements require waivers to: the buffer yard along the east side of the property; the perimeter landscaping along the north and south of the property; and for impervious coverage. Mr. Carter explained a hardship and practical difficulty exists because of the limitations of an existing commercial property and the challenge of complying with code requirements. He noted that the Planning Board approved a plat and a Conditional Use Permit, allowing this property to be used as Multi-family Residential, at its December 2012 meeting. He added that the project will also comply with the ACI (Areas of Civic Importance) regulations of the Urban Design Code. The Planning Department recommended approval in accordance with the plans submitted.

Mr. Anzaldo moved to APPROVE. Ms. Teutsch seconded the motion.

AYES: Mahlendorf, Teutsch, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0
11. Case No. 12-132
   Tom Meister
   Savoreux, Inc.
   11422 Miracle Hills Drive #400
   Omaha, NE  68144
   REQUEST: Waiver of Section 55-716 - Variance to the required bufferyard between CC and DR from 30’ to 25’10” and 10’ for a new building and parking lot.
   LOCATION: 14225 Pacific Street (14208 Pierce Plaza)
   ZONE: CC

RECOMMENDATION: Layover to allow the applicant to redesign the project.

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, no one appeared before the Board.

Mr. Mahlendorf moved to LAYOVER until the January 10, 2013 meeting at the request of the applicant. Mr. Kelley seconded the motion.

AYES: Teutsch, Kelley, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
12. Case No. 12-133  
Priority Fence Co.  
15204 Hillsdale Avenue  
Omaha, NE 68137  

REQUEST: Waiver of Section 55-786 - Variance to the residential fence regulations to allow an 8’ tall privacy fence.  

LOCATION: 5214 Corby Street  
ZONE: R7  

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, December 13, 2012, Jason Beckstrom with Priority Fence appeared before the Board on behalf of the owner.

Mike Carter, Zoning Board Administrator, stated that applicant is proposing to install an 8’ privacy fence along the east property line behind the building. This will screen the visibility of the commercial property to the east and reduce the traffic noise from Northwest Radial Highway. The Planning Department finds that there is no hardship or practical difficulty since a 6’ tall, legal fence can be constructed to screen, and recommended denial.

Mr. Beckstrom explained that the property to the west is a gas station that is zoned commercial, and is allowed an 8’ tall fence. The property behind the home is also a commercial property. He stated that raising the height of the fence from 6’ to 8’ and installing noise reduction vinyl in the fence would reduce the level of noise by up to 30%. In response to Mr. Mahlendorf, Mr. Beckstrom stated that an 8’ fence would bring him below eave height of the property by 12” – 18”. Mr. Mahlendorf felt that the hardship or practical difficulty lies in the close proximity of the properties to one another.

Mr. Mahlendorf moved to APPROVE. Ms. Teutsch seconded the motion.

AYES: Kelley, Anzaldo, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0
APPROVAL OF MINUTES

Ms. Teutsch moved to APPROVE the November 8, 2012 meeting minutes. Mr. Anzaldo seconded the motion.

AYES: Anzaldo, Mahlendorf, Teutsch, Hancock

ABSTAIN: Kelley

MOTION CARRIED: 4-0-1

ELECTION OF OFFICERS

The Board decided to hold the election of officers at the January 10, 2013 meeting of the Board.

DISCUSSION

RoseMarie Horvath stated that TRP case should be back before the Board at the February meeting.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 1:59 p.m.

____________________________________________
Approved (date)

____________________________________________
Bert Hancock, Chair

____________________________________________
Clinette Warren, Secretary