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, April 1, 2013 and Thursday, April 4, 2013.

MEMBERS PRESENT: Brian Mahlendorf, Vice Chair
Jacque Donovan
Sebastian Anzaldo
Jonathan Nash, Jr.
Teri Teutsch, Alternate

MEMBERS NOT PRESENT: Bert Hancock, Chair
Sean Kelley, Alternate

STAFF PRESENT: Rick Cunningham, Planning Director
Chad Weaver, Assistant Planning Director
Dave Fanslau, Current Planning Manager
Mike Carter, Zoning Board of Appeals Administrator
Alan Thelen, City Law
Clinette Warren, Recording Secretary

Mr. Mahlendorf 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. 12-044
   (over from 6/14/12, 3/14/13 & 4/11/13)
   TRP Properties, LLC
   12910 F Plaza
   Omaha, NE  68137
   REQUEST: Waiver of Section 55-804 & 55-786(f) - Variance to allow the existing use to exceed the maximum permitted sound levels of the GI district; and to allow a 27’ tall sound barrier wall.
   LOCATION: 12802, 12910, 12928 & 13010 F Plaza
   ZONE: GI

RECOMMENDATION: The Department finds that there is no practical difficulty or hardship and therefore the requested variance should be denied. The violations are detrimental to the health, safety and welfare of the public and the uses of surrounding properties are negatively affected.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Jerry Slusky, Attorney, and Tom Everson, Westwood Heights Neighborhood Association, appeared before the Board on behalf of the applicant.

Mr. Slusky stated that with the support of the Planning Department, Councilman Franklin Thompson and other City Council staff, the applicant was able to conduct several productive meetings with members of the surrounding neighborhood. He submitted a copy of the “Good Neighbor Agreement” (Exhibit #4) that had been signed by the Terry Peterson, President of Omaha Track Materials, and Tom Everson, Chairman of the Westwood Heights Neighborhood Association. He explained that the applicant planned to build two buildings that would drastically reduce the noise from two of the noisiest processes; another process will be completely removed from the campus to another location. In addition, a 300’ long, 27’ high sound barrier wall is proposed that would reduce the time that the code is violated down to 3% - 7%, if using the level of 60 dBA. Mr. Slusky stated that there had been some discussion about using the level of 65 dBA, which is allowed if the adjoining neighborhood is zoned for R6 or above. He explained what would result if either level was used. He further stated that his client is seeking leniency for the amount of time the maximum noise level is exceeded, which he claimed would be 11% of time. He also stated that the maximum level would be increased by 2.3%. If 65 dBA were allowed, the maximum noise level would be exceeded 3% of the time. Mr. Slusky submitted a copy of a waiver agreement created by Omaha Track Material (Exhibit #2) and a copy of that agreement that had been revised by City staff (Exhibit #3). He stated that his client was concerned that if the sound level requirements set by the City were slightly exceeded, a complaint could be made that would bring OTM back before the Zoning Board of Appeals, which could potentially lead to complete shutdown of the business. Mr. Slusky stated that his client did not agree with the City’s version of the waiver agreement.

Tom Everson, 12418 “C” Street, stated that progress had been made as a result of the four, open meetings attended by the applicant and members of the neighborhood. He stated that he signed the “Good Neighbor Agreement” on behalf of the neighborhood. He further stated that the residents of the neighborhood support the waiver that would include the construction of the two sound-proof buildings and the erection of the sound wall.

Todd Kuser, 12729 “C” Street, expressed his support for the waiver. His concern was that if the waiver were not granted, the case could possibly end up in court resulting in no resolution of the problem for several more years. In response to Mr. Mahlendorf, Mr. Kuser stated that the solution being proposed by the applicant was acceptable to the residents of the neighborhood. Mr. Kuser also noted that the applicant has agreed to become part of the neighborhood association. In response to Ms. Donovan, Mr. Kuser stated that he supported the buildings and wall that the applicant is planning to build. He understood that there would be occasional spikes in the sound levels, but he felt that the buildings and wall would improve the situation.

Chad Weaver, Assistant Planning Director, explained that the rate of improvement depends on how time is calculated. He stated that the City and the applicant do not agree on two issues, one being the point of
measure. He stated that both the applicant’s and the City’s engineers agree on the sound measurements taken at the site. However, Mr. Weaver stated that agreement created by the applicant would allow them to operate at levels higher than the code allows without being required to appear before the Zoning Board of Appeals for those violations. Mr. Weaver was concerned about the applicant’s points of measure and some of the figures that were used in figuring sound levels. He stated that the figures used by the applicant would allow them to operate almost at their original levels.

Lily Wang, Central Acoustics Consulting, explained that if you were not in the line of sight of OTM, the sound levels would generally be reduced. However, this could vary depending on various circumstances. She went on to explain some of the technical aspects of sound measurement.

In response to Mr. Mahlendorf, Mr. Slusky stated that his client was concerned with the levels set by the City that his client could exceed. He felt that the City could arbitrarily cite his client for violations. He added that his client would like to rely on the numbers set by the sound engineers.

Rick Cunningham, Planning Director, explained the City’s decision to allow an additional 10 and 15 dBA. He clarified that the maximum dBA level is 60, as set by the code; 70 dBA is an allowed level mainly for yard work operations, and the 75 dBA is the level for the rail loading operation. He explained that his information is based on actual readings taken at the site. Mr. Slusky responded that his client was relying on statements made by the sound engineers, who reported that there would be sound spikes 2-4% of the time. In response, Ms. Wang stated that with the proposed mitigation, the expectation is that the loudest peaks would be in the 70dBA – 75dBA range depending on the action being performed. She stated that it was her understanding that OTM would be allowed to operate at 70 dBA – 75 dBA with an additional tolerance of 2 dBA which would make the maximum allowed levels 72 dBA – 77 dBA.

Ed Pohren, Attorney, appeared on behalf of the applicant. He discussed some of the findings of the sound engineer’s reports. He suggested using 65 dBA as the base point, reasoning that the surrounding area is comprised mainly of apartments and mixed-use. He stated that the applicant has attempted to come to an agreement with the neighbors without any action from the City of Omaha. He added that TRP and the neighbors have also decided to settle any future issues with spiking between the two parties, and would only involve the City if no agreement could be made.

Mr. Mahlendorf commended the applicant for the progress that has been made; however, he suggested additional time for the City to decide what actions would be taken if the neighbors decided that they could not come to an agreement with TRP. Ms. Donovan agreed and stated that a layover would give the Board time to read the agreements that had been submitted to them shortly before the meeting. She also requested a measurable decibel level instead of using “10%”.

Ms. Donovan moved to LAYOVER. Mr. Anzaldo seconded the motion.

AYES: Anzaldo, Donovan, Nash, Teutsch, Mahlendorf

MOTION CARRIED: 5-0
2. Case No. 12-047  
   Nancy Fager  
   Christ Community Church  
   404 South 108th Avenue  
   Omaha, NE 68154  

   REQUEST: Waiver of Section 55-834 – Variance to the maximum permitted sign area from 60 sq. ft. to 230 sq. ft.; to the maximum area for a monument sign from 32 sq. ft. to 44 sq. ft. and to allow an electronic message sign not allowed for a Civic use in a GO District.

   LOCATION: 404 South 108th Avenue  
   ZONE: GO GO-FF/FW

   RECOMMENDATION: Approval in accordance with the plans submitted, subject to the monument sign along I-680 being no taller than 20’.

   At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Erin Carey, 6958 North 97th Circle, appeared before the Board.

   Ms. Carey stated that the hardship for the church is that they are allowed 60 sq. ft. of signage. She explained that there is no access to the site from the Interstate. Also, the building is in a somewhat secluded location.

   In response to Mr. Mahlendorf, Ms. Carey stated that the applicant agrees with the recommendation of the Planning Department.

   Mr. Anzaldo moved to APPROVE in accordance with the plans submitted, subject to the monument sign along I-680 being no taller than 20’. There was no second to the motion.

   Ms. Donovan stated that she would not support the request if it included electronic messaging. She explained that the Board has never granted electronic signage for a church.

   Mr. Anzaldo moved to APPROVE in accordance with the plans submitted, subject to the monument sign along I-680 being no taller than 20’. Also, no electronic messaging is permitted. Mr. Mahlendorf seconded the motion.

   AYES: Donovan, Nash, Teutsch, Anzaldo, Mahlendorf

   MOTION CARRIED: 5-0
3. Case No. 13-019
   James Haley
   7011 Farnam Street
   Omaha, NE 68132

   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: 7011 Farnam Street
   ZONE: R3

   RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, James Haley appeared before the Board.

   Mr. Haley submitted a letter from his neighbor to the west (315 South 70th Avenue) in support of the request.

   In response to Mr. Mahlendorf, Mr. Haley stated that the proposed fence would be located inside the landscape line.

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

   AYES: Nash, Anzaldo, Donovan, Teutsch, Mahlendorf

   MOTION CARRIED: 5-0
Juan J. Soto  
4103 South 22nd Street  
Omaha, NE 68107  
REQUEST: Waiver of Section 55-206 – Variance to the rear yard setback from 25’ to 10’ and to the maximum impervious coverage from 55% to 60% to allow a new deck to remain.  
LOCATION: 4103 South 22nd Street  
ZONE: RS(35)  
RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, no one appeared before the Board.

Mr. Anzaldo moved to LAYOVER. Mr. Mahlendorf seconded the motion.

AYES: Teutsch, Anzaldo, Donovan, Nash, Mahlendorf

MOTION CARRIED: 5-0
NEW CASES

5. Case No. 13-037
   Charles E. Ring
   3415 North 80th Street
   Omaha, NE 68134
   REQUEST: Waiver of Section 55-146 – Variance to the front yard setback from 40’ to 23.6’ to allow a new covered porch to remain.
   LOCATION: 3415 North 80th Street
   ZONE: R2

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Charles Ring and Russ Ring appeared before the Board.

Mr. Charles Ring stated that he and his brother had renovated the property. He explained that there is a hardship due to the 40’ setback, which extends into the home by 8’.

In response to Ms. Donovan, Mr. Ring stated that the work was performed without permits. In response to Mr. Anzaldo, Charles Ring stated that he was denied a building permit because of the encroachment into the setback. He added that the plumbing, electrical and HVAC permits had not been applied for. Mr. Anzaldo instructed Mr. Ring to apply for all permits as soon as possible.

Mr. Mahlendorf inquired as to whether the applicant was aware of an adjoining neighbor who stated that there were drainage issues. Charles Ring responded that the neighbor had existing drainage issues that had nothing to do with his property. Ms. Donovan suggested that the gutter be fitted with a pipe and relocated away from the neighbors’ property. The applicant agreed to do so.

Ms. Donovan moved to APPROVE subject to the applicant addressing the drainage issue with the property to include adding a pipe to the end of the gutters and redirecting rainwater away from the neighboring property. Ms. Teutsch seconded the motion.

AYES: Anzaldo, Donovan, Nash, Teutsch, Mahlendorf

MOTION CARRIED: 5-0
6. Case No. 13-038
   William Rafael
   11737 Hemlock Street
   Overland Park, KS 66210
   REQUEST: Waiver of Section 55-786 - Variance to the residential fence regulations to allow a 5’ tall fence with 40% open construction in the street side yard setback.
   LOCATION: 3257 South 102nd Street
   ZONE: R2
   RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, William Rafael appeared before the Board.

Mr. Rafael stated that he was not aware that a permit was needed to build a fence. He explained his reasons for the placement of his fence.

In response to Ms. Donovan, Mr. Rafael stated that the setback for his home is 20’ and that the existing fence is 1’ from the property line.

Ms. Donovan moved to APPROVE a 5’ tall fence with 5 ½” boards and 4” gaps. Ms. Teutsch seconded the motion.

AYES: Donovan, Nash, Teutsch, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
Case No. 13-039
Miguel Gaddi
1715 Sendero Lane
Boise, ID 83712

REQUEST: Waiver of Section 55-246 - Variance to the front yard setback from 35' to 11'1" and to the street side yard setback from 15' to 10'; to rebuild existing stairs.

LOCATION: 3004 Marcy Street
ZONE: R7

RECOMMENDATION: Approval of "L" shaped stair design (Option 2), subject to removal of any unnecessary sidewalk and replace with grass.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Michael Emsick, 1025 South 36th Street, appeared before the Board on behalf of the applicant.

Mr. Emsick stated that the property had been purchased as a duplex by the current owner. He explained that the current stair is in need of repair; however, a permit cannot be obtained since it encroaches into the front yard setback. He stated that the applicant would use Option 2 if that was the option approved by the Board.

In response to Mr. Mahlendorf, Mr. Emsick stated that the wood of the existing stairs is in good condition, although it could use restructuring. He explained that Option 2 increases the square footage and further encroaches into the setback.

Ms. Donovan stated that it appeared that there was a new façade and stairs added to the property without permits. She requested that the applicant submit additional information regarding permits that were pulled and the work that was performed on the property.

Ms. Donovan moved to LAYOVER. Mr. Anzaldo seconded the motion.

Jerry Reimer, Urban Village, appeared in opposition to the request. He felt that there was no hardship for the applicant since the property was converted illegally. He also explained that the home was originally built as a single-family home. Mr. Reimer expressed concern with individuals seeking waivers for properties that were illegally converted and for buyers of these properties who eventually realize that these properties have multiple code violations. In response, Mr. Anzaldo assured Mr. Reimer that if there was no proof of permits or if other issues are found, the applicant’s request can be denied.

AYES: Nash, Teutsch, Anzaldo, Donovan, Mahlendorf

MOTION CARRIED: 5-0
8. Case No. 13-040
   Joel Chudy
   15748 Laurel Avenue
   Omaha, NE 68116

REQUEST: Waivers of Section 55-784(e) – Variance to the maximum impervious coverage in a R5-cluster subdivision from 55% to 60%.

LOCATION: 14703 & 14709 Laurel Plaza
           14707, 14710, 14716, 14725 & 14731 Himebaugh Plaza
           5803 North 148th Plaza
           14735 & 14741 Hartman Plaza

ZONE: R5-cluster

RECOMMENDATION: Approval, subject to none of the remaining lots having more than 65% impervious coverage individually.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Eric Wolfe, Joel Chudy Architects, appeared before the Board.

Mr. Wolfe stated that, at the request of Permits & Inspections and Plan Review, the applicant is ensuring that the remaining homes in the subdivision are constructed in similar fashion as the existing homes. He added that he agrees with the recommendation of the Planning Department.

Ms. Teutsch moved to APPROVE subject to none of the remaining lots having more than 65% impervious coverage individually. Ms. Donovan seconded the motion.

AYES: Teutsch, Anzaldo, Donovan, Nash, Mahlendorf

MOTION CARRIED: 5-0
9. Case No. 13-041  
   Zachary Miller  
   5828 William Street  
   Omaha, NE 68106  
   REQUEST: Waiver of Section 55-782(b)(6) – Variance to the side yard setback from 3' to 22” and the rear yard setback from 3' to 0' to construct a 14'x24' detached garage.  
   LOCATION: 5828 William Street  
   ZONE: R4(35)  

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Katherine Miller appeared before the Board.

Mr. Miller stated that she and her husband would like to demolish the existing garage and construct a new garage in its place. The proposed garage would have 10’ walls, with storage overhead. The materials used would also match the existing home.

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

AYES: Anzaldo, Donovan, Nash, Teutsch, Mahlendorf

MOTION CARRIED: 5-0
10. Case No. 13-042
BMaKK Corp
1440 Read Street
Omaha, NE 68112
REQUEST: Waiver of Section 55-503 - Variance to the permitted use regulations of the GI District to allow a Scrap and Salvage Services use.
LOCATION: 1440 Read Street
ZONE: GI,GI-FW

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Dr. Bennett Achigbu appeared before the Board.

Dr. Achigbu stated that BMaKK Corporation is the largest provider of solid waste recycling services for the United States Department of Defense. The facility will be able to recycle glass along with other recyclables. In response to Ms. Donovan, Dr. Achigbu stated that he was aware of the City's recommendation.

Mike Carter, Zoning Board of Appeals Administrator, stated that the first recommended condition of approval had been revised to read, “Approval of a Special Use Permit for Scrap and Salvage Services by the City Council no later than October 1, 2013; also, the waiver will expire upon compliance with all conditions of an approved Special Use Permit or October 1, 2013, whichever is earlier”. He stated that the Special Use Permit had already been applied for and was due to go before the Planning Board in May 2013.

Mr. Anzaldo moved to APPROVE in accordance with the plans submitted, subject to: 1) Approval of a Special Use Permit for Scrap and Salvage Services by the City Council no later than October 1, 2013. The waiver will expire upon compliance with all conditions of an approved Special Use Permit or October 1, 2013, whichever is earlier; 2) Complying with the Performance Standards (55-801 – 55-808) of the GI District; and, 3) Approval of a building permit for the fence as proposed. Mr. Nash seconded the motion.

In response to Ms. Teutsch, Dr. Achigbu explained that although BMaKK Corporation has locations throughout the United States, the glass recycling plant would be based in Omaha. He also stated that no toxic materials would be recycled at the facility.

Mr. Mahlendorf mentioned than an adjacent neighbor has commented trash has occasionally blown onto their property. Mr. Mahlendorf directed the applicant to ensure that any problems with trash are addressed.

AYES: Anzaldo, Donovan, Nash, Teutsch, Mahlendorf

MOTION CARRIED: 5-0
11. Case No. 13-043
   Shellie Schoening
   1801 Country Club Avenue
   Omaha, NE 68104

   REQUEST: Waiver of Section 55-186 - Variance to the interior side yard setback from 5' to 2' 3.2' to allow construction of a 2nd floor addition.
   LOCATION: 1801 Country Club Avenue
   ZONE: R4(35)

   RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Shellie Schoening appeared before the Board.

Ms. Schoening submitted an updated site plan and letter of support from her neighbors (Exhibit #2). She explained that since the time her application was submitted to the Zoning Board, another survey of her property had been completed. As a result, the variance being requested is for 3.2' instead of 2' as originally stated.

Ms. Donovan stated that that the Board believes there is a hardship due to the irregular shape of the lot and the placement of the home on the lot. She also noted that many of the neighboring homes are built close to their lot line.

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

AYES: Nash, Teutsch, Anzaldo, Donovan, Mahlendorf

MOTION CARRIED: 5-0
12. Case No. 13-044
   Danny Rodgers
   2013 U.S. Senior Open
   6900 Country Club
   Omaha, NE 68152
   REQUEST: Waiver of Section 55-740(e) – Variance to the hard surfacing requirement for a temporary parking area.
   LOCATION: 6900 Country Club Road & 7197 State Street
   ZONE: DR-ACI-4(PL)

RECOMMENDATION: Approval in accordance with the plans submitted, subject to: 1) The property being restored to its original condition no later than September 30, 2013; 2) A water truck located on site for potential grass fires; 3) Future coordination and cooperation with Public Works, Omaha Police Department and any other agencies involved; and 4) Promptly cleaning up any gravel or mud tracked out onto the public street and repairing any damage to the street.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Danny Rodgers appeared before the Board.

Mr. Rodgers stated that he would like to use the two locations for a couple of functions that will occur prior to the championship.

In response to Mahlendorf, Mr. Rodgers stated that these are the same parking lots that will be used for the actual event, they are just requesting to use them from July 1 through July 7, 2013.

In response to Ms. Teutsch, Mr. Rodgers stated that there would be a 4th of July celebration and a thank-you party for the volunteers on July 6th. He further stated that there was no reason for him to occupy the sites earlier than July 4th.

Ms. Teutsch suggested that improvements be made to 72nd Street due to the amount of potential traffic that will be generated during the events.

Ms. Donovan moved to APPROVE. The approval was granted for July 4, 2013 continuing through the original waiver date (July 8-13, 2013), in approval with the plans submitted, subject to: 1) The property being restored to its original condition no later than September 30, 2013; 2) A water truck located on site for potential grass fires; 3) Future coordination and cooperation with Public Works, Omaha Police Department and any other agencies involved; and 4) Promptly cleaning up any gravel or mud tracked out onto the public street and repairing any damage to the street. Mr. Mahlendorf seconded the motion.

AYES: Teutsch, Anzaldo, Donovan, Nash, Mahlendorf

MOTION CARRIED: 5-0
13. Case No. 13-045
   Danny Rodgers
   2013 U.S. Senior Open
   6900 Country Club
   Omaha, NE 68152
   REQUEST: Waiver of Section 55-825(c) – Variance to
   the maximum area for a temporary sign
   from 32 sq. ft. to 200 sq. ft. for a banner for
   the U.S. Senior Open event.
   LOCATION: 11910 West Dodge Road
   ZONE: CC

RECOMMENDATION: Approval in accordance with the plans submitted, subject to: 1) Approval of a sign
permit detailing how the banner will be anchored to the wall; and 2) The banner being displayed no

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Danny Rodgers appeared
before the Board.

Mr. Rodgers stated that the proposed banner will alert the public to the Senior Open activities that will
occur in the City. The dates will be changed manually.

Mr. Mahlendorf explained that the Board has limited the time that a banner can be displayed for event,
usually 60 - 75 days. He felt that the placement and content of the banners was not very impressive.

In response to Ms. Donovan, Mr. Rodgers stated that there will be no advertisement on the banners. She
also noted that the City would like more detail as to how the banner will be anchored to the wall. Mr.
Rodgers responded that he would submit that information with the permit.

Ms. Donovan moved to APPROVE subject to the banner being installed no sooner than 75 days before the
event. Also, no advertisement is allowed on the banner. Ms. Teutsch seconded the motion.

AYES: Anzaldo, Donovan, Nash, Teutsch

NAYES: Mahlendorf

MOTION CARRIED: 4-1
14. Case No. 13-046
   Danny Rodgers
   2013 U.S. Senior Open
   6900 Country Club
   Omaha, NE 68152

   REQUEST: Waiver of Section 55-825(c) – Variance to the maximum area for a temporary sign from 32 sq. ft. to 450 sq. ft. for a banner for the U.S. Senior Open event.

   LOCATION: 11404 West Dodge Road
   ZONE: CC

   RECOMMENDATION: Approval in accordance with the plans submitted, subject to: 1) Approval of a sign permit detailing how the banner will be anchored to the wall; and 2) The banner being displayed no earlier than May 14, 2013 and removed by July 19, 2013.

   At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Danny Rodgers appeared before the Board.

   Mr. Mahlendorf noted that this case was similar to 13-045.

   Ms. Donovan moved to APPROVE subject to the banner being installed no sooner than 75 days before the event. Also, no advertisement is allowed on the banner. Mr. Anzaldo seconded the motion.

   AYES: Donovan, Nash, Teutsch, Anzaldo

   NAYES: Mahlendorf

   MOTION CARRIED: 4-1
15. Case No. 13-047
Holy Name Housing
3014 North 45th Street
Omaha, NE 68104

REQUEST: Waiver of Section 55-243 - Variance to the permitted use regulations of the R7 district to allow a Medical Office use.

LOCATION: 4320 Fort Street
ZONE: R7-PUD

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Dan Dolezal, Alley Poyner Macchietto Architecture - 1516 Cuming Street, appeared before the Board.

Mr. Dolezal stated that the waiver being requested is for a Charles Drew Health Clinic that would serve seniors.

Several members of the Board expressed their approval for this project.

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

AYES: Nash, Teutsch, Anzado, Donovan, Mahlendorf

MOTION CARRIED: 5-0
16. Case No. 13-048
Ryan Durant
Omaha Housing Authority
540 South 27th Street
Omaha, NE 68105
REQUEST: Waiver of Section 55-734, 55-740(f)(4), 55-735(a)(1) & 55-716 - Variance to the minimum number of off-street parking stalls for a multiple family residential use from 176 to 67; to the minimum perimeter landscaping from 10’ to 8.5’, 7’ and 8.8’; to the required bufferyard between R8 and R5 from 30’ to 8.5’, 7’ and 17.7’; and to allow off-street parking for a multiple family residential use in the front/street side yard setback.
LOCATION: 3616 North 24th Street (Evans Tower)
ZONE: R8

RECOMMENDATION: Approval in accordance with the plans submitted, subject to:
1. Removal of 2’ of the proposed pavement along the western boundary of the parking lot.
2. Closing the driveway access to Pratt Street, including removal of the pavement, installation of new curb and landscaping in its place.
3. Work with the Planning Department to find an acceptable location and screening for dumpsters.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Matt Sutton, Schemmer Associates and Ryan Durant appeared before the Board.

Mr. Sutton stated that the Omaha Housing Authority is under a mandate to bring accessibility on the site up to federal standards. The current handicapped parking stalls are not in compliance, so they must either be removed or replaced. Mr. Sutton stated that the footprint of the lot is not changing. In response to Mr. Mahlendorf, he stated that he was aware of the Planning Department’s recommendation. With regards to item 2 of the recommendation, Mr. Sutton stated that Omaha Police Department has requested that the entrance be closed. He added that there was a possibility that it may be opened again in the future if the situation improves. He also addressed item 3 of the recommendation by explaining that there are currently screened dumpsters on the property. To explain an unscreened dumpster currently in the parking lot, Mr. Durant explained that work was being done on the roof of the building and that construction equipment was temporarily placed where the dumpsters usually sit.

Mike Carter, Zoning Board of Appeals Administrator, noted that, although not shown on the plans, required landscaping will be added as part of the permit that will screen the parking lot from adjacent residential properties.

Ms. Donovan moved to APPROVE in accordance with the plans submitted subject to: 1) Removal of 2’ of the proposed pavement along the western boundary of the parking lot; 2) Closing of the driveway access to Pratt Street, including removal of the pavement, installation of new curb and landscaping in its place; and 3) Work with Planning Department to find an acceptable location and screening for dumpsters. Also, subject to installation of the required landscaping. Ms. Teutsch seconded the motion.

AYES: Teutsch, Anzaldo, Donovan, Nash, Mahlendorf
MOTION CARRIED: 5-0
17.  Case No. 13-049
    Ryan Durant
    Omaha Housing Authority
    540 South 27th Street
    Omaha, NE 68105

REQUEST:       Waiver of Section 55-734, 55-740(f)(4) & 55-735(a)(1) - Variance to the minimum number of off-street parking stalls from 334 to 90; to the minimum perimeter landscaping from 10' to 5.7' and to allow off-street parking for a multiple family residential use in the front/street side yard setback.

LOCATION:      1501 Park Avenue (Park North and South Towers)

ZONE:          R8

RECOMMENDATION: Approval in accordance with the plans submitted, subject to the applicant working with the Planning Department to find an acceptable location and screening for the dumpsters.

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Matt Sutton, Schemmer Associates and Ryan Durant appeared before the Board.

Mr. Sutton explained that the purpose of the project is to meet the federal accessibility standards for the parking lot. He noted that the property is restricted by streets on three sides and residential properties to the east. He stated that the parking lot is being reconfigured so that there is one-way traffic on the lot instead of the two-way traffic which is currently allowed. Also, the minimum width standards for 45° parking and aisle widths will be used, which does not leave room for the required landscaping to the east.

Mike Carter, Zoning Board of Appeals Administrator, noted that additional trees may be required if the required 1 tree for every 500 sq. ft. qualification is not met. He also stated that there are retaining walls in place in some areas of the lot that provide the necessary screening for headlights.

Ms. Donovan moved to APPROVE in accordance with the plans submitted, subject to the applicant working with the Planning Department to find an acceptable location and screening for the dumpsters. Mr. Nash seconded the motion.

AYES: Anzaldo, Donovan, Nash, Teutsch, Mahlendorf

MOTION CARRIED: 5-0
18. Case No. 13-033
Ryan M. Durant
Omaha Housing Authority
540 South 27th Street
Omaha, NE 68105

REQUEST: Waiver of Section 55-716, 55-734, & 55-735(a)(1) - Variance to the required buffer yard between R8 and R6/R5(35)/R4(35) from 30’ to 10’; to the minimum number of off-street parking stalls from 118 to 47 and to allow off-street parking for a multiple family residential use within the front/street side yard setbacks to allow the reconstruction/expansion of the parking lot.

LOCATION: 4850 Underwood Avenue (Underwood Tower)

ZONE: R8

Mr. Anzaldo moved to APPROVE the reconsideration of Case No. 13-033 for the May 9, 2013 meeting. Ms. Donovan seconded the motion.

AYES: Donovan, Nash, Teutsch, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
19. Discussion of Pending litigation and possible appeals (U.S.S. Hazard, Inc. and Latenser)

At the Zoning Board of Appeals meeting held on Thursday, April 11, 2013, Alan Thelen, City of Omaha Law Department, appeared before the Board.

In regards to the U.S.S. Hazard Case (Case No. 12-021), Mr. Thelen stated that the City feels very strongly about appealing the decision made by the District Court for this case. He urged the Board to authorize the Law Department to appeal the case to the Nebraska Court of Appeals.

Ms. Donovan moved to APPROVE the authorization for the appeal of Case No. 12-021 (John J. Portera/U.S.S. Hazard, Inc.) to the Nebraska Court of Appeals. Ms. Teutsch seconded the motion.

AYES: Nash, Teutsch, Anzaldo, Donovan, Mahlendorf

MOTION CARRIED: 5-0

Mr. Thelen stated that the City has decided not to appeal the decision made on Case No. 09-073 (Dan Latenser). He added that a new hearing will be held for that case before the Zoning Board of Appeals.
APPROVAL OF MINUTES

Ms. Teutsch moved to APPROVE the March 14, 2013 meeting minutes as amended. Ms. Donovan seconded the motion.

AYES: Teutsch, Anzaldo, Donovan, Nash, Mahlendorf

MOTION CARRIED: 5-0

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 3:00 p.m.

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Approved (date)

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Bert Hancock, Chair

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Clinette Warren, Secretary