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, November 2, 2015 and Thursday, November 5, 2015.

MEMBERS PRESENT: Brian Mahlendorf, Chair
Jacque Donovan, Vice-Chair
Sebastian Anzaldo
Jeremy Aspen
Jason Lanoha

MEMBERS NOT PRESENT: Sean Kelley, Alternate
Teri Teutsch, Alternate

STAFF PRESENT: Mike Carter, Zoning Board of Appeals Administrator
Jennifer Taylor, City Law
Michelle Alfaro, City Planner
Clinette Warren, Recording Secretary

Mr. Mahlendorf called the meeting to order at 1:00 p.m., introduced the Board members and staff, and explained the procedures for hearing the cases.
NEW CASES:

1. Case No. 15-129 Baceline Investments
   1391 Speer Boulevard
   Ste. 800
   Denver, CO 80204
   REQUEST: Waiver of Section 55-366 – Variance to the maximum impervious coverage from 85% to 88% and to the rear yard setback from 15’ to 11.2’ to allow approval of a subdivision.
   LOCATION: 5414 North 90th Street
   ZONE: CC

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on November 12, 2015, Chris Dorner (Thompson Dreessen Dorner) appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, explained that the existing bank facility is located in the parking lot of the surrounding shopping center. The properties were all on one lot, but the applicant proposed the subdivision of the site so that the bank would sit on its own lot. This would result in the site exceeding the maximum impervious coverage and encroaching into the rear yard setback. The Planning Board recommended approval of the subdivision at its November 4, 2015 meeting, subject to the applicant obtaining the necessary waivers from the Zoning Board of Appeals. The Planning Department recommended approval in accordance with the plans submitted.

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

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
2. Case No. 15-130
   Robert C. Molby
   6404 North 79th Avenue
   Omaha, NE 68134
   REQUEST: Waiver of Section 55-186 – Variance to the rear yard setback from 25’ to 21’ to construct a deck.
   LOCATION: 6404 North 79th Avenue
   ZONE: R4

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on November 12, 2015, Robert Molby appeared before the Board.

   Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to replace an existing deck in a similar location as the current deck. The City found no previous record of the current deck which sits 21’ from the rear property line. It appeared that the current deck was constructed after the home was built. The Planning Department found no hardship or practical difficulty to allow a new deck to encroach into the setback and recommended denial. He also mentioned that there were three letters of support from surrounding property owners.

   In response to Ms. Donovan, Mr. Molby stated that the deck was in place when he purchased the home in October 2014. He explained that he would not be making the deck any larger and that it would actually be shorter in length than the existing deck.

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

   AYES: Aspen, Donovan, Lanoha, Anzaldo, Mahlendorf

   MOTION CARRIED: 5-0
3. Case No. 15-131

Dan Smith
Colliers International
6464 Center Street
Suite 200
Omaha, NE 68106

REQUEST: Waiver of Section 55-933 – Variance to the minimum size of a business center from 10 acres to 8.33 acres to allow construction of a business center sign.

LOCATION: 7646 Dodge Street
ZONE: CC-ACI-2(65)-FF

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on November 12, 2015, Dan Smith and Andye Nelson (Omaha Neon Sign Company) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that there was an existing business center which includes two properties totaling 8.33 acres. He explained that there is a regulation in the Urban Design Code that allows a 10-acre center to have a business center sign. He noted that, since this site existed before that requirement, the Planning Department does not have an issue with the request. He added that the existing pole sign would be removed. The Planning Department recommended approval in accordance with the plans submitted.

Mr. Carter stated that, as proposed, the Hobby Lobby portion of the sign will need to be reduced since the code states that no individual tenant can be more than 10% of the overall sign area. He advised that the sign will either need to be adjusted or the owner would need to re-appear before the board for a waiver to the sign. In response, Ms. Nelson stated that she would need to speak with her client to find out what their intentions are.

Mr. Aspen moved to APPROVE in accordance with the plans submitted, subject to the applicant either revising the sign to comply with ACI standards or requesting an additional waiver. Ms. Donovan seconded the motion.

AYES: Donovan, Lanoha, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 5-0
4. Case No. 15-132
Nina Cudahy
2227 South 89th Court
Omaha, NE 68124

REQUEST: Waiver of Section 55-108 & 55-740(e) – Variance to the minimum lot width from 100’ to 12’, and to allow for a non-hard-surfaced driveway, for the approval of an administrative subdivision and construction of a new home.

LOCATION: 4201 North Post Road
ZONE: DR-ED

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted subject to: 1) the approach and at least 50’ of the driveway adjacent to North Post Road remain hard-surfaced; and 2) compliance with the Environmental District Overlay regulations.

At the Zoning Board of Appeals meeting held on November 12, 2015, Nina Cudahy and Marty Grate appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that there was an existing 5-acre parcel and a 12’ wide piece of land that connects that parcel to North Post Road. He explained that the parcels have existed since at least the 1960’s. The applicant was proposing to plat the property and build a home on the 5-acre lot. The 12’ space requires a waiver to the minimum lot width. He further explained that, based on the survey, the existing hard-surfaced driveway is on the 12’ space. The driveway also serves the property to the north of where the applicant is proposing to build, which needs to be addressed. Since all of those issues have existed for a long period of time, the Planning Department recommended approval in accordance with the plans submitted subject to: 1) the approach and at least 50’ of the driveway adjacent to North Post Road remain hard-surfaced; and 2) compliance with the Environmental District Overlay regulations.

Lyla Schmidt appeared before the board. She stated that she was the listing agent for the property directly to the north (11025 North Post Road). She stated that if that 12’ parcel was sold to the applicant it would leave her listing landlocked. She stated that an easement would be needed for approximately the first 100’. She felt that additional time was needed to research the history of the 12’ property before a waiver was granted. Ms. Schmidt submitted pictures that showed a piece of road that had been graded and then had white crushed rock put on it; the pictures also show stakes that were put in the ground marking the end of the 12’ parcel (Exhibit B). She added that the bank that owns her listing had ordered a survey that would not be ready until the end of the month.

Ms. Cudahy stated that her parcel had been surveyed and that no easement of record was found. She stated that she had no intentions of land-locking the property to the north and that she was more than willing to enter into an easement agreement for shared access.

Mr. Carter suggested that an easement could be recorded on the plat and the agreement can be worked out at a later time.

Mr. Aspen moved to APPROVE in accordance with the plans submitted subject to an access easement for 11025 North Post Road being recorded as part of the platting process. In addition, the approach and at least 50’ of the driveway adjacent to North Post Road must remain hard-surfaced, and 2) compliance with the Environmental District Overlay regulations. Ms. Donovan seconded the motion.

AYES: Lanoha, Anzaldo, Aspen, Donovan, Mahlendorf

MOTION CARRIED: 5-0
5. Case No. 15-133
   Jake Ritonya
   18720 California Street
   Omaha, NE 68022
   
   REQUEST: Waiver of Section 55-715 – Variance to the minimum street yard landscape percentage from 65% to 61% to allow a driveway to remain.

   LOCATION: 18720 California Street
   ZONE: R3

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on November 12, 2015, Scott Warren, Kevin Peterson (Absolute Customs), and Jake Ritonya appeared before the Board.

   Mike Carter, Zoning Board of Appeals Administrator, explained that a permit had been approved for the home. Although the plans had been redlined for a 30’ wide driveway, a 36’ driveway was constructed and subsequently red flagged by an inspector. The larger driveway caused a reduction in the amount of street yard landscaping resulting in the requested waiver. The Planning Department found no hardship or practical difficulty and recommended denial.

   Mr. Warren felt that the hardship was that the plans were approved with a 3-car garage and the driveway was not big enough to accommodate it. He explained that impervious coverage was considered for the site and not just the front yard. He proposed reducing the front porch or a small area of the home to bring the site in compliance. In response to Mr. Aspen, Mr. Warren explained that the driveway was installed according to the site plan and not the stamped set of plans.

   Mr. Carter explained that you could not calculate street yard landscaping from around the side of a home. He also added that Public Works would not allow a 35’ wide residential driveway and that the applicant would need to go before the Administrative Board of Appeals to request a waiver for a wider driveway.

   Mr. Ritonya stated that he trusted the builder to construct the home according to city ordinances. He stated that he had several issues come up with the builder and that the project had become a financial hardship for him. He requested that the board approve the waiver so as not to cause even more hardship for his family.

   In response to Ms. Donovan’s inquiry as to what the owner planned to do to rectify the situation, Mr. Warren stated that the company would do whatever the board decided should be done at the company’s expense.

   Mr. Peterson also explained again how the amount of impervious coverage was calculated for the entire lot instead of just the front yard.

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

   AYES: Anzaldo, Lanoha, Mahlendorf
   NAYES: Aspen, Donovan

   MOTION FAILED: 3-2

   Mr. Aspen moved to APPROVE the variance to the minimum street yard landscape percentage from 65% to 63% to allow a driveway to remain. Mr. Mahlendorf seconded the motion.

   AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf
   MOTION CARRIED: 5-0
6.  Case No. 15-135  
   Antonia Montana  
   4011 Kristy Plaza  
   Omaha, NE 68112  

REQUEST:  Waiver of Section 55-108 – Variance to the minimum lot size from 1 acre to 36,136 sq. ft. and 14,615 sq. ft. to allow for the approval of an administrative subdivision.  

LOCATION:  4709 U Street & 5605 South 48th Street  

ZONE:  DR  

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted, subject to the applicant submitting an application to rezone the subject properties to R4-Single Family Residential District (High Density).

At the Zoning Board of Appeals meeting held on November 12, 2015, Earl Krimmel (Owner) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to adjust the lot line between two existing parcels. Neither parcel meets the minimum 1 acre lot size requirement resulting in the need for a waiver so that the plat could be approved. Since this was an existing situation the Planning Department had no objections to the request but recommended that the property be rezoned to R4 which would bring the properties into compliance. The Planning Department recommended approval in accordance with the plans submitted, subject to the applicant submitting an application to rezone the subject properties to R4.

In response to Ms. Donovan, Mr. Carter mentioned that he was contacted by a neighbor in opposition who was concerned about how the rezoning would affect her property.

In response to Mr. Lanoha, Mr. Krimmel stated that he had no objections to the City’s recommendation. He explained that approximately 8,000 sq. ft. of land had already been dedicated for city improvements. Mr. Carter explained that rezoning of land would not impact this site but would be consistent with the City’s master plan. The board felt that the City’s plan could still be accomplished without requiring the applicant to rezone his property.

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

AYES:  Aspen, Donovan, Lanoha, Anzaldo, Mahlendorf  

MOTION CARRIED:  5-0
7. Case No. 15-136  
Christina M. Blumkin Trust  
9405 Davenport Street  
Omaha, NE 68114  

REQUEST: Waiver of Section 55-126 & 55-715 – Variance to the front yard setback from 50’ to 45’; to the rear yard setback from 35’ to 22’9” to the maximum impervious coverage from 30% to 37%, to the minimum street yard landscaping depth from 30’ to 0’ and to the minimum street yard landscaping percentage from 75% to 70%, to allow construction of a new home and paver driveway.

LOCATION: 9405 Davenport Street  
ZONE: R1

This request was withdrawn at the request of the applicant.
8. Case No. 15-137
Mark and Cathy Madsen
9527 Westchester Lane
Omaha, NE 68114

REQUEST: Waiver of Section 55-126 & 55-715 – Variance to the front yard setback from 50’ to 30’ and to the minimum street yard landscaping depth from 30’ to 0’ to allow construction of a new home and pool house.

LOCATION: 9501 & 9521 Douglas Street
ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

The applicant requested a layover of this case.

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

AYES: Donovan, Lanoha, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED 5-0
9. Case No. 15-138  
Bryan Zimmer  
The Architectural Offices  
4610 Dodge Street  
Omaha, NE 68132  
REQUEST: Waiver of Section 55-146 – Variance to the maximum impervious surface coverage from 40% to 53% to allow for construction of a detached garage/shop.  
LOCATION: 1430 South 85th Avenue  
ZONE: R2  

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 12, 2015, Bob Culver (Owner) and Bryan Zimmer appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was requesting a waiver that would allow a detached garage to be built on the site. The property exceeded the maximum impervious coverage by about 10%; the proposed construction would increase that to about 13%. The Planning Department believed that the garage should constructed in compliance with zoning regulations and recommended denial.

Mr. Culver stated that he was not aware of the issue with the impervious coverage when he purchased the home approximately 3 ½ years ago. The larger garage would allow him to park his vehicle in the garage and would make the home more attractive to future buyers. He added that he had spoken with his neighbors about the project and that no one had any objections to it.

In response to Mr. Mahlendorf, Mr. Carter stated that the size and location of the garage was not an issue, just the impervious coverage.

The applicant stated that many of the garages that have been built in that area were 3-car garages.

Mr. Aspen moved to APPROVE in accordance with the plans submitted subject to the garage not being used for commercial purposes or as a residential living unit. Ms. Donovan seconded the motion.

AYES: Lanoha, Anzaldo, Aspen, Donovan, Mahlendorf  

MOTION CARRIED: 5-0
10. Case No. 15-139  
Father Tom Neitzke, SJ  
Creighton Prep High School  
7400 Western Avenue  
Omaha, NE 68114

REQUEST: Waiver of Section 55-830 – Variance to the front yard setback from 12’ to 6’ and to the maximum height from 6’ to 12’ for 1 monument sign and to the total permitted sign area from 32 sq. ft. to 230 sq. ft. to allow installation of a total of 4 monument signs on the campus.

LOCATION: 7400 Western Avenue  
ZONE: R3-ACI-2(50)

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on November 12, 2015, Jeff Monzu (Leo A. Daly) and Erin Froschheiser (Leo A. Daly) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing a total of 4 new monument signs on the property. One of the signs would be located on the northwest corner of 72nd and Western, one along each private drive entrance along Western Avenue and a future monument sign was proposed for the southeast corner of 72nd and Seward Streets. All of the proposed signs and the existing signage require a waiver to the overall sign budget with the exception of the sign at 72nd and Western which also needs a waiver for the height and setback. The Planning Department supported the request and recommended approval in accordance with the plans submitted. He noted that the Planning Board approved a Major Amendment to the Conditional Use Permit for the school to allow the proposed signage with the condition that the applicant obtain the requested waivers from the Zoning Board of Appeals.

Mr. Monzu explained that, at the Planning Department’s request, the size of the cross on the sign was reduced to meet the 12’.

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

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
11. Case No. 15-140
   Tim Norton, Creighton University
   2500 California Plaza
   Omaha, NE 68178
   REQUEST: Waiver of Section 55-825(c) – Variance to the maximum area for a temporary sign from 32 sq. ft. to 640 sq. ft. for a banner to be displayed no later than December 2, 2015.
   LOCATION: 2615 California Plaza
   ZONE: DS

The applicant requested a layover of this case.

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

AYES: Aspen, Donovan, Lanoha, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
APPROVAL OF MINUTES:

Mr. Donovan moved to APPROVE the minutes for the October 8, 2015 meeting. Ms. Donovan seconded the motion.

AYES: Donovan, Anzaldo, Aspen, Lanoha

ABSTAIN: Mahlendorf

MOTION CARRIED: 4-0-1

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:26 p.m.

____________________________________________
Approved (date)

___________________________________________
Brian Mahlendorf, Chair

___________________________________________
Clinette Warren, Secretary