

MINUTES
MANHATTAN URBAN AREA PLANNING BOARD
City Commission Room, City Hall
1101 Poyntz Avenue
May 20, 2013
7:00 p.m.

MEMBERS PRESENT: Gary Stith, Chairperson; Linda Morse, Vice-Chairperson; Phil Anderson; John Ball; Jerry Reynard; Ron Hageman; and, Mike Kratochvil.

MEMBERS ABSENT: None.

STAFF PRESENT: Eric Cattell, Assistant Director for Planning; Lance Evans, Senior Planner; Steve Zilkie, Senior Planner; Chad Bunger, Planner II; Kevin Credit, Planner; Rob Ott, PE, City Engineer; and, Shane Swope, PE, Stormwater Engineer.

OPEN PUBLIC COMMENTS

No one spoke.

CONSENT AGENDA

APPROVE THE MINUTES OF THE MAY 6, 2013, MANHATTAN URBAN AREA PLANNING BOARD MEETING.

APPROVE THE FINAL PLAT OF K-STATE RESEARCH PARK ADDITION, UNIT TWO, GENERALLY LOCATED WEST OF THE INTERSECTION OF RESEARCH PARK DRIVE AND N. MANHATTAN AVENUE, AND SOUTH OF THE DEAD-END OF RESEARCH PARK DRIVE. (APPLICANT: KSU REAL ESTATE FUND, LLC – LARRY FOX MANAGER /OWNERS: KSU REAL ESTATE FUND, LLC – LARRY FOX MANAGER; AND, THE STATE OF KANSAS ON BEHALF OF KANSAS STATE UNIVERSITY – KIRK SCHULTZ, PRESIDENT)

Anderson moved that the Board approve the Consent Agenda. Reynard seconded the motion, which passed on a vote of 7-0.

GENERAL AGENDA

EXTEND THE DATE OF APPROVAL OF THE FINAL DEVELOPMENT PLAN FOR LOT 3, PENNY'S CONCRETE ADDITION, UNIT TWO, INDUSTRIAL PLANNED UNIT DEVELOPMENT, GENERALLY LOCATED IMMEDIATELY SOUTH OF THE EXISTING PENNY'S CONCRETE BATCH PLANT. (APPLICANT/OWNER: PENNY'S CONCRETE, INC., A KANSAS CORPORATION)

Zilkie presented the staff report and recommended approval of an extension of 18 months based on the PUD regulations. He commented the applicant has not commenced construction due to NBAF delays.

After discussion the Board determined the date of extension could be set to a greater length than 18 months based on the uncertain date for NBAF construction to begin

Reynard moved that the Planning Board approve a 36 month extension of the Final Development Plan for Lot 3, Penny's Concrete Addition, Unit Two, beginning May 20, 2013 ending May 20, 2016.

Anderson seconded the motion, which passed on a vote of 7-0.

REMOVE FROM THE TABLE AND CONDUCT A PUBLIC HEARING TO AMEND THE FINAL DEVELOPMENT PLAN FOR LOT 3, PENNY'S CONCRETE ADDITION, UNIT TWO, INDUSTRIAL PLANNED UNIT DEVELOPMENT FOR A PROPOSED ADVERTISING SIGN (OFF-SITE SIGN) ON LOT 3, GENERALLY PROPOSED TO BE LOCATED SOUTH OF THE INTERSECTION OF SKYWAY DRIVE AND EUREKA DRIVE ON THE WEST SIDE OF SKYWAY DRIVE. (APPLICANT: THOMAS OUTDOOR ADVERTISING INC. – BART THOMAS/OWNER: PENNY'S CONCRETE, INC.)

Kratochvil stepped down for the item.

Ball moved that the Planning Board remove the item from the table and conduct the public hearing. Reynard seconded the motion, which passed 6-0.

Zilkie presented the staff report and recommended approval with three conditions.

Anderson asked if double stacked billboards are allowed and Zilkie said they are not allowed.

Stith asked if the setback was to the base of the sign or the leading edge. Zilkie said it is measured to the leading edge of the sign. Zilkie also said staff will want a survey with the sign permit to ensure the pole and leading edge of the sign do not encroach into the utility easement. Stith asked if there are overhead utilities and Zilkie said there were none.

Stith asked how the sign would be affected by grading when the retention basin is built.

Stith opened the public hearing.

Bart Thomas, applicant, said his company realizes the visual impact on the city and is committed to building the best looking sign possible and make every effort to advertise local businesses and charitable groups. He said Thomas Outdoor Advertising will not allow negative political, immoral or sexually related advertising on billboards. He said they believe in spacing between signs and the zoning requirements do a good job. He said they lost 21 sign structures with the K-18 improvement.

Thomas said he's looked at the corridor and with federal, state and county requirements there is a possibility for four legal locations, Lot 3 being one of the four.

In response to the location in the retention basin, Thomas said they would bore a deeper hole for the pole to allow for future grading. He described the sign's lighting as being focused on the sign board. He said their signs are well maintained.

Anderson asked about the possibility of LED signs.

Thomas said he was on Riley County's sign committee and he did not care for LED signs and hoped the City will not allow them. He thinks Pottawatomie County may outlaw LED signs. He thinks the intense lighting and movement on LED signage is a hazard and that it's important that both counties' and the City's regulations should be coordinated.

Morse said the Planning Board is making an exception to allow a billboard in a PUD.

Thomas said the site wasn't chosen because it's a PUD, but because the County zoning map indicated the site is still C-6 District, which allows billboards.

Morse asked if the Board agreed to the exception, then will there never be more than four billboards along the highway.

Thomas said no, because as the City expands there may be new opportunities, plus he needs a property owner that will allow the billboard on their property. He added that other sign contractors may build along the highway. He said the double stack signs to the northwest of Lot 3 are his and will be removed.

Morse said it was hard for her to set a precedent.

Stith closed the public hearing.

Stith said he agreed with Morse that the Board doesn't want to set a precedent, but if the proposal is consistent with the surrounding area, which is industrial and C-6, he didn't feel a precedent was being set. Stith asked that the minutes reflect that the Board's decision to allow a billboard on Lot 3 was based on the surrounding zoning, which would allow the sign.

Ball supported Stith's idea, saying that given the right circumstances and environment, then it's reasonable to make the exception, but it is not an exception or precedent to allow a billboard in any PUD.

In response to a question, Zilkie said staff is rewriting the entire sign regulations and will begin focus group discussion the end of May and first part of June with work sessions in late summer early fall. It was anticipated that the regulations will be adopted later in 2013.

Ball moved that the Planning Board recommend approval of the proposed amendment of Ordinance No. 6730 and Ordinance No. 6915 and the amended Final Development Plan of the Penny's Concrete Industrial PUD, Unit Two, based on the findings in the Staff Report, subject to three conditions:

1. One (1) Advertising sign shall be allowed on the east side of Lot 3, Penny's Addition, Unit Two, an Industrial Planned Unit Development, City of Manhattan, Riley County, Kansas.
2. All applicable permits shall be obtained before construction of the Advertising sign.
3. No portion of the Advertising sign shall encroach on or over the utility easement dedicated on the east side of Lot 3.

Morse said she was not willing to make an exception and believes the request is a precedent.

Reynard seconded the motion, which passed on a vote of 5-1, with Morse opposed.

Kratochvil rejoined the meeting.

A PUBLIC HEARING TO AMEND THE MANHATTAN PLAZA COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD) FOR A PROPOSED PETSMART STORE, AND OTHER SITE IMPROVEMENTS, ON LOT 2, ALL GENERALLY LOCATED ON THE EAST SIDE OF THE SETH CHILD ROAD FRONTAGE ROAD, AND SOUTH OF HOME DEPOT. THE AMENDMENT IS IN THE FORM OF A FINAL DEVELOPMENT PLAN. (APPLICANT/OWNER: DAVIDSON ARCHITECTURE & ENGINEERING, LLC – CHRIS HAFNER, ON BEHALF OF THE OWNER: SURPLUS INVESTOR\S OF MANHATTAN, LLC – HUNTER HARRIS)

Zilkie presented the staff report and recommended approval with three conditions.

The Board asked several questions related to the flood plain to be answered by staff and the applicant's consultant. Reynard asked as the building is developed and elevated, will flood water be diverted in any manner that will adversely affect the area. Stith said he was concerned that the incremental change was so small it didn't matter, but collectively water will runoff the site's parking and roof faster than the natural condition. He asked if there was any "tree save" area to the south of the development site, to slow the water down and filtrate parking lot runoff. Kratochvil asked about the rip rap added behind Home Depot with an earlier flood event and was concerned the site was not the best place to build. He was also concerned about where the additional water would go and keeping the frontage road accessible for the RCPD. He thought the site was being overbuilt.

Stith opened the public hearing.

Chris Hafner, Davidson Architecture and Engineering, and Brent Sells, P.E., consultants for the project, said they have been looking at the site since 2011 with different projects

including multiple retail buildings with retaining walls and maximizing the site. After meetings with staff, those decisions were not the way to go and they then looked at how to limit the footprint on the lot. Hafner said the proposal accomplishes several things: limiting the development footprint and providing parking; provides public access by a new sidewalk connection from the frontage road to the building; meets all the City standards; meets PetSmart's needs; and, elevates the building out of the flood plain.

Hafner said that the analysis of floodwater impact was based on the Wildcat Creek Flood Plain (future conditions) study provided by the City and how water flowed into the site. They took the information and added their project to see the affect of fill on the site, and what that did to the system. They found that water in the 500 year event was moving at about 20,000 cubic feet per second, and the increase was five gallons per second, or a .025% increase of what the system could handle. They also looked at the affect of fill. He said there was a negligible impact on flood waters and that is why they felt comfortable moving forward with the project.

Regarding tree preservation, the upper area parking lot is open green space. The limits of erosion control on the plans are the extent of grading and beyond that the site won't be touched.

Brent Sells, PE, Davidson Architecture and Engineering, said it was important to remember that the flood plain model was based on the full build out of the city so the PetSmart site is not above and beyond that number. With respect to the confluence of the creek and Wildcat Creek, the site is in a backwater area which has ineffective flow. He described the site and said they do not believe the flood plain elevation is effected at all and staff agrees. He clarified that the site contributes 5 cubic feet per second to the existing and proposed flows in Wildcat Creek. He also described characteristics along Wildcat Creek and backwater areas.

Ball said the PUD indicates the site is to be built on and the building is being elevated and the applicant understands the risk of building in the flood plain. Ball said the concern is Wildcat Creek and there have been other developers who have indicated their projects contribute just a little and a bunch of little's added up. He said there are mitigation techniques that result in not making conditions worse, such as retention. He asked if they could do something to mitigate the impact.

Sells said they looked at detention, but it would be below the 100 year Flood Plain, which would basically flood a detention basin with the creek.

Stith asked if the rate of runoff can be slowed down such as utilizing roof drains or holding water in the parking lot. Sells said they could look at that but the business prefers not to flood their parking lot.

Stith asked if the size of the parking lot could be reduced by sharing parking on the Home Depot site. Hafner said they looked at that, but the agreement for liability reasons would not allow cross access for shared parking. Stith thought shared parking should have been considered when the original PUD was approved.

Hafner said the existing curb cut to the PetSmart site is off the Home Depot lot and they have tried several times to move the building around on the site, but with loading docks and keeping customer parking in front of the building, the proposed layout was the only one that works. The curb cut cannot be moved further west due to the curb cut and agreements between Lot 2 and Home Depot. Hafner said they looked at flipping the whole layout and they looked at a separate curb cut off the frontage road, but that resulted in getting closer to the ravine, and required a retaining wall and more fill. The proposed site plan is the least impact of about 12 possible layouts.

Stith asked Ott for input.

Ott and Shane Swope, Stormwater Engineer, addressed rate of runoff concerns and confirmed the consultant's proposed increase in the rate of runoff is 5.51 cfs as noted in the report for the 100 year storm. When compared to the effective FEMA Flood Insurance Study, current flood rates at 16,135 cfs, is a .031% increase. He said the consultant's study showed no net increase for the existing effective FEMA model as well as the future conditions model, which addresses Reynard's earlier question about the affect of fill on the effective flow area.

Ott said Kratochvil's question was actually about damage to a sanitary sewer pipe immediately outside the concrete box under Seth Child Road. The erosion was from the storm water discharge from the box.

Ott showed the Board one of the consultant's cross section maps of Wildcat Creek and the site and pointed out the ineffective flow area and effective flow, and location of the PetSmart site.

Reynard said he didn't think that answered his original question which is where will the additional storm water be distributed on the PetSmart site form where it goes naturally, to where it will go after the site is filled.

Ott said the water will be displaced by the fill but it does not raise the 100 year elevation in Wildcat Creek because the amount is so small. Ott said the water will be displaced and it is not going to be there and the effective flow in Wildcat Creek is not impacted and is not raising the level. Reynard said that was all he needed to know.

Swope said the highest velocities are in the conveyance level and there are velocities in the ineffective flow area shown on the cross section.

Hageman commented that it was all about backwater capacity and asked if there is somewhere that capacity can be gained. He also asked if there was a way to minimize impact on the backwater capacity.

Ott said staff is working on compensatory storage rules, but the challenge is to apply it citywide. He said there are no regulations at this time for compensatory storage and suggested the Board could discuss it with the consultant.

Kratochvil said his concern was the back-up of flood water and the reduced back-up area due to the additional fill, and the possibility of getting close to the frontage road. He asked if any information was available about previous floodwater on the proposed site and where it was located.

Ott talked about Eric Bernard's analysis of the City's 2006 and 2010 LIDAR data and compared the two surfaces in the Wildcat Creek basin from the Scenic Drive to the K-18 bridges and found a significant decrease in the amount of fill in the flood plain. In a few years new LIDAR will be flown and another comparison of fill will be performed.

Bunger noted there are 6-10 vacant platted lots in the City's portion of the Wildcat Creek 100 year flood plain, either along the creek or one of its tributaries.

Kratochvil said he was tentative because of comments he's heard from others and flood water back-up.

Swope said the area being discussed is the "future conditions", which generally follows the 500 Year Flood Plain, and the amount of increase water being discussed is so small that there should be nothing to worry about and that is his professional engineering opinion.

Staff mentioned the finished floor of the building is about 2.5 feet above the future conditions 1% flood level (1032.5 feet and a finished floor at 1035 feet.)

Ott showed the Board a hydrograph of the flows along Wildcat Creek and volumes as the water moves from rural areas west of the city, and through the City. The larger rural peak moves through the City after the smaller urban discharges have occurred in the city.

Stith said Ott was saying it is better for the urban discharges to occur sooner downstream, than to wait for the upstream discharges, which is why to not detain on the site and wait for the larger wave of water to pass through. Stith said Ott was saying it's better for the site to drain quickly and be out of the way before the larger rural volumes arrive.

Swope confirmed it generally not a good engineering policy to detain at the bottom of the watershed and the PetSmart site is at the bottom of the watershed.

Ott also said Stith's earlier comments about tree preservation to act as a filter for runoff were right on. Stith asked if the landscape plan could show a "tree save" area and the consultant said it would be added south and east of the building site on the Landscape Plan.

Morse asked if consultant was concerned about erosion from flooding. Sells said being in the ineffective flow area helps with reduced erosion and other geotechnical designs.

Morse asked if flood insurance was required and there was a brief discussion about insurance being required, unless the structure is removed by Letter of Map Revision.

Stith asked how the slope of the fill will be protected. Hafner said with vegetation.

Anderson wondered if the project was helping the Wildcat Creek condition.

Hageman said his concern had been with runoff and the explanation from Ott cleared up his concerns about runoff, but wants an effort to retain the backwater storage area because that is critical to the flooding.

Ott repeated that there are currently no regulations for compensatory storage, and if it was required, it may necessitate removal of mature trees and vegetation from the site, so a gain in one area is a loss in another.

Stith closed the public hearing.

Kratochvil said that if City staff has nothing to worry about, he will support the project. He said there have been projects the Board has second guessed and the projects turned out okay.

Ball moved that the Planning Board recommend approval of the proposed amendment and the Final Development Plan of Lot 2, Manhattan Plaza Commercial Planned Unit Development, based on the findings in the Staff Report, with the three conditions recommended by City Administration, and adding a Condition 4 by the Planning Board:

1. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
2. All landscaping and irrigation shall be maintained in good condition.
3. Signs shall be provided as proposed in the application documents, and Exempt signs to allow to those types of signs described in Article VI, Section 6-104 (A)(1),(2),(4),(5).
4. The applicant shall clearly designate on the Landscape Plan the designated tree save area as indicated during the Board meeting.

Reynard seconded the motion.

Morse said she would support the rezoning because: there are a limited number of undeveloped lots, 6-10, in the City's portion of the watershed's flood plain; the City's efforts regarding Wildcat Creek; PetSmart is a new business; and, because the applicant is doing all that they can to make the site as good as possible.

Ball said he appreciated the City Engineer's presentation using a hydrographs to describe time, as an important part of the flooding explanation.

Anderson said he was conflicted about the project, but staff has done a lot of work and he wished that shared parking with Home Depot was an option.

Stith said that in the future shared parking should be considered with PUDs.

On a vote the motion passed 7-0.

REPORTS AND COMMENTS BY BOARD MEMBERS

Cattell told the Board the July 1st meeting may be cancelled because three Planning Board members will be absent.

Respectfully submitted,

Steve Zilkie, Senior Planner