

**MINUTES**  
**MANHATTAN URBAN AREA PLANNING BOARD**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**July 15, 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:**

**STAFF PRESENT:** Eric Cattell, Assistant Director for Planning; Lance Evans, Senior Planner; Steve Zilkie, Senior Planner; Chad Bunger, Planner II; and, Kevin Credit, Planner.

**OPEN PUBLIC COMMENTS**

No one spoke.

**CONSENT AGENDA**

**APPROVE THE MINUTES OF THE JUNE 17, 2013, MANHATTAN URBAN AREA PLANNING BOARD MEETING.**

Anderson moved that the Board approve the Consent Agenda with a correction to the Minutes. Ball seconded the motion, which passed on a vote of 7-0.

**GENERAL AGENDA**

**A PUBLIC HEARING TO AMEND ORDINANCE NO. 6607 AND THE APPROVED PRELIMINARY DEVELOPMENT PLAN OF LOTS 4 AND 5, HERITAGE SQUARE SOUTH COMMERCIAL PLANNED UNIT DEVELOPMENT, GENERALLY LOCATED SOUTH AND WEST OF THE INTERSECTION OF U.S. 24 HIGHWAY AND SOUTH PORT DRIVE. THE AMENDMENT IS IN THE FORM OF A FINAL DEVELOPMENT PLAN. (APPLICANT: LEISZLER REAL ESTATE - ALISON LEISZLER BRIDGES/OWNER: HERITAGE SQUARE LAND CO. LLC - TIM SCHULTZ)**

Zilkie presented the staff report and recommended approval with three (3) conditions.

Stith asked if there were drive-up windows on both ends of the building and for clarification on the circulation. Zilkie stated that there is only one drive-up window on the north side and that the circulation would run east to west on the north end.

Stith then asked about the gasoline tanks in regards to the raised elevation and potential flooding. Zilkie stated that there are no standards specifically but the staff has recommended that they elevate to at least a foot above to protect that equipment.

Stith expressed his concern about the hazardous materials.

Bunger stated that hazardous materials are considered in the floodplain regulations and that the gas tanks are typically designed to have shutoff mechanisms in certain situations. Bunger also stated that the staff would require these mechanisms.

Stith stated his questions are satisfied.

Zilkie stated that the plans do show a grade elevation of 1014 feet for the gasoline pumps.

Cattell said that underground tanks are regulated by the state and they are designed to be anchored underground.

Morse asked about the continuation of the sidewalk on the south side of the development. Zilkie stated that the subject sites sidewalk would continue to the adjacent lots' sidewalks.

Morse stated that she didn't recall much discussion of the floodplain in past projects within Heritage South.

Zilkie stated that the floodplain was discussed for the Dollar General site but some of the other projects are not within the 100 year floodplain.

Stith opened the public hearing.

No one spoke.

Stith closed the public hearing.

Ball moved that the Planning Board recommend approval of the proposed amendment of Ordinance No. 6607, and the approved Preliminary Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, to be known as the Final Development Plan of Lot 4 and Lot 5, Heritage Square South Commercial Planned Unit Development, based on the findings in the Staff Report, with three conditions of approval:

1. Off-street parking shall be shared between Lot 4 and Lot 5.
2. Trash enclosures and trash containers shall be shared between Lot 4 and Lot 5.
3. A pole sign, as proposed in the application documents, shall be permitted on Lot 4.

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

**A PUBLIC HEARING TO CONSIDER REZONING 1021 AND 1027 THURSTON STREET, FROM R-2, TWO-FAMILY RESIDENTIAL DISTRICT WITH TNO, TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT, TO R-3/M-FRO, MULTIPLE-FAMILY RESIDENTIAL DISTRICT WITH MULTI-FAMILY REDEVELOPMENT OVERLAY DISTRICT. (APPLICANTS: CLINT JUNGHANS, MATT JUNGHANS, AND GARETH ROHR/OWNER: JOHN F. MUSSELMAN III)**

Zilkie presented the staff report and recommended denial.

Reynard asked about the decision to stop the R3/M-FRO boundary at the alley of the ten hundred block instead of continuing the district to Thurston Street. Zilkie explained the process behind the zoning boundary. He then stated that if the community is going to consider the rezoning, the whole block should be looked as part of a more comprehensive study with the Comprehensive Plan update.

Reynard then asked about the sewer capabilities in the area.

Zilkie expressed that he can't fully answer the question, but the area needs to be analyzed.

Cattell addressed Reynard's question in regard to the boundary of the R3/M-FRO. He said that there were several factors that went into the community decision, including the existing zoning and predominant land uses at the time the area was rezoned, as well as the extensive Traditional Neighborhood Study and neighborhood index analysis.

Stith expressed his thoughts on zoning and the need for consistency of neighborhood characteristics along both sides of a street. He recommended using the alley as the zoning boundary and not streets.

Stith opened the public hearing.

Patrick Shutter, BHS Construction, expressed his appreciation for the success of the M-FRO District and his concerns on the need for updating the Comprehensive Plan. Shutter also stated that the subject property fits into what the neighborhood will eventually become and his recommendation would be for approval contingent on a sewer analysis in the area.

Linda Weis, 215 Pine, and representing the seller, elaborated on the seller's situation and expressed her support for the project saying that it makes sense for the area given the new 12-plex to the south and that it will be a positive improvement to the City.

John Musselman, owner of 1021 and 1027 Thurston, explained his history with the properties, indicating 1027 needed major repairs that were too expensive and that he purchased 1021 because it would make the two lots together more sellable. He asked for support of the project.

John Pence, 2361 Grandview Terrace, indicated he owns a property across the street and expressed his concerns and opposition with spot zoning for the project, suggesting a larger area be considered. He agreed with having the same zoning on both sides of a street and said that lack of maintenance is not a reason to rezone.

Jeffrey Black, agent representing Musselman, expressed his thoughts on spot zoning and that the project is more of a finger zoning or extended zoning. Black then gave his support for the project.

Stith closed the public hearing.

Stith stated that the process of hiring a consultant to update the Comprehensive Plan has started and the update will take some time to complete.

Ball stated that he generally wants to follow the Comprehensive Plan, as it provides guidelines to follow. However he said the neighborhood has changed and that he generally agrees with a comprehensive approach to zoning larger areas. He said he did not see this so much as a spot zoning and the city needs affordable housing. He noted an ATA bus stop in the area. Ball expressed his support for the application pending a review of the sewer and water capacities.

Hageman stated that the area has changed and is now rundown. He said the new apartments look better and that the City is evolving quickly and can't wait four years to update the Comprehensive Plan like last time.

Anderson stated that if the City is going to go in this direction it needs to be in a comprehensive approach. He then asked Musselman to elaborate on the condition of the property when he bought it.

Musselman stated that the house was deteriorated and is uninhabited.

Anderson expressed his concerns with the deteriorating neighborhoods and said that one of the main reasons for deterioration is that the City is not holding property owners to a certain standard to maintain their properties. He then stated that maybe the block needs to be rezoned to multiple-family, but he can't consider a spot zoning until he has more information from a larger study of the area.

Stith expressed his concerns with encouraging disinvestment in properties by rewarding owners with a change in zoning a few lots at a time. He said it might take time to figure out, but was concerned about allowing a spot zoning and preempting the Comprehensive Plan process without having all the information on which to base a decision.

Morse expressed her concerns over spot zoning and agreed that there is a need to address the deterioration of the housing stock in the major core areas. She then stated that she is not in favor of setting a precedent for making exceptions and that the Board should allow the Comprehensive Plan process work first. She saw this as an assault on the

Comprehensive Plan without doing the necessary study.

Reynard said that he agreed that spot zoning is wrong and that the sewer system is a major concern that needs to be analyzed.

Morse moved that the Planning Board recommend denial of the proposed rezoning of 1021 and 1027 Thurston Street from R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District, to R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay District, based on the findings in the Staff Report.

Anderson seconded the motion.

Kratochvil stated that he is not going to support the motion and then shared the reasoning behind his stance, indicating the old neighborhood study was all in response to the super duplexes.

Ball said the Board reviews exceptions all the time. He said city staff does a good job, but that the neighborhood had changed. He said economics protects neighborhoods and expressed his support for the zoning change.

Morse stated that she believes that the rezoning review criteria are specific and one of the criteria to consider is if the rezoning conforms with the Comprehensive Plan. She then said that it does not without making exceptions, but making exceptions are not a part of the criteria.

Hageman said that the M-FRO District wasn't entirely created because of the super duplex issue, but also the piecemeal approach to apartment conversions. He then said that the City is growing at a fast pace and that the Comprehensive Plan had done a lot of good, and the city needs to accelerate a new plan.

Anderson cited the 65- 70 percent rental rate in the City and that we need to take that into consideration in saving neighborhoods.

Reynard asked how long it would take to rezone the entire 1000 block of Thurston Street.

Cattell explained the process of rezoning the entire block and that neighborhood studies are going to be a part of the Comprehensive Plan update.

Stith asked if there are any further comments.

On a vote, the motion passed 4-3, with Hageman, Ball and Kratochvil opposed.

## **REPORTS AND COMMENTS BY BOARD MEMBERS**

Cattell updated the Board on the process of selecting a consultant for the Comprehensive Plan update and asked for a member of the board to sit on the Selection Committee.

Stith said that he would be available

Morse moved to nominate Stith for the Comprehensive Plan Selection Committee

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

Morse asked about board members serving on the Steering Committee during the Comprehensive Plan update.

Cattell stated that there will be board members sitting on that committee as well and that process will likely start in late September. He also mentioned the calendar of upcoming meetings.

Stith said that the meeting on September second will be moved to Thursday, September 5<sup>th</sup>, due to Labor Day.

Morse mentioned that the City Commission has a briefing about the recent floodplain studies and asked for discussion.

Cattell said that there will be a series of briefings about the floodplain studies.

Bunger elaborated on the floodplain briefings.

Cattell continued his explanation of the floodplain study process.

Morse said that she would like to be notified through InTouch.

Respectfully submitted,

Steve Zilkie, Senior Planner, and Chase Johnson, Intern