

MINUTES
MANHATTAN URBAN AREA PLANNING BOARD
City Commission Room, City Hall
1101 Poyntz Avenue
April 20, 2015
7:00 p.m.

MEMBERS PRESENT: Phil Anderson, Chairperson; John Ball Vice-Chairperson; Gary Stith; Jerry Reynard; Ron Hageman; and Neil Parikh.

MEMBERS ABSENT: Linda Morse

STAFF PRESENT: Eric Cattell, Assistant Director for Planning; Chad Bunger, Senior Planner; Ben Chmiel, Long Range Planner

OPEN PUBLIC COMMENTS

No one spoke.

CONSENT AGENDA

APPROVE THE MINUTES OF THE APRIL 6, 2015, MANHATTAN URBAN AREA PLANNING BOARD MEETING.

APPROVE THE FINAL PLAT OF THE RESERVES, UNIT TWO, GENERALLY LOCATED APPROXIMATELY 200 FEET WEST OF THE INTERSECTION OF GRAND MERE PARKWAY AND GRAND LUXE DRIVE (APPLICANT: SMH CONSULTANTS, JEFF HANCOCK, P.E. OWNER: BEN AND TAMARA BURTON).

APPROVE THE FINAL PLAT OF THE BIRCHWOOD VILLAS ADDITION, UNIT NO. 2, RESIDENTIAL PLANNED UNIT DEVELOPMENT, GENERALLY LOCATED 485-FEET SOUTH OF THE INTERSECTION OF STONE CREST DRIVE AND N. SCENIC DRIVE (APPLICANT/OWNER IS BIRCHWOOD VILLAS, LP)

Stith moved that the Board approve the Consent Agenda. Reynard seconded the motion which passed on a vote of (5-0-1), with Hageman abstaining from approving the Minutes since he was not present at that meeting, and (6-0) for the approval of the final plats.

GENERAL AGENDA

REMOVE FROM THE TABLE AND CONDUCT A THE PUBLIC HEARING TO AMEND ORDINANCE NO. 6607 AND THE APPROVED PRELIMINARY DEVELOPMENT PLAN OF LOTS 5, HERITAGE SQUARE SOUTH, UNIT FOUR, COMMERCIAL PLANNED UNIT DEVELOPMENT, GENERALLY LOCATED SOUTH AND EAST OF THE INTERSECTION OF U.S. 24

HIGHWAY AND SOUTH PORT DRIVE. THE AMENDMENT IS IN THE FORM OF A FINAL DEVELOPMENT PLAN. NOTE THAT THE ORIGINAL PROPOSAL FOR LOT 4, HERITAGE SQUARE SOUTH, UNIT FOUR HAS BEEN WITHDRAWN. (APPLICANT: LEISZLER REAL ESTATE - ALISON LEISZLER BRIDGES/OWNER: HERITAGE SQUARE LAND CO. LLC – TIM SCHULTZ)

CONSIDER APPROVAL OF THE FINAL PLAT OF HERITAGE SQUARE SOUTH, UNIT FOUR, GENERALLY LOCATED SOUTH AND EAST 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)

Stith moved that the Board remove the PUD amendment from the table and conduct a Public Hearing. Reynard seconded the motion which passed on a vote of 6-0.

Bunger explained that the hearing was only over the proposed Lot 5 portion of the amendment and that proposed Lot 4 would be re-advertised for a later date due to additional changes by the applicant. He presented the staff reports on the two related items with the recommendation of approval with two (2) conditions of approval for the PUD amendment and two (2) conditions of approval for the Final Plat.

Stith asked if there were any sidewalks onto the site and any bike racks available on the site.

Bunger indicated there was a sidewalk along the road.

Anderson opened the public hearing.

No one spoke.

Anderson closed the public hearing.

Stith suggested that a sidewalk is needed to provide pedestrian and bicycle access to the flag lot for people within the development, and asked if a sidewalk can be included as a condition of approval.

Bunger said it can be included as a condition of approval.

Reynard stated that the development is non-retail and the majority of employees will drive, not walk or bike, and thus there is not a major need for a sidewalk into the lot.

Stith stated that since so much parking is being provided, there will be a large number of people working at the office, some of which may wish to bike or walk to other areas in the development.

Reynard suggested the large number of parking stalls was because of the size of the

building, but the majority of the employees will be driving, not walking nor biking.

Hageman asked where pedestrians and cyclists would be coming from since housing is far from the site.

Anderson reopened the public hearing.

Dan Crouch, architect with BBN Architects representing the applicant, stated that the project is commercial office with warehouse and not retail. He explained that the additional parking is being provided for those attending meetings at the offices which the corporate headquarters.

Anderson closed the public hearing.

Anderson said that in some cities in Europe, every road has a bike lane and pedestrian walkways, but these modes are not so common in American culture, although they are becoming more popular.

Ball moved that the Planning Board recommend approval of the proposed amendment of Ordinance No. 6607 and Ordinance No. 7062, and the Preliminary Development Plan for Lot 2, Heritage Square South, Unit Three, Commercial Planned Unit Development, to be known as the Final Development Plan of Leiszler Oil Company, Lot 5, Heritage Square South, Unit Four, Commercial Planned Unit Development, based on the findings in the Staff Report, with the two (2) conditions of approval:

1. The Final Plat of Heritage Square South, Unit Four shall be approved.
2. An amendment(s) of the PUD shall be submitted for review and approval, prior to the issuance of any necessary permits for development on Lots 1, 2, 3, and 4 Heritage Square South, Unit Four.

Reynard seconded the motion which passed on a vote of 6-0.

Ball moved that the Planning Board approve the Final Plat of Heritage Square South, Unit Four, with the conditions recommended by City Administration, for the reasons set out in the Staff memorandum and the specific provisions of the Subdivision Regulations on which the recommendation is based. The two (2) conditions of approval being:

1. An amendment of the Heritage Square South Planned Unit Development and Ordinance No. 6607 and Ordinance No. 7062 shall be approved.
2. Proposed Lot 5, a flag lot, shall conform to the requirements Section 10-104(G)(1-5).

Stith seconded the motion which passed on a vote of 6-0.

RECONSIDER REZONING AND THE PROPOSED PRELIMINARY DEVELOPMENT PLAN FOR THE NOOR RESIDENCE MIXED PLANNED UNIT DEVELOPMENT, AN APPROXIMATELY 1.45 ACRE TRACT OF LAND, GENERALLY LOCATED TO THE SOUTHEAST OF THE INTERSECTION OF CLAFLIN ROAD AND HYLTON HEIGHTS ROAD, FROM R, SINGLE-FAMILY RESIDENTIAL DISTRICT TO PUD, MIXED PLANNED UNIT DEVELOPMENT. (APPLICANT/OWNER: NORTH AMERICAN ISLAMIC TRUST, INC. – DR. HAYDER RASHEE) NOTE: THIS ITEM HAS BEEN RETURNED BY THE CITY COMMISSION TO THE PLANNING BOARD FOR FURTHER CONSIDERATION.

Bunger presented the staff report on the item explaining what had occurred to-date and discussed the three items the City Commission asked to be reconsidered and how the applicant had revised the application. He said all references to a second phase had been removed and that any future expansion would require a public hearing amendment process. The coffee shop had been removed and is now a common room for tenants that might have vending machines and tables. That change reduced the parking demand by about nine (9) stalls. He explained that the occupancy for the mosque was based on how it is actually used with prayer mats for an occupancy of about 180, as opposed to using the building code occupancy rating for parking calculations purposes. He said they had about 3 stalls more than needed based on how the mosque is used. They are about 30 stalls short if parking is based on building code occupancy. He said Schwab-Eaton had also done a shared parking analysis between the apartments and mosque that indicated only around 75 stalls were needed. The applicant had not changed the height of the apartment building. They indicated removing a floor would make the project economically infeasible and would necessitate expanding the building's footprint with less room for parking. Bunger indicated that the proposed building is only six inches taller than the 35 foot height limit that the existing R District permits. City Administration recommended approval of the revised PUD with ten (10) conditions of approval.

Stith asked to what extent was the short term lease concept a critical factor in determining parking calculations.

Bunger said that parking calculations were determined using the number of bedrooms and the capacity of the mosque based on how it was used, and that the type of lease played no part in the parking calculations.

Stith stated that nothing limits mosque's attendance to 180.

Bunger indicated that was correct and that it could be difficult to enforce.

Stith asked if another religious organization purchased the property and installed fixed seating, would it change the parking requirements.

Bunger explained that it would likely be a lower parking requirement due to fixed seating versus open floor area, and it might not require the PUD to be reexamined.

Anderson opened the public hearing.

Mary Molt, 1122 Hylton Heights Road, discussed how the proposed three story building is out of place in the residential neighborhood. She had lived there 42 years and stated that when she and fellow neighbors bought their homes, they believed that the neighborhood would remain single-family housing. Molt stated that the proposed development will be an eyesore in the neighborhood, would change the character of the area and lacks support in the area. When looking westbound along Claflin, the site is at the top of the hill and no other buildings are that tall. She said building a single family home that tall would not make sense. She said a two-story building would be ok and that Georgetown Apartments, while being three stories are set lower down, as is the medical center. Apartments were not a fair use of the site and would bring noise, light and trash. She also stated that the applicant is applying for a PUD because it does not fit in the area. She said just because three stories is not economically feasible is not a reason to allow it. She said it is not fair that the neighborhood has to sacrifice for the PUD.

Ben Eckart, 1121 Hylton Heights Road, said he agreed with Mary Molt's comments and stated that the building's size has not been changed, despite the City Commission's concerns. He questioned why the Board was even considering the application when the size had not been changed. He stated that a building mass analysis was not required and has not been performed. He said the Georgetown Apartments and medical center were lower down and screened. Screening cannot be provided along Claflin in front of the proposed apartments because of power lines along Claflin. No one in the neighborhood supports the PUD and the three-story monstrosity will be an eyesore in the neighborhood and will have a detrimental effect on property values. He said a two-story building would be better and urged the Board to vote no.

Ball explained that the City Commission cannot force the applicant or the Planning Board to make a change, but can only ask the Board to review and consider a change to a proposal on specific points. Ball said that he has visited the proposed site to understand the implications of the proposal and that the Board does have an interest in protecting neighborhoods and equal application of the rules.

Eckart said the City Commission makes the final decision. He said previous comments made it appear that the Board had not visited the site. He stated that many more property owners are against the development than there are for the development. Eckart said if the proposed project was a good project, they would not need a PUD and would remain within the current zoning regulations.

Bunger explained that the project was originally proposed as a PUD because it was a mixed-use development with a retail coffee shop. A rezoning to R-3 would still be required to allow an apartment building. He said the PUD process provides more assurance of what the building, landscaping and parking will look like; whereas straight R-3 zoning has no public review of those issues.

Mike Pearl, 2424 Buena Vista Drive, explained the history of development proposals in the neighborhood, including the day care center, bank expansion and office buildings, many of which replaced existing single-family homes. Pearl said that he and the neighborhood had protested many of these developments and feel their wishes are being unheard and that the R-1 neighborhood is being nibbled away by commercial creep. He reiterated previous comments about the height and location of the apartment building

compared to surrounding developments that are lower down. He said the apartments on the north side of Claflin don't share roads with single-family homes. He said using the argument that the PUD is compatible with commercial to the east and west is ironic due to the commercial creep. He questioned how they could limit the occupancy of the mosque to 180 people when Islam is the fastest growing religion. He said the apartments are too large, do not meet current zoning and should be denied.

Gwyn Riffel, 1113 Hylton Heights Road, discussed how the massing and size of the proposed building does not have an appropriate setback to look visually correct along Claflin Road. It should be set back farther from the street although that would put it closer to homes in the neighborhood. He said the three-story building will be as tall as the power lines. He asked the request to be denied. He said zoning can be insane. His house and barn are historic stone structures built in 1859 and are zoned commercial.

Ian Reekie, Schwab-Eaton representing the applicant, discussed how the Claflin Corridor has already changed and the apartment site is the only lot left along the corridor between College Avenue and Seth Child Road that is still zoned R-1, Single-Family. Except for the R-2 duplex immediately to the east of the site, all the other properties along the corridor are zoned C-1, C-2, PUD, University, or R-3, and consist of medical and commercial uses, a gas station, fast food, banks, and 3 and 4-story apartments. He said a single-family character no longer exists along the Claflin Corridor. The proposed three-story, thirteen unit apartment building is for international graduate students and visiting professors needing short-term leases. The proposed project will take the otherwise vacant lot and use it for a higher use, providing short-term rentals for international students and teachers. The PUD minimizes impacts and puts a vacant lot to a higher use. He said the proposal meets the PUD standards and the building height is only 6 inches over the single-family district's height limit. He said the City Commission returned the application to review the height, not to set a new height. One of the main PUD rezoning standards the Planning Board is to look at is if denial of the proposal will result in a relative gain the public health, safety and welfare as opposed to the hardship that denial will impose on the owner. He said there is no indication that the proposal will detrimentally affect the health, safety or welfare of the public. He said the applicants were asking the Board to reconfirm its unanimous approval of the PUD.

Parikh asked if the proposed structure was always intended to be three stories tall with the same roof height.

Reekie answered that the project has always been three stories with that roof height, and the only change was the elimination of the future addition.

Clara Goodman, 2420 Buena Vista, said she had lived there 20 years and the apartments will be in her back yard and would affect her property value. She commented that those who want to make money always seem to win, over homeowners' desires. She said the concept to house international students is good, it just should be closer to K-State and not in a single-family area. She was concerned about the lack of enough parking now for the existing mosque, which makes for congestion in the neighborhood. She said the neighbors' concerns should be considered and this was one of the last single-family neighborhoods where property values are going up. She was concerned about the effect on property values the proposed development may have. She suggested it could be a two-

story building. She said other apartment developments north of Claflin Road are lower down and screened better. She and her neighbors would have to build a three-story screening fence to block view of the three story building. She urged the Board to downsize the development from three to two stories to help preserve the integrity of the neighborhood.

Hayder Rasheed, representing the Islamic Center, discussed how the subject site is the only lot along Claflin Road that is zoned R-1. He also stated there is a three story apartment complex to the east on Claflin Road and the Georgetown Apartments to the north along Claflin are also three stories. He wondered if it is concern they have for the neighborhood, or a stand against the Islam.

Mike Pearl said that when he protested previous zoning actions that had occurred in the neighborhood that took out homes in the area he was not accused of being against early childhood education, office complexes, or medical science. He questioned why someone would now say that when the neighborhood is protesting a three story apartment building on an R-1 lot, they are against Islam. He said there were two people who were upset when the mosque went in and he had told them it would be no different than a church going in. He said the mosque has been a good neighbor. He resented anyone suggesting this has anything to do with religion.

Earl Baugher, 2415 Buena Vista, said his front door faces north towards the medical center which hasn't been too much of an issue, but if the apartments go in, it will be an issue due to its height. It will not be good for his property value. He said he represents all the people south of Buena Vista who are all against the project. He urged the Board to vote no on the item.

Anderson asked if anyone else wanted to address the Board. Seeing no one, he closed the public hearing.

Stith stated that the Board had already required the applicant to make significant changes to the original proposal, including elimination of the additional apartment units, increasing the amount of parking, and requiring the right-in/right-out on Claflin to improve circulation. He said the building height hasn't changed and if this were the first intrusion into the neighborhood he would have potential concerns about it, but this isn't the first, it is basically the last. He didn't see it as an intrusion into the neighborhood because it is as close to Claflin as possible, so it is a significant distance from the homes to the south. He said it was important to be close to Claflin Road, which is a busy arterial and not where you would want to put single-family uses. He said the Board has dealt with the issues and the site plan is appropriate. He said the Comprehensive Plan calls for different types of housing around the city with single-family and multi-family in proximity to each other, even in high-end areas such as Grand Mere. He didn't think the proposal will have a negative impact on property values. He said he was ready to send back a recommendation of approval.

Hageman talked about the mixture of uses along Claflin Road and said the vacant house on the site is more of an eyesore. He said the new building will be a big change but he didn't see it devaluing property values in the neighborhood. He thought it would enhance the Claflin Corridor and noted that the applicants take good care of the mosque. Thirteen

units is not all that big a building on the site. He said his own neighborhood has high dollar homes across the street from slab homes and property values have not been negatively affected.

Ball discussed how the Board looks at how communities and areas evolve and change. He said the Claflin Corridor is no longer really part of the neighborhood to the south. In response to the audience he said the hearing was over and it was time for the Board to provide its comments. He said he did go out and walk the site and look at the area, and for the one property that backs up to the site, that owner has expressed her concerns to the Board. He said the Claflin Corridor is no longer an R-1 area and will never have residential on it, so the Board can either let the site remain fallow, or for the betterment of the community and the corridor they need to look at how the site can best be used. He said this is not inserting a use into the neighborhood and understands the issue of commercial creep into a neighborhood. The building height will not be seen from most of the neighborhood. He said these are all things that the Board considers, what is best for the community, how has the area evolved, and what is the best use for the site. He appreciated the public input as the Board tries to balance the issues and provide consistent recommendations to the City Commission.

Anderson asked for other comments and discussion from the Board.

Stith moved that the Board recommend approval of the revised Preliminary Development Plan of the Noor Residence Mixed Use Planned Unit Development, dated February 18, 2015, and rezoning the site from R, Single-Family Residential District, to PUD, Mixed Use Planned Unit Development District, based on consideration of the three issues requested by the City Commission and on the findings in the Revised Staff Report, dated April 9, 2015, with the ten (10) conditions recommended by City Administration:

1. The Permitted Uses shall include a mosque (or other religious institution) and a thirteen (13) dwelling unit apartment building with a 676 square foot common area.
2. The common area shall be limited to 676 square feet in area and may not be converted to any commercial or residential space.
3. A sight-obscuring screening fence of not less than six (6) feet in height shall be provided along the southern and eastern property line of the PUD.
4. Signage shall be limited to signs proposed in application documents.
5. Exempt signage shall include signage described in Article VI, Section 6-104 (A)(1)(2)(3)(4)(5)(7) and (9); and, Section 6-104 (B)(2) and (5).
6. Additional landscaping in the form of deciduous and evergreen trees should be provided in the southeast corner of the site to provide additional visual buffering of the development. The added landscape shall be shown on the Final Development Plans.
7. Landscaping and irrigation shall be maintained in good condition.
8. A Landscape Performance Agreement shall be approved, prior to issuance of a building permit.
9. An Agreement between the City and the property owner shall be completed prior to the filing of the Final Plat, obligating the property owner to construct and maintain the storm water system including the underground storm sewer and detention structure, and allowing the City access to the structure for inspection

and maintenance if the property owner fails in its duty to properly maintain the storm water system.

10. Covenants shall be provided at the time of application for the Final Development Plan detailing the cross easement between the two (2) lots for the proposed shared parking.

Reynard seconded the motion which passed on a vote of 6-0.

Anderson thanked the public for participation in the hearing process and said he thought it was a worthwhile project and a year from now if the project gets completed, there will not be the negative impacts that some were concerned about.

REPORTS AND COMMENTS BY BOARD MEMBERS

Bunger asked if the Planning Board would prefer to receive staff reports and materials digitally or would prefer to continue receiving materials in hard copy form.

Stith preferred to receive materials digitally. All board members concurred as long as a hard copy could still be provided if needed.

Stith asked if large plats and site plans would be submitted as PDFs.

Bunger answered that applicants are now required to submit all materials digitally.

Bunger and Cattell informed the Board about the next meeting's agenda items.

Stith asked if staff had any knowledge about potential changes to the Planning Board to accommodate Pottawatomie County. Cattell stated that discussion will most likely happen at a City-County-County meeting, possibly in May or June.

Ball asked when his position would expire as a Board member. Cattell explained that Ball would continue to serve until notification of reappointment or replacement.

There being no further business, Anderson closed the meeting.

Respectfully submitted,

Everett Haynes, Planning Intern