

**MINUTES**  
**MANHATTAN URBAN AREA PLANNING BOARD**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**October 19, 2015**  
**7:00 p.m.**

**MEMBERS PRESENT:** John Ball, Chairperson; Jerry Reynard; Gary Stith; Neil Parikh; and Katie Stunkel.

**MEMBERS ABSENT:** Phil Anderson; Ron Hageman, Vice-Chairperson

**STAFF PRESENT:** Eric Cattell, Assistant Director for Planning; Chad Bunger, Senior Planner; Lance Evans, Senior Planner; Chase Johnson, Planner; and Ben Chmiel, Planner.

**OPEN PUBLIC COMMENTS**

No one spoke.

**CONSENT AGENDA**

**APPROVE THE MINUTES OF THE OCTOBER 5, 2015, MANHATTAN URBAN AREA PLANNING BOARD MEETING.**

**APPROVE THE FINAL PLAT OF PINEHURST ADDITION, GENERALLY LOCATED WEST OF THE INTERSECTION OF GRAND MERE PARKWAY AND COLBERT HILLS DRIVE. (APPLICANT: SMH CONSULTANTS, JEFF HANCOCK. OWNER: THE CARSON COMPANY, ANDREW CARSON)**

**APPROVE THE FINAL PLAT OF HEATHER HEIGHTS, UNIT TWO, GENERALLY LOCATED SOUTH OF THE INTERSECTION OF FORDHAM ROAD AND DRAKE DRIVE, AT 216 FORDHAM ROAD AND 216 CARLISLE TERRACE. (APPLICANT/OWNERS: DEVIN & ERICA OJEDA; AND T. WILLIAM & LAURA VARNEY)**

Stith moved that the Board approve the Minutes of the October 5, meeting. Reynard seconded the motion, which passed on a vote of 3-0-2 with Parikh and Stunkel abstaining.

Stith moved that the Board approve the remaining items of the Consent Agenda. Reynard seconded the motion, which passed on a vote of 5-0.

## GENERAL AGENDA

**A PUBLIC HEARING TO CONSIDER REZONING APPROXIMATELY 26.3 ACRES, CONSISTING OF 142 PARCELS LOCATED EAST OF CITY PARK ON APPROXIMATELY TEN AND ONE-HALF BLOCKS, GENERALLY BOUNDED BY NORTH 11TH STREET ON THE WEST; NORTH JULIETTE AVENUE ON THE EAST; THE ALLEY NORTH OF POYNTZ AVENUE ON THE SOUTH; AND ON THE NORTH BY OSAGE STREET BETWEEN N. 11TH AND N. 9TH STREETS, AND THE ALLEY NORTH OF OSAGE STREET BETWEEN N. 9TH STREET AND N. JULIETTE AVENUE. THE AREA IS PROPOSED TO BE REZONED FROM R-M/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH THE TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT, TO R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH THE TRADITIONAL NEIGHBORHOOD OVERLAY(APPLICANT: MANHATTAN URBAN AREA PLANNING BOARD)**

Evans presented the staff report with a recommendation of approval.

He indicated that this down-zoning area east of City Park was identified through the recent Comprehensive Plan update process as a way to help stabilize, and encourage reinvestment in the existing single-family structures in this neighborhood. Despite the past R-3 and current R-M zoning, the area has remained primarily a neighborhood consisting of single-family structures.

Evans noted that the boundaries to the east, west, and south were more easily identifiable than the area to the north. However, a noticeable character change at Fremont Street between single family and multi-family residences determined the northern boundary for the rezone. The area was determined by a visual assessment of existing properties, along with analyzing various metrics including building type and number of dwelling units, building permit trends, population density, family and owner occupied households, and the number of school age children.

Evans noted that the decline in owner occupancy between 2000 and 2015 was less severe on the west side of City Park where the neighborhood had been down-zoned to R-1/TNO, as compared to the decline in owner occupancy over the same period in the east City Park Neighborhood. This was seen as an example of the stabilization effect that the down-zoning could provide.

The City held a neighborhood meeting to discuss the proposed down-zoning on July 23rd with 22 people in attendance. Concerns included the potential impact on property values, current on-street parking congestion, drainage, nonconforming uses, absentee landlords, poorly maintained properties, and loss of value in investment property.

An estimated 47% of the structures would be non-conforming with regard to the number of dwelling units if the rezoning was passed. However, legally non-conforming properties would be grandfathered and could remain indefinitely and could be rebuilt if damaged or destroyed.

Evans noted that the proposed rezoning implements one of the Action Items identified in the recently updated Comprehensive Plan, to stabilize this neighborhood. He mentioned that the City had received a number of letters of support that had been handed out to the Board, in addition to the letter in opposition that was included in the meeting packet.

Parikh asked if any specific reason or market dynamic had led to the decline of owner occupancy on the west side of City Park.

Evans said just speculating, it was most likely due to investing in homes to use as rental properties, which is typical in the Manhattan market.

Ball opened the public hearing.

Mel Borst, 1918 Humboldt, acknowledged the efforts of the City, the Planning Board and community members in the update of the Comprehensive Plan which identified and recommended this area to be down zoned. He voiced his support for the down-zoning to R-1/TNO, commenting that a similar down-zoning 12 years ago has positively affected the neighborhood west City Park, as seen in physical property improvements to owner and rental properties, reduced parking issues, stabilized economic investments and increased value of the existing housing stock. He said the East City Park neighborhood is a good asset for the city and new families moving to the area that will serve as a buffer between the higher densities to the north and east, and lower densities to the south and west. He urged the Board to approve the rezoning.

Janet Nichols, 219 N. Juliette Avenue, stated her house had been converted back from apartments to a single-family home and she was the second owner after its conversion. She said she does not want to get rid of rentals or college students in her neighborhood, as she and her husband enjoy the activity in the area. She said her home is living proof that it works to convert back and help stabilize the area. She lives next to a house that's practically abandoned and she supports the down-zoning to make the area more stable with single-family homes, similar to what was done west of City Park.

Marianne Korten, 814 Osage, said the area is desirable for families with young children due to amenities in walking distance including schools, the Library, City Park, pool, and ice rink. She renovated her house and likes her college student neighbors. There were more owner occupants in the area when she first moved in and would like more stability for the area and pride of ownership. She urged the Board to approve the rezoning.

David Zoeller, 209 Hunter Drive, owner of 831 Humboldt, has owned a tri-plex in the area since 2008 which he has put a lot of money into and said the area needs smaller rental properties to serve as affordable housing for working people. He said there is a need for the smaller family owned rental units. He said with the zoning change he won't be able to recoup his investment if he sells the property, and other owners won't carry on the smaller rental properties that are more affordable. He said the smaller rentals don't cause any more congestion than single-family units. He asked the Board to not approve

the rezoning, stating that he had already started a protest petition with twenty properties in the rezoning area already in opposition to the rezoning.

Ball clarified that the current state of existing properties will stay the same until the land owner or future land owner decides to change it. He said Zoeller's three-plex would stay a three-plex and could be sold as a three-plex.

Zoeller disagreed, saying the City doesn't mean what they say. He had a three-plex at 1529 Humboldt which the City didn't grandfather. He said the City is trying through attrition to force properties to go back to R-1. He said his protest petition is in opposition to the change from R-M to R-1.

Evans read Section 8-405 (E) from the Zoning Ordinance regarding nonconforming uses;

“When any residential dwelling, or dwellings, located in a residential district are legally nonconforming and are damaged or destroyed by any means, other than the willful act of the owner, such structure may be restored so that such use may continue if a building permit is issued and restoration is begun within one (1) year of the damage, is diligently pursued to completion, and no greater number of living units are provided than existed prior to the damage and no greater nonconformity exists than existed prior to the damage.”

He clarified that a legally nonconforming use runs with the land and would not change.

Bunger explained that a structure must be legally nonconforming prior to the zoning change and that it can be challenging to find the documentation needed to make the determination, particularly for older properties where the uses may have been established many years ago and the zoning had changed several times in the past. He said the City asks the owner to provide as much documentation as possible and also does additional research and inspects the site. He said the City issues an opinion regarding if a property was legal or not. It is not a legal determination. He said there are instances when documentation is just not available to show that a property was legally established for the number of units in question. He said it is just the City's opinion and properties can still be bought and sold.

Jeremy Meyer, 5555 Moody Road, said he used to own the house at 221 N. Juliette which was a nonconforming tri-plex when he bought it and went through a lot of issues with the City Code Department when he wanted to do work on the property. He was told he had to change it to a duplex because the lot was too small, so he sold the property. He said many of the homes in the area were built when there were large families. They are no longer suitable for today's smaller families, making them more difficult to sell. He said the ability to convert large homes to multifamily units is more valuable to an investor and that improvements are sometimes halted by local code requirements. He suggested the rezoning will devalue the large homes.

Dixie West, 1014 Houston, said she and her husband bought their house, a tri-plex, 33 years ago and converted it back into a single family home because they wanted a large

house, even though there were only two of them, to take advantage of the downtown location close to the library and KSU. She said it was a great walkable area for young and old. She said as she searches to downsize to a smaller home, she looks at the zoning designation and would feel more comfortable purchasing a home in the proposed R-1 area if it were down zoned.

Joe Knopp, representing two owners (the Seymours) in the area suggested the City should issue a certificate of nonconforming use to have on record to protect nonconforming properties in the future if there are disputes over legality. He said to document the multi-family properties so they can remain multi-family after the rezoning and the R-1 properties can stay R-1. He suggested the Board is taking property without compensation if they approve the rezoning. He suggested adopting a map that shows the multifamily properties are legal to document that they can remain, or to adopt an expedited process to establish a legal status. He said the free market has a way of solving problems and has established a lot of housing close to KSU here student housing is needed. That makes the properties in this neighborhood more desirable for older or working people who want to be in this area. The zoning needs to allow for three and four plexes and for improvements to be permitted, so that owners can do more than just maintenance. He said the residents that want an R-1 area bought into a mixed use zone.

Lindsay Nelson, co-owns properties at 722 Humboldt, a single-family, and 727 Leavenworth, a duplex. Most of her tenants live there to take advantage of the downtown location and like the neighborhood which is close to everything. Her tenants are looking for a rental which feels more like a home. She has rented to army vets, young couples, singles, families and college students. She said renters are looking for the same type of neighborhood as the homeowners.

John Pence, 2361 Grandview Terrace, asked if the Board had driven the area to see what was there. He has had issues with trying to document properties as legally nonconforming uses with the City. He said he owns 1005 Humboldt on a 50 by 150 foot lot and asked what he can build on it under the current R-M zoning.

Bunger explained that the lot is zoned R-M/TNO, so he could build a single-family home or a duplex that conformed to the TNO requirements for size and number of bedrooms. Or through a conditional use, he could apply to build a larger duplex.

Pence asked how there are three and four plexes in the area and if they have grandfather letters on them.

Bunger explained the past zoning history of the area and that some properties may have letters, while others don't. He explained that the City stopped issuing letters of opinion due to the difficulty and amount of time it can take in documenting many properties in the older areas over the 90 years of zoning history. He said the City still does the research in cases where someone is applying for a building permit, or if the City is investigating a complaint.

Pence said he researched the east-west streets in the area to see how many non-owner occupied houses there are and he questioned the appropriateness of the rezoning with the high number of nonconforming uses and non owner occupied properties. He said at most, rezone only from 8<sup>th</sup> Street to Juliette. He asked where the idea of the down-zoning came from.

Ball indicated that the down-zoning was identified through the extensive Comprehensive Plan update process that included numerous public meetings.

Pence said the Board should listen to property owners and not City staff. The area provides affordable housing for people who live and work in that area and that he will sign the protest petition.

Roger Seymour, 1181 Rock Springs Lane, said the area is close to the downtown, jobs City Park and Aggieville and is a good location for walking and biking. He said two things need to be addressed in the area, preservation of single family housing and the preservation of the interest of the investors. Seymour said he and his wife own a tri-plex in the rezoning area on a 7,500 sq ft lot, so if he built new today he could only have a duplex. He encouraged the Board to table the item to send it back to city staff to reevaluate the area and create a hybrid zoning designation that keeps the single-family and prevents a developer from buying several homes, tearing them down and putting up something else, while also preserving the existing multi-family and duplex structures. He said there are too many nonconformities being created and the city is already overbuilt, resulting in higher vacancy rates and for rent signs everywhere. Out-of-state developers are building more apartments and the down-zoning will only punish local investors. If the goal is to preserve single-family houses and the existing housing stock then a hybrid zoning is a compromise that would address everyone's concerns. He said it is presumptuous to think that people will by multi-family homes and convert them back to single-family.

Francis Nelson, owner of 722 Humboldt and 727 Leavenworth, said that he has no trouble renting the duplex on Leavenworth, but has trouble renting the large 4-bedroom single family home on Humboldt. He said he purchased in an area in which he could convert the large house into a duplex, but with the rezoning he is stuck with a large house on a large lot, located next to a 12-plex. He stated his disapproval of the rezoning because it limits his ability to develop the properties.

Alyn West, 321 N. 16<sup>th</sup> Street said she lives in a large house and questioned why when people are building very large houses outside of town, would there not be a market for large houses in town. When she and her husband were looking for a home in Manhattan after his retirement from the Army, the west City Park area was attractive for many reasons and the area being already down zoned was a selling point for them. It gave them assurance in the neighborhood's stability and knowing they would not have a multi-unit building next door. Their investments in the house would be worthwhile. The neighborhood is a mixture of old and young, military, students and professionals, and single-family homes, single-family rental homes, and a few converted homes with apartments. By and large it is the converted houses with absentee landlords that cause

most of the problems with poor building and property maintenance. She said the city needs all types of housing, but not necessarily all types in all areas. She said her experience is that down-zoning will help stabilize the neighborhood.

Jeanette Taylor, 313 & 315 N. Juliette, said she owns a duplex on a double lot for 25 years and her whole plan and intention was to convert it into a four-plex. If some in the area want to keep their single-family homes, that's fine, but don't limit the others that bought in the area as investments. She encouraged the city to evaluate each lot rather than apply a down zone to the whole area. She said the Board doesn't realize what its doing.

Chris Banner, 618 Osage, said his home is outside of the rezoning area. He said one purpose of zoning is to preserve value, but the question is what value. He said this is a clash between people who want newer investment properties and those who value and want to preserve their older homes. He lives in a 150 year old house and retaining the existing housing stock for owner occupied is his preference. He stated his support for the rezoning.

Sara Fisher, 811 Osage, an owner occupant in the area since 2000 said while she loves her walkable neighborhood, she wishes it was more stable. While she moved into an R-M zone, she didn't know that it would be so unstable. She said the issue is not between owner and renter occupied properties, but the uncertainty of what can happen in the neighborhood every time a for-sale sign goes up on the block. She said there are three properties for sale across from her house that could easily be assembled for a four-plex. She expressed dissatisfaction with the Traditional Neighborhood Overlay's inability to protect the neighborhood, because every conditional use application for a larger duplex except for one has been approved. The down-zoning will prevent additional duplexes and four-plexes. She said owner occupants who are investing a lot of money in homes are scared of what might happen. She recognized the down-zoning won't change the existing density, but will provide stability and predictability which is what everyone wants. Every rezoning impacts property values differently. While the R-1, might reduce the value of a lot for a four-plex, it will raise the value for a single-family house. She expressed support for the proposed down-zoning, indicating she had attended all the Comprehensive Plan meetings throughout the process.

Kathy Dzewaltowski, 100 S. Delaware, said she participated in the Comprehensive Plan process and commented that while this area was identified for lower density housing, there were several other areas identified for much higher density. It was part of the process of deciding where in Manhattan we want high density housing and where there should be lower densities. She said in that process the options were presented by the professional planners as reasonable options. She supports the proposed down-zoning as identified in the Comprehensive Plan.

Michael Mecseri, 1015 Leavenworth, purchased his home in 2003 and invested over \$100,000 in it. He purchased another house across the alley with four units in it and remarked that he would like to convert it to a single family home and would like to see more homes occupied by families. However, he is not comfortable doing the conversion now and would feel more comfortable with the investment if the down-zoning occurred.

He said there are large homes in Colbert Hills with only two people living in them and with NBAF coming, there will be people moving to the area who will be looking to buy older homes in the walkable downtown area. He said there a few children in the area for his daughter to play with and would like to see more families.

John Pence returned to the podium saying the 700 and 800 blocks of Osage has more single family, but not the rest of the area. He urged Board to reconsider and said he believed the area was too large to rezone one way.

Jan Borst, 1918 Humboldt, clarified that the Comprehensive Plan update was a city wide process, looking at the whole city and how it grows, not just one neighborhood. The neighborhood residents said they are fine with the existing legally nonconforming properties which run with the land. This area has the infrastructure in place which is less expensive and it's a mixed neighborhood which is what residents want. There needs to be a long term plan and more reinvestment in the area. There is a big opportunity here and there will be an influx of people coming in. She said the people who already have investment properties won't have any competition. She said the Comprehensive Plan recommendations were a community wide vision that needs to be respected and can be a win - win for everyone.

James Seymour, 730 Osage, said he owns two houses and lives in one, that were purchased as his retirement investments. He said he is an hourly state employee and commented on the high cost of living in Manhattan for hourly employees. He said the highest and best use of the properties is for rentals. He said several owners of rental houses on his block have reinvested in their properties. No one purchased for single-family owner occupancy, they are purchased for a duplex or as single-family rentals. He asked why the City can't do a hybrid zone, or issue certificates of grandfathering as part of the rezoning so that he can be guaranteed to rebuild his two tri-plexes. The R-1 will lower his property value. He said he has long term renters and older nonstudents who can afford his rentals. Some owners are just trying to afford paying the taxes and the mortgage. He likes living in the area. He said the city has good code inspection and he is ready to put investments in his properties. He does not agree with the rezoning as he bought in the area for an investment. He reiterated to do a hybrid zone, or issue certificates on the record for nonconforming properties.

Jeremy Meyer returned to the podium and said the Board is upgrading and rewarding some neighborhoods, and downgrading and punishing owners in this area. He asked the Board to table the item.

Mel Borst returned to the podium to ask City staff if rental property owners on the west side of City Park have had trouble maintaining or improving their properties since the down-zoning there.

Cattell said he was not aware of specific cases, but there could be individual cases with a nonconforming property trying to increase the degree of nonconformity which could raise a zoning or building code issue. He said the intent behind the down-zoning is to change the base zoning from R-M, to R-1, while the existing TNO, Traditional Neighborhood

Overlay would remain in place. Any existing legally nonconforming properties could remain indefinitely for as long as the property owner wants to continue that use. While the City used to issue letters of non-conforming use, over the years the process became more complex and cumbersome involving photographing and determining the interior layout. Some properties could be determined in a few hours while others could take months of research and the City doesn't have the staff time to continue that practice. In 2003, as part of the rezonings following the last Comprehensive Plan update, similar issues came up about owners wanting confidence in being able to continue to maintain, rent or sell their nonconforming properties. To address those issues, the City modified the nonconforming use section of the Zoning Ordinance to remove the typical 50% rule where a property that is damaged or destroyed 50% or more loses its grandfathering. The modification now allows any legally nonconforming residential property that is damaged or destroyed even 100%, to be rebuilt to the same number of units, bedrooms and intensity that were legally nonconforming. He said this change applies city wide and essentially already addresses the suggestion of creating a hybrid zone. The idea behind the rezoning is to stabilize the neighborhood so that owners have more confidence in investing in, or converting homes back to single-family, combined with the nonconforming use modification that already allows existing legally nonconforming properties to remain and continue to be used, sold, and rebuilt if destroyed. He said anecdotally some houses west of City Park sell by word of mouth for more than the asking price, however that might not be the case east of City Park.

Bunger added that he was only aware of one or two properties west of City Park that ran into issues that made them non-grandfatherable.

Mel Borst said it sounds like there isn't an issue with transferring nonconforming properties. With the growth of the city and more people wanting to live in the downtown area, single-family and rental properties will be in higher demand and have a competitive advantage because they already exist and can remain in the area.

James Seymour asked if he or another property owner would be able to tear down an existing nonconforming triplex and replace it with a new one.

Bunger said that was not allowed as the nonconforming use provision says; "damaged or destroyed not by the willful act of the owner".

David Zoeller asked if the zoning changes to R-1, would he be allowed to sell his triplex.

Cattell said that if the structure was currently legally nonconforming it could be sold as such and it runs with the land.

Bunger clarified that zoning doesn't prevent anyone in the market from buying and selling property.

Zoeller asked how to document that he has a tri-plex and asked about a property he has at 1529 Humboldt that was a tri-plex that the City wouldn't grandfather. He said the city needs to issue a letter that allows it to be transferable.

Bunger said that with regard to a couple specific properties that have been mentioned by some speakers, there have been zoning issues with them and the City could not determine that the structures were legally nonconforming based on the information that was available or provided to the City. However, those properties are still being used and the City has not told them to convert them to a conforming structure.

Donna Schenk-Hamlin, 1922 Leavenworth, said she lived on the 900 block of Fremont for a number of years. Everyone is an investor in the community and most want a mixed neighborhood. She said there are many barriers to individuals looking to buy a home in Manhattan because of the very strong competitive rental market. The nonconforming use provision and the proposed rezoning offer great flexibility and generous terms to investors and owners of rental properties to maintain the property and continue the use which stays with the property. She said the area identified to be rezoned is an excellent location for trying to encourage homeownership. There is no evidence that a single-family home will be a threat or take away the value of adjacent rental properties.

Alicia Zoeller, owner of 831 Humboldt, commented on the shortage of affordable housing to rent or buy in Manhattan. She said a developer told her there were not enough contractors to build the necessary houses. She said this appears to indicate a surplus of high end housing. There are still vacant lots in her middle income neighborhood. She didn't understand why any rezoning needs to be done. She commented that there is a shortage of affordable houses and too many non-affordable houses.

Francis Nelson commented on the misconception that single-family owners will take better care of and improve their homes more than rental owners. He has seen more reinvestment into a couple rental homes on the 700 block of Humboldt than by the owner occupants.

Ball closed the public hearing and asked for Board discussion.

Ball clarified that the 18 month long Comprehensive Plan update process, which identified this rezoning area, was a city wide effort with broad representation from throughout the community with multiple public meetings and hearings to provide opportunities for participation and input. The process looked community wide at long term needs and identified areas to up-zone for higher density close to the university where there is infrastructure capacity, as well as areas to down-zone and stabilize the neighborhood. This rezoning is not intended to undercut investment or take peoples' property, but to stabilize the area for single family homes and protect the future of the neighborhood. He said this concept for down-zoning this neighborhood was agreed to almost unanimously by the Comprehensive Plan steering committee and approved as part of the Plan. He said the down-zoning idea was not generated by city staff and in fact staff indicated this will create a lot of nonconformities and will be challenging to manage. The idea came from the 21 member citizen steering committee which met multiple times throughout the process. He was personally uncomfortable with the number of nonconformities, but he supports the intent of what the down-zoning is trying to accomplish. He commented that some type of mechanism for creating a record of

nonconforming use could be beneficial in the long run and should be considered. He said the trends in Manhattan and around the country is to increase single-family homes in the city center, and not continue to develop sprawl. The key is to balance the citizens who have made investments, as well as change the momentum in this neighborhood.

Parikh said with regard to the suggestion of issuing a certificate of nonconforming use, generally grandfathering is an issue of law. While you might issue a special exception permit or something along that line, if the property is not legally nonconforming, it is still an issue of law.

Ball said he wasn't suggesting issuing an exception, but a certificate that validates the use as it sits legally before the zoning change.

Parikh said that would be saying it was legally nonconforming which we can't really do.

Bunger said that the City has not issued legal certificates for nonconforming structures, but only an opinion by the City. The City advises owners to contact their own attorney if they want a legal determination regarding their property

Parikh said even if the City did go the route of issuing certificates, he would advise property owners to consult with an attorney to protect themselves because grandfathering is an issue of law and it could still be taken before a court.

Stith made a motion that the Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of 142 parcels located east of City Park on approximately ten and one-half blocks generally bounded by North 11th Street on the west; North Juliette Avenue on the east; the alley north of Poyntz Avenue on the south; and on the north by Osage Street between N. 11th and N. 9th Streets, and the alley north of Osage Street between N. 9th Street and N. Juliette Avenue, from R-M/TNO Four-Family Residential District with the Traditional Neighborhood Overlay District to R-1/TNO, Single-Family Residential District with the Traditional Neighborhood Overlay, based on the findings in the Staff Report and its consistency with the Comprehensive Plan.

Reynard seconded the motion.

Ball said he thinks if City staff and the City Attorney put their heads together we could provide the owners with investment properties additional assurances to help smooth this approval.

Stith said that is not a bad idea if it can be practically done and if it has some legal validity to it. But he didn't think the Board could decide that. It has to come as policy matter from the City Commission.

Ball said he believes there could be a process put in place to help alleviate the fears of the investors. Having the law on your side is good, but having a certificate for the record in the long term future will help.

Parikh said he thought there are adequate safeguards for investment owners and all owners. Beyond that, the legal process could be on their side or not. If we can offer additional comfort to investment owners, then he can see value in that.

Stith said the reason we are doing this is because there weren't adequate safeguards for those that want a single-family house and to be assured that their investment is protected. We have come up with a solution that does give some protection to the investment owners and also reassures single-family owners through stabilization.

Cattell asked the Chairman to clarify that the motion did not include a condition of approval, based on the suggestion of identifying a mechanism to provide additional assurance.

Ball confirmed that the rezoning motion was not conditioned on that suggestion.

Ball called for the vote on the motion, which passed on a vote of 5-0.

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

Bunger reported on the Wildcat Creek Resiliency grant project saying the public portion of the draft is still open and nearing the final draft. The results will not be known until early next year.

Stith asked about the possible incorporation of representation from Pottawatomie County on the Planning Board. Cattell said it was still being discussed.

Ball adjourned the meeting.

Respectfully submitted,  
Amelia Lewis, Planning Intern