

MINUTES
MANHATTAN URBAN AREA PLANNING BOARD
City Commission Room, City Hall
1101 Poyntz Avenue
December 18, 2006
7:00 p.m.

MEMBERS PRESENT: Harry Watts, Chairperson; George Ham; Stephanie Rolley; Mike Kratochvil; Mike Toy; Jerry Reynard.

MEMBERS ABSENT: Mike Hill.

YOUTH IN GOVERNMENT: Rick Nelson.

STAFF PRESENT: Eric Cattell, Assistant Director for Planning; Steve Zilkie, Senior Planner; Cam Moeller, Planner; Jeremy Frazzell, Planner

OPEN PUBLIC COMMENTS

No one spoke.

CONSENT AGENDA

1. **APPROVE THE MINUTES OF THE DECEMBER 4, 2006, MANHATTAN URBAN AREA PLANNING BOARD MEETING.**
2. **APPROVE THE FINAL PLAT OF STONE POINTE ADDITION, UNIT TWO, GENERALLY LOCATED ALONG THE EAST SIDE OF SCENIC DRIVE, NORTHEAST OF THE INTERSECTION OF SCENIC DRIVE AND POWERCAT PLACE, AND SOUTHEAST OF THE INTERSECTION OF SCENIC DRIVE AND HIGHLAND RIDGE DRIVE. (APPLICANT/OWNER: STONE CREST LAND COMPANY, LLC-ROGER SCHULTZ).**
3. **APPROVE THE FINAL DEVELOPMENT PLAN OF PHASE ONE OF THE ST. ISIDORE'S CATHOLIC STUDENT CENTER PLANNED UNIT DEVELOPMENT GENERALLY LOCATED ON THE NORTHWEST CORNER OF ANDERSON AVENUE AND DENISON AVENUE AT 711 DENISON AVENUE. (APPLICANT/OWNER: ROMAN CATHOLIC DIOCESE OF SALINA KANSAS).**

Ham moved that the Board approve the Consent Agenda. Reynard seconded the motion, which passed on a vote of 6-0.

GENERAL AGENDA

1. **TABLE A PUBLIC HEARING TO AMEND THE CLAFLIN RESIDENTIAL PLANNED UNIT DEVELOPMENT DISTRICT, COMMONLY KNOWN AS GEORGETOWN APARTMENT HOMES, TO NOT REQUIRE WOOD SCREENING FENCES ASSOCIATED WITH OFF-STREET PARKING LOTS**

ALONG THE EAST SIDE OF WESTPORT DRIVE BETWEEN HEYWOOD DRIVE AND CLAFLIN ROAD. (APPLICANT/OWNER: CURTIN PROPERTY COMPANY-DAN FLETCHER).

Reynard moved that the Board table the Public Hearing to the Thursday, January 18, 2007, Manhattan Urban Area Planning Board meeting. Toy seconded the motion, which passed on a vote of 6-0.

2. **A PUBLIC HEARING TO AMEND THE K-MART COMMERCIAL PLANNED UNIT DEVELOPMENT, WHICH CONSIST OF MODIFYING THE CURRENT PERMITTED USES OF THE K-MART COMMERCIAL PLANNED UNIT DEVELOPMENT TO ALLOW ALL OF THE PERMITTED USES OF THE C-2, NEIGHBORHOOD SHOPPING DISTRICT, TO INCLUDE: FABRIC STORES, FINANCIAL SERVICES, AND OFFICE SUPPLIES; TO ALLOW TEMPORARY AND SEASONAL OUTDOOR DISPLAY AND STORAGE OF MERCHANDISE AND GOODS; A REDUCTION OF OFF-STREET PARKING; AND, A MODIFICATION OF THE VACANT GROCERY STORE BUILDING'S FLOOR PLAN AND BUILDING FACADE. (APPLICANT/OWNER: EAST MANHATTAN DEVELOPER, L.C.-STEVE STRUEBING).**

Toy stepped down due to a conflict of interest.

Zilkie presented the Staff Report, recommending approval.

Watts asked whether temporary seasonal displays are typical in Manhattan. Zilkie said it is not uncommon for such displays to be located in this area of the community, mentioning Dillon's, and both the former and current Wal-Mart sites as nearby examples.

Watts asked whether temporary seasonal displays create safety issues. Zilkie said it is not a safety concern. Zilkie noted that City Staff had requested that these displays be included as part of the PUD amendment because K-Mart has used these types of displays for a number of years.

Watts asked how City Staff determined the amount of off-street parking that is required. Zilkie said this PUD is treated as a shopping center and explained the off-street parking requirements.

Ham asked whether there were any façade changes proposed for the building in front of K-Mart formerly used as an auto center. Zilkie said no changes are proposed for that building.

Rolley asked about travel easements. Zilkie indicated the applicant had included a draft in the application materials and said the property owners should address that issue.

Watts asked for comments from the applicant.

Steve Struebing, Managing Member of East Manhattan Developers, LLC, said there have been considerable changes since the application was last before the Board in October. Struebing said they have signed a lease with Waters True Value Hardware for a 20,000+ square foot space. Struebing noted that the original PUD only allowed one type of use, a grocery store, for that space. He was requesting that the permitted uses be expanded to include the uses permitted in the C-2, Neighborhood Shopping District, which is the same as the adjacent center to the east. Struebing said Brent Bowman there to describe the proposed façade changes. He said he was not making changes to the K-Mart and auto center buildings because they are under K-Mart's lease. Struebing said he has offered to give the adjacent property owner a travel easement. Struebing said he is willing to give a unilateral travel easement, but would rather grant the easement through a mutual agreement.

Brent Bowman showed the Board elevation drawings of the proposed façade and explained the proposed improvements. He said they were adding brick columns and a loggia and signage band, to emulate the adjacent center to the east. They will be cutting new windows for the lease spaces in the western portion of the building and providing new aluminum store fronts. Bowman described the gable on the façade and the EIFS background. Bowman said the color palette would be sympathetic to adjacent buildings. Bowman explained that five parking spaces would be removed in order to expand parking lot islands and put in additional landscaping. Regarding irrigation he said they would investigate if the underground system is functional, but proposed making other provisions for irrigation if needed.

Ham asked if the K-Mart façade would be upgraded. Bowman said they proposed no change to that façade.

Watts opened the Public Hearing.

Chris Curtin (Overland Park, KS), managing partner of Town East Center, said he recognized that the changes made to the proposal are a substantial improvement. He said that Waters True Value Hardware will be a good match. Curtin expressed concern about the loss of a grocery store in the center and about the reduction of parking, but that the parking was an improvement over the previous proposal. Curtin said the amendment is an opportunity to make things right with the cross-travel and parking easements. He wanted to insure that travel lanes stay open in front and in back of the center. Curtin said he would support the amendment if an agreement can be reached regarding the easements. He indicated that he brought with him a revised cross travel and parking agreement that could be signed by the applicant before a vote. He said it would be a mistake to approve the amendment without signed travel and parking agreements. He suggested the item could be tabled if the applicant did not want to sign the easements tonight.

Watts said he felt there was value in resolving the issue with easements.

Struebing said he did not appreciate being pressured into signing an agreement that he

was first handed at 4:30 PM that afternoon. Struebing said it is not appropriate for the Planning Board to be conditioning approval on the intricate details related to parking and cross-travel easements, which is a private matter between the two property owners. He was concerned about Mr. Curtin's vacant out-lot which has limited parking. Struebing said he is willing to unilaterally dedicate, by plat, a cross-travel easement in favor of Mr. Curtin's property.

Curtin indicated that the out-lot would be a restaurant or a bank and indicate he had more parking per square foot than the K-Mart Center.

Bowman showed the Board a diagram of the cross-parking arrangement proposed by Curtin, which appeared to show that Curtin was suggesting that Mr. Struebing's development provide substantially more parking for shared use than Mr. Curtin's development. He said speaking as a layman and not as an architect, this doesn't seem to be like the realm of zoning.

Watts closed the Public Hearing.

Rolley moved that the Board recommend approval of the proposed Amendment of the K-Mart Planned Unit Development, and Ordinance No. 4635, based on the findings in the Staff Report, with the eleven conditions recommended by City Administration and with an additional condition, as follows:

1. Permitted Uses shall include: all of the Permitted Uses of the C-2, Neighborhood Shopping District to include: Fabric stores, Financial services, and Office supplies; and exclude from the proposed list of C-2 District Permitted Uses: Air conditioning, heating and plumbing sales, Churches, chapels, temples and synagogues, and Convenience stores.
2. Building façade and signs shall be provided, as proposed.
3. Exempt signage shall be permitted as described in Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(2), of the Manhattan Zoning Regulations. Temporary sales aids and portable signs, as described in Article VI, Signs, of the Manhattan Zoning Regulations, shall be prohibited.
4. Seasonal outdoor display, storage and sales shall be limited to the parking lot in front of K-Mart, to the west of the K-Mart Garden Center, and along the front of the buildings, as shown on the application documents.
5. Seasonal sales shall be limited to a period from March 1st to Labor Day weekend of each year.
6. Seasonal sales shall include merchandise and goods such as, but not limited to, live landscape stock and related materials consisting of lawn chairs/furniture, overstock palletized goods and palletized rock/dirt and similar merchandise and goods.
7. Sidewalk sales shall be limited to a one (1) week period during the weeks of Memorial Day, July 4th, and Labor Day.
8. Landscaping shall be maintained in good condition by the property owner.
9. The underground irrigation system shall be used to irrigate landscaping.
10. Landscaping shall be provided consistent with approved landscaping plans.
11. A Landscaping Performance Agreement between the City and the property owner

shall be entered into, prior to issuance of a building permit.

12. A Travel Easement shall be noted on the Site Plan which prohibits barriers between this and the adjacent property and allows free ingress and egress on the driving lanes by the public.

The motion failed due to the lack of a second.

Reynard asked if the Board could place a timeframe on it to say that by the time the item gets to the City Commission, the travel easement agreement must be signed.

Zilkie said he didn't know if the Board could do that and reminded the Board that the City Commission would hear the item on January 9th which was several weeks away. Second reading would occur on January 23rd. He said that Board could not make a condition that the applicant cannot go to the City Commission, until something gets worked out. The applicant can proceed to the City Commission in a manner that they feel is appropriate. City Administration recommends it should move forward.

Rolley explained why she had made the motion, indicating she would like to see both property owners come to an agreement on the parking and the travel easements, but it does not appear that it is something that is going to happen quickly, easily, or maybe at all. The Board is looking at two issues. Parking spaces are an asset that increases a property's value and for the Board to try to regulate how they share parking spaces gets into an area that she is not comfortable trying to cover in the PUD amendment process. Rolley said that travel lanes address the public health, safety, and welfare and she is very comfortable addressing that issue, because it is important for the public to be able to move freely between the two shopping centers, so that the health safety and welfare of the community is taken care of. Rolley said she hopes the two property owners can come to an agreement at some point in the future, but that may not happen. For the Board to hold up the development of what has been proposed seems unfair and presents a hardship to the applicant.

Rolley restated her original motion. Watts seconded the motion.

Kratochvil asked City Staff for other examples of adjacent shopping centers with two different owners. Zilkie cited the Village Plaza and Plaza West shopping area as an example. Zilkie said he is not aware of any cross-easement issues at that location.

Kratochvil said what bothers him about this application is there is one owner who has concerns about coming to an agreement with the other owner on cross-parking easements, but that owner is wanting to be able to reduce the parking for the seasonal display. He didn't want to stop the development, but was concerned that even though the area has two owners, it looks like one shopping center. Kratochvil said he cannot support the motion as stated. He said he wanted a cross-travel and parking agreement between the two property owners, before a building permit is issued.

The motion failed on a vote of 2-3 (Ham, Kratochvil, and Reynard voting against).

Kratochvil moved that the Board recommend approval of the proposed Amendment

of the K-Mart Planned Unit Development, and Ordinance No. 4635, based on the findings in the Staff Report, with eleven (11) conditions in the staff report and adding a Condition No. 12, as follows:

1. Permitted Uses shall include: all of the Permitted Uses of the C-2, Neighborhood Shopping District to include: Fabric stores, Financial services, and Office supplies; and exclude from the proposed list of C-2 District Permitted Uses: Air conditioning, heating and plumbing sales, Churches, chapels, temples and synagogues, and Convenience stores.
2. Building façade and signs shall be provided, as proposed.
3. Exempt signage shall be permitted as described in Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(2), of the Manhattan Zoning Regulations. Temporary sales aids and portable signs, as described in Article VI, Signs, of the Manhattan Zoning Regulations, shall be prohibited.
4. Seasonal outdoor display, storage and sales shall be limited to the parking lot in front of K-Mart, to the west of the K-Mart Garden Center, and along the front of the buildings, as shown on the application documents.
5. Seasonal sales shall be limited to a period from March 1st to Labor Day weekend of each year.
6. Seasonal sales shall include merchandise and goods such as, but not limited to, live landscape stock and related materials consisting of lawn chairs/furniture, overstock palletized goods and palletized rock/dirt and similar merchandise and goods.
7. Sidewalk sales shall be limited to a one (1) week period during the weeks of Memorial Day, July 4th, and Labor Day.
8. Landscaping shall be maintained in good condition by the property owner.
9. The underground irrigation system shall be used to irrigate landscaping.
10. Landscaping shall be provided consistent with approved landscaping plans.
11. A Landscaping Performance Agreement between the City and the property owner shall be entered into, prior to issuance of a building permit.
12. A cross-travel and parking easement agreement between the owner and the Town East Center owner shall be agreed on, before any building permits are issued.

Reynard seconded the motion, which passed on a vote of 4-1 (Rolley voting against).

3. REPORTS AND COMMENTS BY BOARD MEMBERS.

Cattell briefed the Board on the upcoming meeting schedule.

There being no other business, the meeting was adjourned.

Respectfully submitted,

Cam Moeller, Planner II