

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, December 14, 2016
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; Connie Hamilton, Vice Chairperson; Brandi Nelson; Angie Danner; and LaBarbara Wigfall

MEMBERS ABSENT: None

STAFF PRESENT: Chad Bunger, CFM, AICP, Senior Planner; Doug May, Planner; John Adam, AICP, Senior Planner

CONSIDER THE MINUTES OF THE NOVEMBER 9, 2016, BOARD OF ZONING APPEALS MEETING.

Hamilton moved to approve the November 9, 2016 minutes which was seconded by Wigfall and passed with a vote of 5-0.

TABLE THE PUBLIC HEARING TO CONSIDER AN EXCEPTION, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED PARKING SPACES FROM FIFTY (50) TO SIXTEEN (16) FOR AN EXISTING OFF-STREET PARKING LOT ASSOCIATED WITH THE EXISTING MOUNT ZION CHURCH OF GOD IN CHRIST, LOCATED IN AN R-2, TWO FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY (TNO), LOCATED AT 916 YUMA STREET. (APPLICANT: ONDRE MILES/OWNER: MOUNT ZION CHURCH OF GOD).

Wigfall moved to table the public hearing to consider an Exception, which was seconded by Hamilton and passed with a vote of 5-0.

CONSIDER A REQUEST FOR A 180 DAY EXTENSION OF AN APPROVED EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM SIDE YARD SETBACK FOR ACCESSORY USES FROM THREE (3) FEET TO ZERO (0) FEET AND FOR THE REDUCTION OF THE MINIMUM REAR YARD SETBACK FOR ACCESSORY USES FROM TEN (10) FEET TO ZERO (0) FEET FOR THE RELOCATION OF AN EXISTING STORAGE SHED FROM THE NORTHWEST CORNER TO THE NORTHEAST CORNER OF AN INTERIOR LOT LOCATED IN AN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY (TNO). (APPLICANT/ OWNER: GRANT CUPRAK).

Hamilton moved to approve the 180 Extension, which was seconded by Nelson and passed with a vote of 5-0.

REMOVE FROM THE TABLE AND CONDUCT A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR A PROPOSED BED AND BREAKFAST HOME AT AN EXISTING HOUSE IN AN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY (TNO), LOCATED AT 331 NORTH 14TH STREET. (APPLICANT/OWNER: BARB HOLSTE).

May presented the staff report with nine (9) conditions of approval.

REMOVE FROM THE TABLE AND CONDUCT A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED PARKING SPACES FROM FIVE (5) SPACES TO FOUR (4) SPACES FOR A PROPOSED BED AND BREAKFAST HOME LOCATED WITHIN AN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT, WITH A TRADITIONAL NEIGHBORHOOD OVERLAY (TNO), LOCATED AT 331 NORTH 14TH STREET. (APPLICANT/OWNER: BARB HOLSTE).

May presented the staff report with five (5) conditions of approval.

A PUBLIC HEARING TO CONSIDER AN A VARIANCE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED LOT WIDTH FOR CONDITIONAL USES FROM SEVENTY-FIVE (75) FEET TO SEVENTY (70) FEET FOR A PROPOSED BED AND BREAKFAST HOME LOCATED WITHIN AN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT, WITH A TRADITIONAL NEIGHBORHOOD OVERLAY (TNO), LOCATED AT 331 NORTH 14TH STREET. (APPLICANT/OWNER: BARB HOLSTE).

May presented the staff report with three (3) conditions of approval.

Nelson asked if the Bed and Breakfast that was approved in 1996 had parking issues.

May responded that he wasn't aware of any.

Hamilton asked how many guest rooms that Bed and Breakfast had.

May responded that he wasn't sure.

Hamilton said she thought it was three (3) guest rooms.

Nelson asked if the proposed parking area provided enough room for cars to turn around and exit.

May responded that the dimensions of the proposed parking area is based on the City of Manhattan parking requirements.

Hamilton said that the site plan shows five (5) parking spaces.

May responded that that was the original proposal, and it has since been reduced to four (4) spaces.

Wigfall said the turning radius on the parking site plan seems a little tight.

Nelson said the driveway looks narrow, and asked if it was within the requirements.

May responded that it is.

Nelson asked if the driveway is wide enough to handle the traffic.

May responded that there would only be one car entering or exiting at a time.

Nelson asked if it could withstand the additional wear.

May responded that there wouldn't be enough additional traffic to cause significantly more wear.

Hamilton asked for clarification about the definition of a Bed and Breakfast.

May responded that there are two types of Bed and Breakfasts in the Manhattan zoning regulations: Bed and Breakfast Home and Bed and Breakfast Inn. A Bed and Breakfast Home allows up to three (3) guest rooms with no event space or commercial restaurant. A Bed and Breakfast Inn allow up to nine (9) guest rooms.

Hamilton asked what constitutes a guest room versus a bedroom.

May responded that there is not a clear definition of a guest room in the zoning regulations, which is the reason for the Exception request.

Bunger stated that a Bed and Breakfast Home requires the owner to live in the home, compared to a Bed and Breakfast Inn, which does not require the owner to reside there. He said that a guest room is defined as a room for transient overnight guests in the zoning regulations.

Hamilton asked that since the applicants have agreed to reduce the guest rooms from three (3) to two (2), then how will the City know if the other available bedroom is not being used as a guest room.

Bunger responded that there are certain methods for keeping track of this such as Fire Department inspections and guest taxes, but City staff would not be regularly inspecting to make sure only two guest rooms are being used.

Danner commented that unlike Air BnB, the applicants are attempting to follow the City regulations regarding Bed and Breakfasts.

Wigfall asked if the subject lot is larger than most lots on that street.

May responded that the lot is larger than most lots in the ward districts and grid streets portion of town.

Hamilton asked how much larger this lot is compared to the traditional ward lots.

May responded that an average ward lot is approximately 7,500 square feet and the subject lot is approximately 12,200 square feet.

Hamilton stated that she is willing to take it on faith that the applicants only intend to use two (2) bedrooms as guest rooms. She said she is confused about the need for the Exception for a parking reduction, because that introduces the possibility that the applicants could then use three (3) bedrooms as guest rooms.

May responded that that was an internal discussion to have some level of review and approval of the proposal to not use all available bedrooms as guest rooms.

Nelson asked if the Exception dictates the arrangement of the parking spaces.

May responded that the parking must be constructed according to the site plan.

Hardy opened the public hearing.

Barb Holste, applicant, clarified the reason for the 90° parking is to more easily and safely turn around and pull out going forward onto 14th Street.

Hamilton asked if she intends to live in the house.

Holste responded that she does intend to live in the house.

Hamilton asked if the applicant reduced the number of guestrooms from three to two.

Holste said that is correct. She stated that one bedroom will be reserved for her grandchildren, and one bedroom will be the master bedroom.

Hamilton asked if she intends to install a six (6) foot tall fence on the north side of the parking area.

Holste said that is correct.

Amy Pruss, 311 North 14th Street, stated that she and her husband oppose the proposal. She stated that she has lived at her current address since 2006, and wanted to move there because of the desirable attributes such as the park and pool. She stated that the neighbors are committed to returning the street to a family friendly neighborhood, which has resulted in the increase in property values. She stated that she questions the sentiment the applicants have toward the neighborhood. She stated the applicants request to alter the zoning regulations undermines the efforts of the neighborhood to return it to single family. She stated that allowing the proposal will encourage other similar proposals. She stated that this portion of Manhattan should be protected from the encroachment of business. She said the business proposal threatens the family friendliness of the neighborhood.

May clarified that the proposal is not an alteration of the zoning regulations, but instead it is a Conditional Use which is already listed in the zoning regulations for the R-1 District.

Mike Horigan, 325 North 14th Street, stated that he opposes the proposal. He stated that when he purchased his home 13 years ago, the Park West neighborhood had recently been down-zoned to R-1. He stated that allowing this proposal would allow other businesses into the neighborhood. He said that allowing a business next door would significantly damage the value of his home and his neighbors' homes.

Bunger clarified that the zoning regulations contain a list of permitted uses for each district, and additionally there are conditional uses that can be approved by the Board based on a series of criteria. He stated the neighborhood will remain single family and the house will remain as proposed. He stated that approving this proposal would not allow other businesses that are not already listed conditional or permitted uses to move into the neighborhood.

Hardy commented that bed and breakfasts are allowed in the R-1 district as a Conditional Use, and that the purpose of the hearing is to gather public comment which helps guide the decision.

Pruss commented that the only through-street through this block is an alley adjacent to her home, which has fast-moving traffic. She stated that she is afraid of additional traffic from the proposal, and she is afraid of letting her children play outside in the area. She added that there is no accountability regarding the running of the bed and breakfast and how many guests she has.

Tony Chelz, 337 North 14th Street, stated that he lived directly to the north of the subject property. He gave some history of the neighborhood and the effort that went into converting his home from a student-dominated apartment building into a maintained single family home. He stated that the down-zoning to R-1 has resulted in many renovations of homes into single family residences and property values and the tax base increased. He said that one street over is still student-dominated and the back yards are full of parked cars. He said he was initially pleased with the applicants' renovations to their home, but was then made aware of their proposal to open a bed and breakfast. He stated that allowing the proposal would mean that the

zoning regulations are meaningless or flexible to allow a business in a residential neighborhood. He stated that he now feels threatened and defensive about the proposal and what is to come. He stated that allowing the proposal would encourage others to do the same. He stated that the proposal dilutes the zoning regulations.

Nelson asked if he is concerned that the proposal would allow students to move back into the neighborhood.

Chelz responded that he is not concerned about that but he is concerned about the increase in traffic of people he does not know, and the fact that his home looks down into the proposed parking area.

Susanne Siepl-Coates, 315 North 15th Street, stated that while the front of the house will continue to look like a single family home, the back won't, since a third of it will be used for parking. She said she avoids walking down 15th Street, since so many are student-occupied and the front yards are often cluttered with cars. She stated that the parking spaces in the site plan were very narrow and that a typical parking space is ten feet wide. She also commented on the proposal to allow a place for families of hospice patients and that the proposal is intended to be closed on holidays. She questioned whether people do not die on holidays. She stated that people die and have emergencies at night, which results in traffic at odd hours. She stated her appreciation of the investment in the homes on 14th Street, and she asked the Board to preserve the single family character of that street.

Derek Richards, 321 North 14th Street, commended the applicant for the renovations that were made to the subject property. He also commented that he respects the applicant for going through the BZA process, considering the option of AirBnB without any review or approval. He stated that he supports the applicant's cause and proposal.

David Meusborn, 3025 Sunnyside Drive, stated the he helped the applicants purchase the subject home and that her proposal would be a good addition to a nice neighborhood and would allow others to enjoy it as well.

Carol Chelz, 337 North 14th Street, stated that she has lived at her home for over 30 years. She presented a series of photos that show the back yard of the subject property and adjacent student oriented properties with parking in the back yards. She explained how the houses came to become student occupied and that the back yards can contain six to nine cars at any time, which she stated is very unsightly. She commented on the history of the block and asked the Board to consider the proposal seriously because it sets a precedent. She stated that she will never know who is coming and going from the house next door.

Holste stated that she demoed the garage that existed on the site because it was condemned. She stated that she intends to park in the back yard regardless of the proposal. She stated that the hospice aspect of the proposal would not result in constant traffic from the site.

Danner asked what she intends to do if the proposal is not approved.

Holste said she does not know.

Carol Chelz commented that she has never had the need to park in the back yard. She stated that parking on 14th Street had been eliminated between Monday and Friday 8am to 5pm, which made a huge difference in terms of safety.

Nelson asked if everyone parks on the street.

Pruss said she parks on the street and on her driveway and has never had any problems, and that she does not think 14th Street is dangerous. She said the elimination of parking on the street increased safety.

Horigan asked if the applicant currently lives in the house.

Holste said she does not.

Tony Chelz commented that the neighborhood does not need to provide an amenity for family members of hospice patients.

Hamilton asked what problems the Bed and Breakfast that used to operate on 14th Street created.

Chelz responded said he couldn't think of any, but he did not live next door to it. He stated that the lot was a corner lot, which is a different circumstance. He also stated that it existed before the neighborhood was down-zoned, which means it was part of an existing problem.

Pruss stated that she fears the negative effect the proposal will have on the neighborhood.

Singletar Chierysa, 201 Highland Ridge Drive, stated that guest rooms have separate bathrooms. She stated that she does not have a problem with cars parking on the street or in the back yard considering cars are already parked in the back yard on 15th Street. She stated that the hospice aspect of the proposal is a good idea.

Hardy closed the public hearing.

Nelson asked if the proposal meets the standard for Conditional Uses regarding its compliance with requirements of lot size.

Hardy responded that they Board takes separate votes on each request.

Hamilton stated that there are conditions of approval in the staff report that all the requests must be approved concurrently.

Hamilton stated that she is concerned about the Exception application, since it could encourage the applicant to increase the size of her operation without Board approval.

May responded that the Exception request can be removed.

Hamilton responded that the Exception request is not needed and the condition of approval for the Conditional Use that says the Exception must also be approved should be removed.

Hamilton stated if the neighborhood has any indication that the bed and breakfast is operating with more than two guest rooms then they should report to the City.

Hamilton stated that she is appreciative of all the effort that has gone into this neighborhood. She stated that the community has already agreed that bed and breakfasts are allowed as a conditional use in the R-1 District. She stated that their decision cannot be based on neighbors' preference to not have a bed and breakfast in the neighborhood. She stated that of all the bed and breakfasts that have been approved she has not heard of any problems arising from them. She stated that the neighbors can keep track of the bed and breakfast and that parking is allowed in the back yard by the zoning regulations. She stated that based on the standards of approval for a Conditional Use, there is nothing that would prevent the Board from approving the proposal. She stated that she does not see how the proposal would cause substantial injury. She said she is sensitive to the concerns about strangers staying in the neighborhood and potential danger to children regarding traffic.

Hardy stated he was concerned about the need for the Exception. He stated that he does not see a substantial injury from this proposal. He stated bed and breakfasts are often inconspicuous and have the appearance of a home, and that the applicants have strived to fit in with the neighborhood.

Wigfall stated she understands the concerns of the neighborhood, but she is having a hard time translating that into the standards of approval.

Danner stated that it is troubling to see a nice property used for something the neighborhood doesn't like. She stated that there was some misunderstanding regarding how it will be run and the parking. She also stated that everyone in an R-1 district runs the risk of having a bed and breakfast move in. She stated that this proposal seems to fit all the criteria. She stated that this proposal is a better use than a rental for college students.

Nelson said she does not have a problem with it and there is no reason to deny it.

Hamilton stated that since the lot exceeds the minimum square footage for conditional uses is adequate reason to allow for the Variance, and the rest of the reasoning in the staff report is not needed. She requested that the third condition of approval on the Conditional Use staff report should be removed and the word "should" should be changed to "shall" on number 5, and that the screening requirement should be added as a condition of approval, and a condition of approval should be added that says "four parking spaces shall be constructed as proposed".

Hamilton made a motion to City Administration recommends approval of aCONDITIONAL USE to allow a Bed and Breakfast Home at 331 North 14th Street within an R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District with the following

conditions of approval:

1. The Conditional Use shall apply to the Bed and Breakfast Home as outlined in the application documents.
2. The associated Variance of the required lot width shall be approved
3. The additional off-street parking spaces shall be constructed prior to the opening of the Bed and Breakfast Home.
4. If the applicant sells the property, the new owner shall reapply for a Conditional Use for a Bed and Breakfast Home, prior to operating the use.
5. The Bed and Breakfast Home shall be limited to two (2) guest bedrooms as proposed.
6. The Bed and Breakfast Home shall conform with the use limitations associated with Bed and Breakfast Home in the R-1, Single-Family Residential District.
7. The applicants/owners shall reside in the home located at 331 North 14th Street.
8. All applicable permits and licenses shall be obtained.
9. The proposed parking area shall be screened as described in the application
10. Four (4) parking spaces shall be constructed as proposed

Wigfall seconded the motion, which passed with a vote of 5-0.

PRESENT USE: Single-family home.

A. Compliance with all applicable regulations: As described above, the property is approximately seventy-one (71) feet by one hundred seventy-two (172) feet, with a lot area of 12,212 square feet. The R-1, Single-Family Residential District, requires a minimum of 75 feet of lot width and 10,000 square feet in lot area for Conditional Uses. The applicant has requested a Variance to reduce the minimum required lot width from seventy-five (75) to seventy (70) feet concurrent with the Conditional Use request. Reference the Variance staff report for more information.

Additionally, the applicants have requested an Exception to reduce the minimum required parking stalls from five (5) to four (4). The zoning regulations require a minimum of two (2) off-street parking spaces, plus one for each guest room. The subject property contains four (4) bedrooms. However, only two (2) are intended to be used as guest rooms. However, there is no way for the City to regulate the use of bedrooms as guest rooms or personal use. Therefore, an Exception to reduce the amount of required parking is being requested to make the Bed and Breakfast Home compliant with the zoning regulations regardless.

In regard to the proposed bed and breakfast home use, the applicant has provided information in the application documents that he has consulted with the Code Service Office and the Kansas Department of Agriculture to discuss requirements for the renovation of the building and licensure of the bed and breakfast home.

Other than these conditions, which a Variance and an Exception have been requested to address them, the property complies with all applicable regulations.

B. Probable effect on adjacent properties: The subject site and much of the surrounding

properties are zoned R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay District. Properties to the west and immediately to the north and south are also zoned R-1/TNO, Single Family Residential District and Traditional Neighborhood Overlay. City Park is located directly to the east. Other zoning districts present in the general neighborhood include R-1/TNO/VO Single Family Residential with Traditional Neighborhood Overlay and University Overlay, R-M/TNO/VO Four Family Residential with Traditional Neighborhood Overlay and University Overlay, Planned Unit Development (PUD), and C-3 Aggieville Business District. The surrounding neighborhood contains a mixture of single family homes, homes that have been converted into apartments, apartment buildings, and a fraternity house. Manhattan Christian College is located a block to the north, Aggieville business district is located two blocks to the northeast, and Kansas State University is located two and a half blocks to the north.

There appears to be no adverse impacts on adjacent properties as a result of approving the proposed Conditional Use. The applicant is proposing to open a two-guestroom bed and breakfast home, which would accommodate at most, two (2) guests. A bed and breakfast home was approved to operate in 1996 by the Board of Zoning Appeals at the corner of N. 14th Street and Humboldt Street, one (1) block to the south of the subject site. This bed and breakfast home has since stopped its operation and is currently a single-family home.

However, the applicant held the required neighborhood meeting, and some concerns were raised. Several nearby property owners have expressed concerns about the “commercialization” of the residence, whether the applicants would actually live in the home, the amount of parking and its location in the back yard. The applicants have addressed this concern by proposing landscaping and a six (6) foot tall privacy fence at the northern end of the parking area to screen it from the adjoining property. Currently, the applicant does not live in the home, while she makes renovations and improvements. Her plan is to live in the house, as is required by the Manhattan Zoning regulations, and rent out her current home on the west side of town.

C. Domination by use over neighboring properties:

- 1. Location, nature, and height of physical improvements:** The existing house on the subject site is 2.5 stories in height. The house is approximately forty-four (44) feet from the front property line along N. 14th Street, fifteen (15) feet from each of the side property lines and sixty-seven (67) feet from the rear property line. A driveway runs along the north property line, which previously accessed a detached garage in the rear yard that has since been removed.
- 2. Landscaping and screening:** The subject site is currently well landscaped. A mature tree is present in the front yard, and there are several trees, both evergreen and deciduous between the subject property and the property directly to the north. The property also features evergreen shrubs around the front porch and small plantings on both sides of the driveway. The back yard of the property features a stone wall, approximately five (5) feet tall, which was installed at the same time as

the home, and runs along the rear and both side lot lines. Additionally, as part of the proposed parking area in the back yard, the applicants are proposing a six (6) foot tall wooden privacy fence along the north lot line to screen the parking from the property directly to the north, as well as some landscaping.

D. Adequate provision of parking and loading: Currently the property has two (2) off-street parking spaces, located on the driveway and concrete pad where the detached garage stood. The applicant is proposing to construct a parking area in the back yard accessed via the current driveway that would accommodate four (4) parking stalls. The parking area is proposed to be constructed using compacted gravel, which is permitted by the zoning regulations. Gravel was chosen due to its “environmental friendliness” – it is a more permeable surface than concrete or asphalt and won’t increase the amount of runoff. Additionally, gravel is easier to remove if subsequent owners desire. A total of four (4) spaces would be provided. The Zoning Regulations requires bed and breakfast home to provide two (2) off-street parking spaces plus one (1) space for each guest room. The proposed two (2) guest room bed and breakfast home is required to have four (4) spaces. Since the subject property contains four (4) bedrooms, and only two (2) of those rooms are proposed to be used as guest rooms, the applicant is concurrently requesting an Exception that would decrease the required parking stalls from five (5) to four (4). See the Exception staff report for more information. The proposed parking plan is adequate for the use.

E. Adequate provision of drainage, and other public utilities: Adequate provision for drainage and other public utilities are provided. The site drains stormwater to the streets to the south of the subject site. The proposed gravel parking pad will help with runoff as well as it is a permeable surface.

F. Adequate provision of access: Off-street parking will be accessed from North 14th Street. Sidewalks in the neighborhood, and around the property, provide for pedestrian access.

Hamilton made a motion to City Administration recommends approval of a VARIANCE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the minimum required lot width for Conditional Uses from seventy-five (75) feet to seventy (70) feet for a proposed Bed and Breakfast Home located within an R-1, Single Family Residential District, with a Traditional Neighborhood Overlay, with the following conditions of approval:

1. The Variance shall only apply to the Bed and Breakfast Home at 331 North 14th Street
2. The Variance shall be approved concurrently with the associated Conditional Use and Exception
3. All applicable permits shall be obtained.

Nelson seconded the motion, which passed by a vote of 5-0.

PRESENT USE: Single-family home

CONDITIONS UNIQUE TO THE PROPERTY: The house that sits on the lot was built in 1900. The lots on the west side of City Park are larger than most in the area. This lot

measures approximately 12,000 square feet. The Zoning Regulations require a minimum lot area of 10,000 square feet for Conditional Uses. However, the regulations also require a minimum lot width of seventy-five (75) feet for Conditional Uses.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and surrounding properties are zoned R-1/TNO, Single Family Residential District and Traditional Neighborhood Overlay District. To the west of the subject site, across North 14th Street is City Park.

There would be little effect on adjacent properties upon the granting of this Variance.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS: The requirements for minimum lot area and minimum lot width for Conditional Uses was intended to provide a buffer between the Conditional Use and the surrounding residential neighborhood. Additionally, the subject lot exceeds the minimum lot area by a considerable amount, but it is just a matter of five feet of lot width that the subject lot does not meet zoning regulations.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: No physical improvements to the building footprint are proposed. The existing structure does not encroach on any easements and should not have any adverse effects to the public health, safety, morals, order, convenience, or general welfare.

RELATIONSHIP TO INTENT OF REGULATIONS: The intent of the minimum lot width and lot area requirements are to establish density parameters, allow for light, air and open space around structures and to help minimize the risk of structure fire from spreading to adjacent properties. The requirement for Conditional Uses in the R-1, Single-Family Residential District, to have wider lot width and more lot area is to create a greater separation between the perceived higher intensity use of a Conditional Use and adjacent residential properties.

Hamilton made a motion to deny EXCEPTION under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the minimum required parking spaces from five (5) spaces to four (4) spaces for a proposed Bed and Breakfast Home located within an R-1, Single Family Residential District with Traditional Neighborhood Overlay.

Wigfall seconded the motion, which passed with a vote of 5-0.

The EXCEPTION request was deemed unnecessary for the proposal.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW THE CONSTRUCTION OF AN ELECTRICAL SUBSTATION GENERALLY LOCATED IN THE SOUTHEASTERN CORNER OF THE

MANHATTAN AREA TECHNICAL COLLEGE CAMPUS, LOCATED IN A U, UNIVERSITY DISTRICT, LOCATED AT 3136 DICKENS AVENUE. (APPLICANT: KATIE WALBRIDGE – WESTAR ENERGY/OWNER: MANHATTAN AREA TECHNICAL COLLEGE BOARD OF DIRECTORS).

May presented the staff report with four (4) conditions of approval.

A PUBLIC HEARING TO CONSIDER A EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE SETBACK FROM FIFTY (50) FEET TO THIRTY-NINE (39) FEET FOR A PROPOSED WESTAR ELECTRICAL SUBSTATION GENERALLY LOCATED IN THE SOUTHEASTERN CORNER OF THE MANHATTAN AREA TECHNICAL COLLEGE CAMPUS, LOCATED IN A U, UNIVERSITY DISTRICT, LOCATED AT 3136 DICKENS AVENUE. (APPLICANT: KATIE WALBRIDGE – WESTAR ENERGY/OWNER: MANHATTAN AREA TECHNICAL COLLEGE BOARD OF DIRECTORS).

May presented the staff report with four (4) conditions of approval.

Wigfall asked if the trees in the northwest portion of the site will be removed.

May responded that they would be.

Wigfall commented that the trees help to muffle the sound of the substation.

Danner asked what kind of refrigerator is referred to in the staff report, when comparing the sound of the substation.

May responded that the applicants might be able to answer that question.

Hardy opened the public hearing.

Brad Kesl, applicant, Director of Division Operations for Westar, stated that Westar works closely with the City of Manhattan to forecast for needs for Manhattan. He stated that the proposed substation is based on the “2035 Plan”. He stated that residential and commercial capacity in Manhattan has increased 30% and industrial capacity has increased 17%. He stated that current electrical infrastructure is over 60 years old and can no longer serve the growing demand, which is the reason for the substation. He said the reason for locating in the center of town is because it is intended to serve the growing center of the city. He stated that the proposal would result in the removal of several substations and power lines throughout town. He stated in addition to improving reliability, it would enable future growth. He stated that the partnership with MATC includes substantial donation of equipment. He stated the proposed site was chosen because of its proximity to existing power lines, its proximity to MATC, the availability of land, and the size of the tract. He said the substation would eliminate the need to build new distribution lines, which are more impactful. He said the Wildcat Creek substation currently serves the area intended to be served by the proposed substation and it is

nearing capacity. He stated that there will be three panels that allow students to view the transformers within the substation on the west side at the extreme north end. He stated that the landscape plan was developed with input from J. David Mattox, City Forster, a Westar biologist, and the Kansas Forestry Service. He commented that the reason they don't move the substation further north is because that proposal would require access across three (3) different property owners, as opposed to one (1) with the current plan. He stated emergency access to the north would be difficult and congested. Additionally, the substation would sit higher and sewer lines would need to be relocated, and more trees would need to be removed.

Nelson asked if the applicant had performed any studies regarding EMF.

Kesl responded that EMF is produced by any electrical item. He said modern studies have not been able to find a link between human health and EMF. He stated distance is important and that the proposal would be built to federal standards.

Nelson asked if the substation needs to be at least 300 feet from the nearest home.

Kesl responded that the voltage already exists at the site from the existing power lines, and that no more voltage will be added.

Nelson asked if the voltage is more concentrated.

Kesl responded that higher voltage comes into the substation and lower voltage comes out of the substation.

Nelson asked if there was a study that showed the difference in property values before a substation was build compared to after.

Kesl responded that they had trouble finding a study that matched this proposal.

Nelson asked if the applicants could have performed the study themselves.

Matt Armfield, applicant, Real Estate Specialist for Westar, responded that they operate over 600 substations in the eastern third of Kansas, and approximately 300 are in residential areas. He stated they have examples of substations built before residential development and after. He stated that the issue is the difference between perceived value and actual value. He said ideally they try to be ahead of residential development, and often homes are built directly adjacent.

Nelson asked if appraised value translates into actual home value.

Armfield responded that appraisal means opinion of value.

Nelson asked if this would still impact how much someone can sell their house for.

Armfield responded that houses directly adjacent to substations don't have noticeably different value than those further away, and that values fluctuate based on several factors. He stated

there may be a perceived loss in value, but someone else may not notice or have a problem with the substation.

Kesl added that every substation is different. He said that substations are more attractive than they used to be. He added that many of the electrical lines will be located underground or in structures below fence level. He added that they will be replacing some trees that are better for the area. He added that they are willing to add more landscaping to make it aesthetically pleasing.

Nelson asked what types of security issues would require the applicants to install lighting.

Kesl responded that substations are secure and the only lights that would exist are at ground level shining up at the equipment, and those would only be used if there were security issues.

Nelson asked if someone could scale the perimeter wall.

Kesl responded that vegetation has to be a certain distance from the fence to prevent people from climbing into the substation.

Danner asked what decibel level the transformers would create.

Kesl responded that neighbors would not be able to hear any noise from the substation in their homes.

Wigfall asked if the applicants had taken into account the full grown height of the proposed vegetation.

Kesl responded that shrubs are often underused with substations, because they screen the substation at lower heights as the trees grow above them.

Nelson asked if the applicants are considering green infrastructure with the dry-bottomed detention basin.

Katie Walbridge, applicant, Civil Engineer for Westar, responded that the detention basin will be covered in grass to capture runoff.

J. David Mattox, 3025 Dickens Avenue, stated that when the subject site zoning was changed from R-3 to U, MATC presented a plan for the campus. He stated that he feels betrayed by having an electrical substation across the street rather than the plan that was presented by MATC. He stated that the proposal will dominate the neighborhood, despite good efforts to screen it. He stated that he had never heard that studies about EMF on human health are not valid. He stated that the proposal will have an effect on perceived and market property values.

Stephanie Clear, 3009 Dickens, stated that she lives across the street from the proposal and she is concerned that it will have a negative impact on the neighborhood. She stated her concern on the relationship between electrical substations and childhood cancer. She cited a study that

said distances within 200-300 feet can create health issues. She stated is also concerned about aesthetics and effects on property values.

Lisa Bietau, 3021 Dickens Avenue, she stated that she lives diagonally from the proposed substation. She requested that the Board deny the proposal. She stated that it negatively impacts the neighborhood. She stated that the proposal is less than 45 meters from her front porch. She stated she has requested Westar to move the substation further away from her home, which would protect the people from health risks as well as the negative impact on property values. She stated that Westar has replied that alternatives are too expensive. She requested that a new plan be created moving the substation further north or to a different site. She stated that the houses have been there since the 1960s. She stated that MATC is pursuing a monetary resource at the expense of the entire neighborhood. She stated that a connection from the power lines along Seth Child Road will need to be brought into to the substation. She stated that she called a half dozen realtors and determined that 63% of the potential market is gone because people do not want to be so close to a substation, and that property values would decrease by 20-45%. She stated she acknowledges the need for a new substation, but she requested that Westar find a new plan for their proposal.

Jim Genandt, President of MATC, stated that the challenge of the college is meeting the work force needs of the area. He stated it was transitioned to be a publicly accredited college about 15 years ago, which resulted in no tax base. He said the institution's only sources of revenue are allocations from the state and tuition and fees. He said the number one program at the college is electric power and distribution. He stated the substation would provide significant value to this program.

Danner asked how many students are currently enrolled in the program.

Genandt responded that the program admits up to 32 students.

Nelson asked if the proposal were denied and Westar sought a different site, would they still partner with MATC for the substation.

Kesl responded that Westar has been a partner with MATC for years. He stated that Westar has been searching for a site since 2013 and other locations would be more impactful because powerlines would need to be installed as well. He stated that the corner of the substation wall is 45 meters from the nearest house, but there is still some distance to the nearest transformer.

Nelson asked how far that would be.

Walbridge responded it would be approximately eighty feet to the nearest transformer to the corner of the wall.

Nelson asked if the transformer would be 200 feet to the nearest house.

Walbridge responded the transformer would be approximately 200 feet from the nearest house.

Nelson asked if the substation could be moved further north on the site.

Walbridge presented a site plan for the option of moving it north. She explained that in the event of an emergency the access driveway would need to be cleared of all cars. She said they explored an alternative access driveway that would require a large box culvert to traverse the detention basin. She said the current elevation of the pad is approximately 15 higher than Seth Child, and the proposal to move it north would result in it being considerably higher. She said the further north proposal would result in the removal of trees. She stated the difference in cost between the two proposals isn't substantial.

Bietau stated she called KDOT about the proposal and asked if Westar could request access off of Seth Child Road, and KDOT said that was an option.

Mattox stated that the proposed two transformers would fit on the north end of the site.

Chris Banner, 618 Osage Street, suggested the substation be built below grade with a retractable roof.

Bietau asked if there is a driveway along the north side of the MATC campus from Wreath Drive.

Genandt responded that there is only Lundin Drive on the north side.

Hardy closed the public hearing.

Danner said that factors surrounding a property, such as views, impact value. She stated it is hard to determine if this proposal would have a substantial injury on surrounding properties.

Nelson stated she would feel more comfortable if there was data that showed that it would not affect property values. She stated that she is also concerned about EMF.

Hardy asked where that concern fits into the standards for a Conditional Use.

Nelson responded that it could have a substantial injury on property values.

Danner mentioned the nature and intensity of the proposal.

Hamilton stated that she appreciates all the concerns, however all the property owners have property value that is based on an empty field and they can't prevent MATC from developing their property. She stated the size of the proposal may have a dominating effect.

Nelson stated that the proposal is a huge change.

Hamilton responded that it is a huge change from an open field. She stated that MATC could develop that site with similar dominating effects. She stated the tract of land is large and

allows for large development. She said that Westar has tried to address this as best they could. She stated that the powerlines necessary for the proposal already exist in the area.

Hardy stated he appreciates the work Westar has done to work with the neighborhood. He stated he is not concerned there will be any noise issues.

Hamilton stated if the applicants move the substation further north, it would be closer to the apartments on Lundin Drive.

Wigfall stated that since Dickens Avenue already has trees on it, when looking down the street, the substation will not be visible. She stated that since Manhattan is growing they need the space to add two more transformers eventually. She stated she sees the value of having this facility connected to MATC.

Bunger stated that he was asked to make a clarification that the existing powerlines are along Seth Child Road and an extension will need to be included to connect them to the substation.

Nelson stated that neighbors may not be able to sell their house and that there are still health risks associated with the proposal.

Hamilton cited a standard of Conditional Uses regarding the size and intensity of the proposed use.

Hardy stated that the proposal does not prevent development or use of neighboring properties.

Wigfall stated that the color of the wall will have an effect on the intensity of the proposal.

Hamilton stated that the Board recognizes some perceived injury particularly as the substation is installed.

Nelson asked if the appraised value would have an effect on the sale price of homes in the area.

Hardy responded that appraisals are opinions of the appraiser.

Hamilton stated that she does not think the proposal will cause substantial injury or prevent development.

Hamilton made a motion to City Administration recommends approval of a **CONDITIONAL USE** to allow the construction of an electrical substation generally located in the southeastern corner of the Manhattan Area Technical College campus, located in a University District, with the following conditions of approval:

1. Sight obscuring screening shall be planted and maintained along the southern and eastern walls as proposed.
2. The substation shall be constructed as described in the application documents and staff report.

3. All applicable permits shall be obtained.
4. The associated Exception request shall be approved concurrently.

Wigfall seconded the motion, which passed by a vote of 3-2.

PRESENT USE: Open space on the Manhattan Area Technical College campus

STANDARDS FOR A CONDITIONAL USE

A. Compliance with all applicable regulations: The subject site is currently compliant with all applicable regulations, other than the associated Exception request to reduce the setback from fifty (50) feet to thirty-nine (39) feet on the southern side.

B. Probable effect on adjacent properties: The subject site is zoned U, University District. The site is currently the southeastern corner of the Manhattan Area Technical College campus. However, the applicants are proposing to concurrently plat (preliminary plat and final plat) the site as a separate lot, which will be reviewed by the Manhattan Urban Area Planning Board on December 19th. Properties to the north of the MATC campus are zoned R-3, Multi-Family Residential, which consists of the Plaza West Apartments. To the east of the MATC campus, across Seth Child Road are primarily single family homes that are zoned R, Single Family Residential District. To the south of the subject site are properties zoned R-2, Two Family Residential District and R, Single Family Residential District, which consist primarily of single family homes. To the west of the MATC campus, across Wreath Avenue, is CiCo Park. The general neighborhood is a mixture of single family homes, apartments, institutional uses, as well as a large park.

The applicants held the required neighborhood meeting on October 26, 2016, and ten (10) property owners attended, including a representative of the City of Manhattan. Several concerns were raised about the project. Initially, the west side of the substation was proposed to be fenced with chain-link. However, several attendees expressed concern about the visibility and aesthetics of the substation and the fencing type. To address this, the applicants replaced the proposed chain-link on the west side with the precast concrete and black security fencing panels described above. This design still allows students from MATC and visitors to view the equipment within the substation, but allows for a more aesthetic look on the substation's western side. Other concerns included lighting, noise, whether or not the trees along Dickens Avenue would be saved, property value depreciation, as well as the substation's proximity to Dickens Avenue and the homes that are located along that street.

The applicants responded to the concern about the substation's proximity to Dickens Avenue saying that they explored the option of moving the substation further north, but they were faced with difficult design challenges "regarding stormwater drainage, substation entrances, and utility relocation". Additionally, according to the applicant, moving the substation further north would require them to purchase more land in order to accommodate water quality and quantity requirements. Due to these restrictions and the added costs, the applicants have decided to move forward with the current proposed location.

Regarding lighting and noise, the substation is not proposed to have any permanent lighting on 24/7, unless the substation experiences security issues that would require the installation of security lights. In which case, the security lights would be four (4) feet tall LED directional lights that would not disturb the adjacent property owners. The noise of the substation originates at the transformer. However, the applicant has stated that modern transformers are substantially quieter than older ones. The applicant described the noise level as similar to a refrigerator, and the sound dissipates rapidly with distance. The stonecast wall surrounding the substation and landscape screening should also dampen the sound.

One of the most frequently voiced concerns is that the substation will have a detrimental effect on the value of their home. Westar has responded to these concerns saying that based on similar projects in other locations, the presence of a substation has had little impact on whether or not a developer builds on adjacent lots. Additionally, Westar cited a study that states that properties located adjacent to a substation do not have measurably different property values than those further away. The study analyzed the value of houses near electrical substations located in Lenexa, Wichita, and Topeka. The study grouped the houses into three tiers based on their proximity to the substation with Tier 1 being closest to the substation and Tier 3 being furthest away. The study concluded that in the cases of the Lenexa substation and the Wichita substation, there was no noticeable effect in property values with distance away from the substation. Also, according to the study, the houses directly adjacent to those two substations had higher property values than those further away. In the case of the Topeka substation, there seemed to be no correlation between proximity to the substation and property values. The study concluded that proximity to a substation does not have a negative or positive effect on property values. However, this study focused primarily on newly constructed homes around existing substations rather than a newly constructed substation in an existing residential neighborhood.

Additionally, the Manhattan-Ogden USD 383 Board of Education unanimously supported Manhattan Area Technical College selling of land to Westar Energy, Inc. In particular, USD 383 cited the benefit the substation would have on MATC programs “through monetary support, equipment, and enhancing the electric energy programs at MATC”. Additionally, some of the revenue from the sale of the land will contribute to scholarship funds in related fields. See attached letter for more information.

C. Domination by use over neighboring properties:

- 1. Location, nature, and height of physical improvements:** The substation is proposed to be located approximately 150 feet from the front of the nearest house to the edge of the perimeter wall. The substation is proposed to contain a nine (9) foot tall stamped stonecast concrete wall around the perimeter. Within the walls, the electrical infrastructure would reach a maximum of thirty (30) feet, excluding poles. The substation would consist of, at most, four (4) transformers. Each transformer reaches a height of twenty-five (25) to thirty (30) feet. Westar Energy only plans to construct two (2) of the transformers at first and then add the other two (2) as Manhattan continues to grow and requires more electricity.

- 2. Landscaping and screening:** A row of existing trees line the southern end of the subject site, along Dickens Avenue. The applicants are installing a sidewalk on the north side of Dickens Avenue which may result in the removal of some of the trees. However, according to the applicant, the trees will be “retained to the maximum extent possible”. Additionally, landscaped screening consisting of shrubs and trees will be planted around the perimeter of the substation along the north, east, and south sides. City staff has requested that the applicants install better landscape screening than what was originally proposed, particularly on the southern side of the substation which faces houses on Dickens Avenue. This was requested because the perimeter wall will not completely cover the sight of the transformers within the substation. The proposed landscaping included in the application documents is the required minimum for this proposal and the applicants are welcome to increase the amount of landscaping in order to screen the proposal from the surrounding properties.

D. Adequate provision of parking and loading: The site will be accessed via a proposed twenty (20) foot wide driveway from the existing Manhattan Area Technical College Parking lot. Parking for the facility will be entirely contained within the screening walls of the substation. Since the substation will not be a staffed operation, the only time parking would be required is during routine maintenance and service outage visits by Westar personnel.

E. Adequate provision of drainage, and other public utilities: The current site is undeveloped and is covered with grass and trees. It currently drains to the southeast to a culvert at the intersection of Dickens Avenue and Seth Child Road, and water is distributed to the east side of Seth Child.

The applicants performed a Drainage Report as part of the Conditional Use application. The substation will consist of a level gravel pad constructed with fill material that measures approximately 200 feet wide (east to west) and 385 feet long (north to south). Swales will be constructed along the north and west sides of the pad to distribute rainwater runoff around the site. An additional swale will be constructed along the south side of the site, which will direct rainwater runoff away from the south end of the site. In addition, an open, dry-bottomed detention basin will be constructed along the east side of the site in order to further contain stormwater runoff.

The proposed substation does not contain any facilities that require service utilities such as water or sanitary sewer. An existing gravity sanitary sewer main beneath the site will be relocated to allow for construction.

F. Adequate provision of access: The substation is proposed to be accessed via a twenty (20) foot wide driveway from the existing Manhattan Area Technical College Parking lot. The driveway is proposed to run along the southern end of the property, parallel to Dickens Avenue, and will lead through a set of double gates in the perimeter wall. Additionally, a sidewalk is proposed to be constructed along Dickens Avenue in order to improve pedestrian connectivity in the area. A sidewalk currently exists along the southern side of Dickens. As part of the Conditional Use application process, the applicants performed a traffic impact

study. The study determined that since the substation will be generally unattended and remotely controlled, then the substation will produce fewer than ten (10) vehicle trips per week. Due to the low number of trips, additional roadway improvements are not recommended.

Hamilton made a motion to City Administration recommends approval an EXCEPTION to allow for the reduction of the minimum setback from fifty (50) feet to thirty-nine (39) feet for a proposed Westar electrical substation located in a U, University District, with the following conditions of approval:

1. The associated Conditional Use shall be approved concurrently.
2. The Exception shall only apply to the setback reduction for the substation described in the staff report.
3. All applicable permits shall be obtained.
4. Sight obscuring screening shall be planted and maintained along the southern and eastern walls as proposed.

Wigfall seconded the motion, which passed by a vote of 4-1.

PRESENT USE: Open space on the Manhattan Area Technical College campus

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject site is currently compliant with all applicable regulations. However, the applicants are concurrently requesting a Conditional Use permit to allow for the construction of the substation (*reference Conditional Use staff report*).

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site is zoned U, University District. The site is currently the southeastern corner of the Manhattan Area Technical College campus. However, the applicants are proposing to concurrently plat (preliminary plat and final plat) the site as a separate lot, which will be reviewed by the Manhattan Urban Area Planning Board on December 19th. Properties to the north of the MATC campus are zoned R-3, Multi-Family Residential, which consist of the Plaza West Apartments. To the east of the MATC campus, across Seth Child Road, are primarily single family homes that are zoned R, Single Family Residential District. To the south of the subject site are properties zoned R-2, Two Family Residential District and R, Single Family Residential District, which consist primarily of single family homes. To the west of the MATC campus, across Wreath Avenue, is CiCo Park. The general neighborhood is a mixture of single family homes, apartments, institutional uses, as well as a large park.

The applicants held the required neighborhood meeting for the Conditional Use aspect of the proposal on October 26, 2016, and ten (10) property owners attended, including a representative of the City of Manhattan. Several concerns were raised about the project. Initially, the west side of the substation was proposed to be fenced with chain-link. However, several attendees expressed concern about lighting, noise, whether or not the trees along Dickens Avenue would be saved, property value depreciation, as well as the substation's proximity to Dickens Avenue and the homes that are located along that street.

The applicants responded to the concern about the substation's proximity to Dickens Avenue saying that they explored the option of moving the substation further north, but they were faced with difficult design challenges "regarding stormwater drainage, substation entrances, and utility relocation". Additionally, according to the applicants, moving the substation further north would require them to purchase more land in order to accommodate water quality and quantity requirements. Due to these restricts and added costs, the applicants have decided to move forward with the current proposed location.

One of the most frequently voiced concerns has been the effect of the proposed substation on property values. Several nearby property owners have expressed their concern that the substation will have a detrimental effect on the value of their home. Westar has responded to these concerns saying that based on similar projects in other locations, the presence of a substation has had little impact on whether or not a developer builds on adjacent lots. Additionally, Westar cited a study that states that properties located adjacent to a substation do not have measurably different property values than those further away. (*For more information, reference the Conditional Use staff report*).

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed substation will not have and negative effects on the public health, safety, morals, order, convenience, prosperity, or general welfare. The electrical substation does not actually generate electricity, and so it does not pollute the air, land, or water. It also does not produce any dust, fumes, odors, smoke, or vibration. It will generate a low humming noise. However, according to the applicant, modern substations (such as this one is proposed to be) are significantly quieter than their predecessors and the sound dissipates substantially with distance. Additionally, the nine (9) foot stonecast concrete wall will also help to damper any noise emitting from the substation.

The applicants state that standard sediment and erosion control measures will be used during the construction of the substation.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:

The reason for the proposed placement of the substation in the fifty (50) foot setback on the south side is due to the topography of the land and how that would create challenges for stormwater drainage, substation entrances, and utility relocation. Additionally, if the applicants were to place the substation further north, as several adjacent property owners have requested, it would require the applicants to purchase more land in order to accommodate water quality and runoff requirements.

Considering all these facts and circumstances, the strict application of the regulations seems unreasonable in this instance.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION, TO ALLOW FOR THE REDUCTION OF THE REAR YARD SETBACK FROM 25 FEET TO 19 FEET FOR A PROPOSED SECOND-STORY DECK ON A HOME LOCATED WITHIN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 2200 LONDONDERY

CIRCLE. (APPLICANT: RICKY GREEVE – GREEVE CONSTRUCTION/OWNER: GERALD & GAYLA SNYDER).

Adam presented the staff report with two (2) conditions of approval.

Hamilton asked if the proposed deck will be built at the same level as the existing deck, and if the deck will be high on all sides.

Adam responded that it would.

Hardy opened the public hearing.

Gerald Snyder, applicant, stated that he had recently purchased the home with the intent of adding the proposed deck, but was unaware of the setback regulation at the time. He said he had talked to his neighbors about the proposal and they are pleased with it.

Hamilton asked if he knew how the neighbors on Everett Road feel about the proposal.

Snyder responded that the home behind his is a rental, and he wasn't sure who the owners are.

Hamilton asked if there are two homes that the applicant's house backs up to.

Snyder responded that there are but he did not get a chance to speak with them.

Hamilton stated that they would have been notified by the City of Manhattan, and if they had a problem with the proposal, the applicant would know about it.

Hardy closed the public hearing.

Wigfall commented that the proposal looked nice.

Danner made a motion to City Administration recommends approval of Kansas, to allow for the reduction of the rear yard setback from 25 feet to 19 feet for a proposed deck extension on a house located within an R-1, Single-Family Residential District with the following conditions of approval:

1. The deck will be constructed as proposed.
2. Applicant will obtain all necessary permits for building the deck.

Wigfall seconded the motion, which passed by a vote of 5-0.

PRESENT USE: Single-family home built in 2010.

COMPLIANCE WITH ALL APPLICABLE REGULATIONS

The subject lot complies with all applicable zoning regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES

The lot is zoned R-1, Single-family residential. It is surrounded by other houses in the same zoning district. Nearby zoning districts are similar—R and R-2—and contain single-family houses.

The presumed purpose of a 25-foot yard requirement is to provide a feeling of privacy. The code does not further require sight-obscuring fences or foliage between two residential lots because they are not deemed conflicting uses. The existing deck already overlooks the adjacent lots, so an extension of the deck will not increase the degree of casual surveillance that is already possible between lots; the reduction in the perception of privacy will be negligible.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE

The proposed yard reduction would leave 44 feet between the subject lot's house and the closest adjacent house. Health and safety will not be compromised by the proposed reduction; emergency access, if needed in the back yard, would not be restricted by the extension. The requested reduction does not reach questions of public morals, order, convenience, or general welfare. Those issues are irrelevant or inapplicable in this case: the request is confined to a minor reduction of a requirement in the private back yard of a large residential lot.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED

The level buildable area of the lot is confined to the northern half, which necessitated placing the house close to the side and rear yard setback limits (eight feet and 25 feet, respectively). The east–west dimension of the lot is half the north–south dimension, leaving little buildable area in between.

There is no objective need to extend the deck into the rear yard setback. It could be designed to avoid it entirely. However, the requested reduction would leave the combined rear yard setback distance—those of the applicant and their neighbors—88 percent intact with no ill effects to public health and safety. Staff concludes that the regulation is unnecessary in this case.

Hardy excused himself from the next item as he provided some legal advice on an aspect of the proposal.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS TO ALLOW FOR THE CONVERSION OF AN EXISTING SINGLE FAMILY HOUSE INTO A SMALL-SCALE NURSING HOME LOCATED WITHIN AN R-1/AO, SINGLE FAMILY RESIDENTIAL DISTRICT, WITH AIRPORT

**OVERLAY, LOCATED AT 120 NORTH SCENIC DRIVE. (APPLICANT/OWNER:
AARON & HEATHER TREMBLAY – AUTUMN HILLS, LLC).**

May presented the staff report with four (4) conditions of approval.

Hamilton asked about a letter from the Department of the Army that was included in the packet of information given to the Board regarding the noise environment of the area. She asked if there would be a problem in notifying the occupants of the proposal about the noise environment.

May responded that it is not a problem and that it can be added as a condition of approval.

Nelson asked what the noise environment is.

May responded that it is noise coming from Fort Riley.

Hamilton stated that she would feel more comfortable if patients were made aware of the noise environment.

Hamilton opened the public hearing.

Chierysa Singletary, 201 Highland Ridge Drive, stated that she and her husband are in the military, and that she does not have a problem with the proposal. She stated that artillery being fired at Fort Riley causes houses in the area to shake and can cause damage to the foundation. She stated that everyone in the area is retired military or active duty. She questioned whether the amount of parking would be sufficient for visitors. She asked about the safety of the patients and stated that the house is very well screened and on a 2.86 acre tract of land. She stated that the noise in the area could bother the patients.

Heather Tremblay, applicant, stated that she and her husband have owned a Home Plus facility in Riley for four years, which is also in the noise environment. She stated that the proposal will be regulated by the Department of Aging, and will be inspected.

Wigfall asked how patients are monitored in the home.

Tremblay responded that they will have a video monitoring system and pressure mats with alarms that notify staff of patients' movements.

Hamilton asked if Tremblay would object to an additional condition of approval that says patients must be made aware of the noise environment.

Tremblay responded that she does not object.

Singletary questioned if the proposal would affect the value of her home.

Hamilton closed the public hearing.

Nelson asked if the Board had any input on the property values.

Hamilton responded that the house already exists and it sits on a large tract of land and the proposal is small in scope.

Danner made a motion to City Administration recommends approval of a Conditional Use under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the conversion of an existing single family house into a small-scale nursing home located within an R-1/AO, Single Family Residential District with Airport Overlay, with the following conditions of approval:

1. The Home Plus facility shall be developed as described in the application documents
2. All applicable permits shall be obtained
3. No more than eight (8) patients shall be allowed at the Home Plus facility.
4. Six (6) paved parking stalls shall be constructed as described in the application.
5. The applicants shall inform prospective senior-citizen residents of the home about the noise environment of the area.

Wigfall seconded the motion, which passed by a vote of 4-0.

PRESENT USE: Single Family House

STANDARDS FOR A CONDITIONAL USE

A. Compliance with all applicable regulations: The subject site is currently compliant with all applicable regulations.

B. Probable effect on adjacent properties: The subject site was recently rezoned from R, Single Family Residential to R-1, Single Family Residential in order to allow for this proposed Conditional Use. To the north and east of the subject site is the Scenic Woods Planned Unit Development (PUD), which consists of apartment complexes. However, the portion of the PUD directly north and east of the subject site is current undeveloped, and heavily forested. To the south of the subject site is the Stone Pointe Townhomes PUD, Unit 1 & Unit 2. This development consists of several sets of townhomes. Also to the south is a single family residential neighborhood, zoned R, Single Family Residential District. To the west, across North Scenic Drive is unincorporated Riley County land, zoned AG, Agricultural District.

The proposed Conditional Use will have little, if any, effect on adjacent properties. The Home Plus facility is small in size and would only house eight (8) residents with dementia. The patients would not drive, and since there would only be two employees on site, the traffic impact on the area would be minimal, if any. The site is secluded on a large lot that is well-screened on all sides by natural vegetation and surrounded primarily by multi-family residential uses.

The applicants held the neighborhood meeting which is a requirement of the Conditional Use application on October 4th, 2016, and the invitation was sent to fourteen (14) adjacent property

owners. According to the Neighborhood Meeting Summary supplied by the applicants, only two adjacent property owners attended. The neighbors did not raise any concerns and were curious about what a Home Plus facility is. They expressed their support of the project.

C. Domination by use over neighboring properties:

- 1. Location, nature, and height of physical improvements:** The exterior and physical footprint of the existing house will remain the same. The interior of the house will be reconfigured slightly to accommodate eight (8) bedrooms for eight (8) patients, as well as adding three (3) bathrooms, two (2) of which will have showers. Additionally, six (6) parking spaces are proposed to be included, as is required by the zoning regulations. However, the driveway will remain unchanged. The applicants have been in contact with the Code Services Department regarding the renovation of the interior of the home to accommodate the eight patients. However, the applicants have stressed the importance that the house retains its residential character.
- 2. Landscaping and screening:** No additional landscaping is proposed as part of this proposal. The site is currently heavily screened on all sides by existing mature tree cover. The applicants do not propose to alter the existing tree cover or add any additional vegetation.

D. Adequate provision of parking and loading: The proposal includes the addition of a total of six (6) parking spaces. The zoning regulations require one (1) parking stall for every two (2) patients, plus one (1) parking space for each employee as related to the work shift when the maximum number of employees is present. The facility is proposed to be staffed by two (2) nurses 24/7. The facility is not anticipated to have many visitors at one time, and since the patients will not be allowed to drive, there will be more than enough parking provided.

E. Adequate provision of drainage, and other public utilities: The Conditional Use proposal does not significantly increase the amount of impervious surfaces. The footprint and exterior of the home are not proposed to change. As such, current drainage for the site is adequate for the proposed use, and no additional provisions need to be made.

F. Adequate provision of access: The site is currently accessed via a driveway from North Scenic Drive. The driveway curves and runs parallel in front of the home before ending up at the side-entry garage. The driveway is not proposed to be altered for the Home Plus, but additional parking will be added to accommodate the patients and staff.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION, TO ALLOW FOR THE INCREASE OF THE MAXIMUM LOT COVERAGE FROM THIRTY (30) PERCENT TO THIRTY-FIVE (35) PERCENT TO ALLOW FOR THE CONSTRUCTION OF A PROPOSED TWO (2) CAR GARAGE IN THE R/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT AND NEIGHBORHOOD OVERLAY DISTRICT, LOCATED AT 1416 HUMBOLDT STREET. (APPLICANT/OWNER: JEFFERY & MICHELLE WARD).

May presented the staff report with three (3) conditions of approval.

Nelson asked if the proposal would impact sight lines of someone pulling out onto the alley.

May responded that the proposed garage will be set back (10) feet, as is required by the zoning regulations.

Hardy opened the public hearing.

Michelle Ward, applicant, explained that she purchased the house in August with the intention of building a garage and that the realtor did not explain the maximum lot coverage regulation. She explained that the proposal would create a total of 31.2% lot coverage.

May added that that did not include a lean-to structure on the side of the home that covered lawn equipment.

Ward added that the lean-to did not show up on any tax reports and so she wasn't sure if it counted as a structure.

Hardy asked if the request for 35% lot coverage was intended to cover the garage and the existing lean-to. He stated that Exception requests can not cover future proposals, but if this Exception request is meant to cover the proposed garage and existing lean-to, then he is comfortable with it.

Hardy closed the public hearing.

Hamilton commented that the parking pad already exists and the house is very nice. She stated she does not like to make Exceptions to the Traditional Neighborhood Overlay, but the circumstances in this instance make it a reasonable request.

Hamilton made a motion to an EXCEPTION from the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the increase of the maximum lot coverage from thirty (30) percent to thirty-five (35) percent to allow for the construction of a proposed two (2)-car garage in the R/TNO, Single-Family Residential District and Neighborhood Overlay District, with the following conditions of approval:

1. The Exception request shall be limited to the proposed two (2)-car garage as explained in the application and shown on the site plan.
2. The detached garage shall be constructed as proposed.
3. All applicable permits shall be obtained.

Wigfall seconded the motion, which passed by a vote of 5-0.

PRESENT USE: Single-family detached home

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject site complies with all applicable regulations, other than for what the Exception requests are for.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site is zoned R-1/TNO, Single-Single Family Residential with TNO, Traditional Neighborhood Overlay. To the east of the subject site is City Park. Poyntz Avenue is south of the subject and is zoned C-1, Restricted Business. Further west of the subject are properties zoned R, Single-Family Residential.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: Minimal negative impacts are anticipated on the general public health, safety and general welfare by approving the Exception to construct a 588 square foot two (2) car garage onto an existing parking pad.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The strict application of the maximum lot coverage in the TNO District would prevent the applicant from constructing the proposed two (2)-car detached garage. The existing house and deck have a lot coverage of approximately 2,000 square feet, or approximately 27%. A detached garage that is 260 square feet could be constructed and meet the TNO District regulations. The applicant is proposing a two (2)-car detached garage that will be 588 square feet. Considering that the proposed (2)-car detached garage will match the character of the property and the surrounding properties; the strict application of the regulation appears to be unreasonable.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR A REDUCTION OF THE MINIMUM FRONT YARD SETBACK FROM FOURTEEN (14) FEET TO ZERO (0) FEET FOR THE REPLACEMENT OF AN EXISTING FENCE, AND A REDUCTION OF THE MINIMUM FRONT YARD SETBACK FROM FOURTEEN (14) FEET TO EIGHT (8) FEET FOR AN EXISTING GARAGE, AND A REDUCTION OF THE MINIMUM FRONT YARD SETBACK FROM FOURTEEN (14) FEET TO TWELVE (12) FEET FOR AN EXISTING HOUSE LOCATED IN THE R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY, LOCATED AT 830 OSAGE STREET. (APPLICANT/OWNER: JOSEPH NECHITA).

May presented the staff report with three (3) conditions of approval.

Hardy opened the public hearing.

The applicant was not present.

Hardy closed the public hearing.

Hamilton stated that she does not have a problem with the setbacks for the existing garage and house. She stated that the fence that used to exist on the site was open view and that the

replacement with a six foot wooden fence has a substantially different impact. She stated that the Board looks to see if front yards would be impacted by a proposed fence, and in this case a front yard would be. She also stated that the entire back yard that is able to be fenced in under the strict application of the zoning regulations is not being used.

Wigfall stated that she struggled with the placement of the fence because it divides the yard.

Hardy stated that the order of the front yards is not maintained with the fence proposal, but he does support the Exceptions for the existing house and existing garage. He stated that the fence should be chain link or it should follow the setback.

Hamilton asked if the Board has the option of granting the setback reduction of the fence to eight (8) feet.

May responded that they can reduce the amount of setback reduction requested.

Hamilton stated she would support a setback reduction to eight feet.

Nelson asked if the garage is behind the fence.

May responded that the garage is on the other side of the fence and that the applicants were building the new fence in the same location as the chain link fence.

May asked if the Board could elaborate on why they are not supporting this Exception request when they have approved other similar Exception requests for fences on corner lots.

Hamilton responded that it is the fence's effect on the order of the neighborhood.

Hardy added that it affects the uniform character and line of sight.

Hamilton stated that if the fence were open-view such as chain link, they would be more willing to support the proposal.

Hamilton made a motion to an EXCEPTION under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for a reduction of the minimum front yard setback from fourteen (14) feet to eight (8) feet for the replacement of an existing fence, and a reduction of the minimum front yard setback from fourteen (14) feet to eight (8) feet for an existing garage, and a reduction of the minimum front yard setback from fourteen (14) feet to twelve (12) feet for an existing house located in the R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay, with the following conditions of approval:

1. The Exception request shall be limited to the replacement fence, existing house, and existing garage as explained in the application and shown on the site plan.
2. The fence shall be constructed as proposed and maintained.
3. All applicable permits shall be obtained.

Wigfall seconded the motion, which passed by a vote of 5-0.

PRESENT USE: Rental House

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: Since the construction of the existing house and detached garage, the subject site's zoning classification changed to R-1/TNO, Single-Single Family Residential District with TNO, Traditional Neighborhood Overlay District, which designates the subject site as legally nonconforming.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site is zoned R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay. To the west of the subject site is City Park and to the northwest are properties zoned R-3, Multiple-Family Residential. Just beyond the northwest R-3 zoning district is Aggieville with properties zoned as C-3, Aggieville Business. Poyntz Avenue is south of the subject and is zoned C-1, Restricted Business. Further southeast of the subject are properties zoned C-4, Central Business.

There should be no adverse impacts on adjacent properties by approving the Exception request for the existing garage and existing house. However, the Board found that the Exception request for a setback reduction to zero (0) feet for the fence was unreasonable in that it disrupts the front yard order along ninth street and disrupts the line of sight along that street.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: Minimal adverse affects on the general health, safety or welfare of the public is anticipated regarding the existing house and existing garage. However, the request to reduce the front yard setback on 9th street to zero (0) feet was found by the Board to negatively impact the order along 9th Street. The Board concluded that the front yard setback regulations were in place for a reason, to maintain clear line of sight along the street. The Board added that if the proposal were for a fence that allowed sight through it, then they would be more supportive of the request. However, since the fence is a wooden privacy fence, the Board concluded that it disrupted the line of sight for houses that face 9th Street. The Board made the recommendation that they allow an Exception request from fourteen (14) feet to eight (8) feet for the fence, which follows the existing setback for the existing garage.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: No viable option exists to remove the existing house and garage to comply with the current zoning regulations. The encroaching structures would need to be relocated or partially removed and redesigned under strict application. The Exception is to bring the property into conformance with the Zoning Regulations so a clear title may be obtained.

The Board found that the argument that the strict application of the zoning regulations creates an unusable back yard is not substantial enough. The fence currently does not fence in the entire back yard area that is allowed by the zoning regulations to be fenced in. Additionally, the fence is a wooden privacy fence that does not allow sight through it like the chain link fence allowed, which existed on the site previously. The Board recommended that the

requested setback be changed from zero (0) feet to eight (8) feet, which matches the existing garage's setback.

Hardy adjourned the meeting.

Respectfully submitted by,
Doug May, Planner