

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, July 14, 2010**  
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; Joe Aistrup, Vice Chairperson; and Connie Hamilton.

MEMBERS ABSENT: Ricci Dillon and Catherine Lavis.

STAFF PRESENT: Chad Bunger, AICP, CFM, Planner II; Ashley Myers, Planning Intern.

**CONSIDER THE MINUTES**

Hamilton moved to approve the June 9, 2010 minutes which was seconded by Aistrup and passed with a vote of 3-0.

**A PUBLIC HEARING to consider a VARIANCE to reduce the amount of sight obscuring screening required for property located in the C-1, Restricted Business District. The required area of sight obscuring screen that is proposed to be reduced is along the west side of the property at 2404 Buena Vista Drive and would be reduced from approximately twenty-five (25) feet from the front property line to forty-five (45) feet from the front property line. (Applicants/Owners: Manhattan Medical Center).**

Bunger presented the Staff Report with a recommendation for approval of the Variance.

Hardy opened the Public Hearing.

Jason Hudson, 2408 Buena Vista Drive, said the fence looks nice and would answer any questions.

Hardy closed the Public Hearing.

Hamilton said she appreciates that the Manhattan Medical Center worried about the streetscape and worked with the property owner.

The Board made the following findings of fact for the Variance at 2404 Buena Vista Drive:

**CONDITIONS UNIQUE TO THE PROPERTY:** The unique condition of the subject site is that it is a single-family rental home in a single-family residential neighborhood that is zoned C-1, Restricted Business District. The subject site was included in the Final Plat of the Manhattan Medical Center, Unit II and rezoned to from R, Single-Family Residential District

to C-1 District so that the new Building G of the Manhattan Medical Center could be constructed. Other C-1 Districts are located adjacent to residential property and the required fence has been installed. However, the other properties in the C-1 District are typically permitted uses of the district, such as business and professional office building and not single-family residential uses.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** Minimal adverse affects are anticipated for the residential properties adjacent to the subject site if the Variance is approved. The adjacent property owner requested the fence not be installed as required by the Zoning District, but rather be located perpendicular to the southwest corner of the house. That corner of the house is approximately forty-five (45) feet from the front property line along Buena Vista Drive. By not installing the fence as required, the front yards along the Buena Vista would be kept open and maintains a consistent visual appearance.

It should be noted that based on the restricted covenant created by the applicant and entered into agreement with the City Commission, there is the possibility that the single-family homes could be removed and a business and professional office or accessory uses, such as an off-street parking lot, could be constructed. The restricted covenant also states that if the houses are to be removed, no access would be permitted onto Buena Vista Drive. This condition of the covenant was to prevent commercial uses from accessing the local residential street. By definition of the Zoning Regulations, the removal of access on Buena Vista Drive would cause the property line to become a rear yard setback. Principle structures could be constructed as close as twenty-five (25) feet from the property line. Accessory structures could be built as close as five (5) feet from the property line.

If the Variance is approved, it would run with the land and the current property owner or future property owners would not technically be required to install sight obscuring screening in this area to screen a new building or off-street parking lot. The applicant has stated that if the single-family homes were to be removed, that the required sight obscuring screening would be installed. City Administration has proposed a condition of approval that if the single-family residential uses cease to exist or that the residential homes home are removed, the sight-obscuring screening shall be installed as required by the C-1 District.

**UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:** There is not an unnecessary hardship to the applicant by strictly applying the use limitation of the C-1 District to provide sight obscuring screening along all property lines. The applicant was in the process of installing the required fence when the next door neighbor asked that the fence not be placed in area in front of the house. The hardship is to the adjacent property owner and the surrounding neighborhood. Installing the fence, as required by the C-1 District regulations, would obstruct and change the order of the established front yard area along Buena Vista Drive and Woodland Street. No fences are currently located in the area between the front of the house and the twenty-five (25) foot front yard setback along Buena Vista Drive.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE,**

**PROSPERITY, OR GENERAL WELFARE:**

No adverse impacts on the public health, safety or welfare are anticipated. Considering the location of the required fence and the surrounding neighborhood, requiring the fence may distribute the established order of the local residential street along Buena Vista Drive and Woodland Street.

**RELATIONSHIP TO INTENT OF REGULATIONS:**

The C-1 District is designed to provide for non-retail commercial, and business and professional activities adjacent to arterial and collector streets. This district is intended to be compatible with adjacent residential districts. To help with the District's permitted and conditional use to be compatible with adjacent residential districts, a use limitation is established that requires a sight obscuring screening of not less than six (6) feet height to be installed along all property lines, except for public right-of-ways. Considering the existing uses are single-family homes, and not a permitted commercial use, such a business and professional offices, or a conditional use of the C-1 District, , the screening may be unnecessary. Appropriate screening is provided to screen the new and existing medical professional offices. The intent of the regulation is met by having the medical professional offices screened.

Hamilton made a motion to approve a VARIANCE to reduce the amount of sight obscuring screening required for property located in the C-1, Restricted Business District. The required area of sight obscuring screen that is proposed to be reduced is along the west side of the property at 2404 Buena Vista Drive and would be reduced from approximately twenty-five (25) feet from the front property line to forty-five (45) feet from the front property line with the following conditions of approval.

1. The Variance shall be limited to the existing fence along the west property line of Lot 1, Manhattan Medical Center, Unit II that is adjacent to 2404 Buena Vista Drive.
2. If the single-family residential uses cease to exist or that the residential homes are removed, the sight-obscuring screening shall be installed as required by the C-1 District.

Aistrup seconded the motion which passed on a vote of 3-0.

**REMOVE from the TABLE and conduct A PUBLIC HEARING to consider an EXCEPTION to allow a reduction in the minimum required number of off-street parking spaces from 63 parking spaces to 5 parking spaces for a proposed self-storage unit business that will be generally located to the south of Eureka Drive and along the west side of Eureka Terrace on property located in the I-2/AO, Industrial Park District and Airport Overlay District. (Applicants/Owners: Mid Gey, LLC).**

Aistrup motioned to remove the item from the table. Hamilton seconded, which passed 3-0. Bunger presented the Staff Report, recommending approval of the Exception request.

Aistrup asked Bunger if what the rational was for 5 parking spaces.

Bunger said that is the number of spaces required by the office space.

Hardy opened the Public Hearing.

Keith Beatty, Kaw Valley Engineering, spoke on behalf of the property owner. He provided further explanation of the development project and the need for the Exception.

Hardy closed the Public Hearing.

The Board made the following findings of fact for the Exception at Lot 7, Eureka Addition and Lot 37, Eureka Addition, Unit Three.

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:**

The subject site and the proposed development comply with all applicable regulations, other than for the Exception request.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site and properties immediately to the south are zoned I-2/AO, Industrial Park District and Airport Overlay District. To the west are properties that are zoned I-3/AO, Light Industrial District and Airport Overlay District, C-6/AO, Heavy Commercial District and Airport Overlay District and the Penny's Concrete PUD/AO, Industrial Planned Unit Development and Airport Overlay District. To the north are properties, U/AO, University District and Airport Overlay District and I-3/AO. To the west are properties located in Riley County and are zoned County A-1, Single-Family Residential District, A-2, Single-Family Residential District, A-3, Single-Family Residential District and G-1, General Agricultural District.

The proposed use is permitted in the I-2 District. The proposed Exception request is to reduce the minimum required number of off-street parking from sixty-three (63) parking spaces to five (5) parking spaces. The application documents state that "the tenants that use the storage facility have no need for long term parking, but only for loading and unloading of items to be stored." The five (5) parking spaces provided are located near the proposed business office and will accommodate the business activities of the development. The table on the proposed site plan shows 365 storage units, ranging in size from 8 feet by 15 feet up to 32 feet by 70 feet over the approximate eleven (11) acre subject site. It is unlikely that clients would be using two (2) adjoining storage units at the same time. In the event that this would happen, the site is large enough that one of the clients could park nearby and still have access to the storage unit. The site plan shows a minimum distance of thirty-two (32) feet between each building. The width between buildings will provide adequate distance for vehicles to park next to or near the rented storage unit and still provide for access for other clients of the self-storage business. Considering the size of the subject site, normal daily use would not use adjacent residential streets to the west and the adjacent property owners should not be impacted.

The application documents do state that large moving vehicles may stage, or short term parking of the moving vehicles on Eureka Terrace to the east until the storage unit and the

area is available. Eureka Terrace is a thirty-one (31) foot wide industrial street within an eighty (80) foot wide road right-of-way (ROW). Eureka Terrace is designed for the movement of large vehicles, including box trucks and semis. The parking of large vehicles on Eureka Terrace should not adversely affect the adjacent property owners. Eureka Drive, to the north, is a county, two-lane road. The rural section of roadway currently does not provide enough room on the gravel shoulders to allow for parking. Eureka Drive is to be widened in the near future to provide for wider gravel shoulders. Riley County officials have confirmed that no parking will be permitted on Eureka Drive, except for emergency purposes. There is no possibility for unforeseen overflow parking from the subject site to use Eureka Drive. The Exception request should not adversely impact adjacent property owners.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The proposed Exception request should not affect the public health, safety or welfare. The subject site is designed to provide loading and unloading areas for the clients, even in the rare event that two (2) adjoining storage units are being used at the same time. The design of the development will reduce the need for the clients to use the adjacent streets to parking their vehicles and trailers. The applicant has stated large moving vehicles may park on Eureka Terrace before entering the storage unit development. Eureka Terrace is a thirty-one (31) foot wide road and is designed to handle large vehicles. No parking is permitted on Eureka Drive.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The strict application of the Parking Regulations would require that the parking be provided. The site is large enough to provide the needed sixty-three (63) off-street parking spaces to the south of the storage units. Considering the use of development and that clients are loading and unloading in front of the units, rather than using a parking space and walking to the unit, the requirement may be unreasonable. Limited parking for large trucks may occur on Eureka Terrace. Any needed normal business parking is provided in front of the office building. The five (5) off-street parking spaces are adequate for the size and use of the office building.

Aistrup made a motion to approve an Exception to allow a reduction in the minimum required number of off-street parking spaces from 63 parking spaces to 5 parking spaces for a proposed self-storage unit business on property located on Lot 7, Eureka Addition and Lot 37, Eureka Addition, Unit Three, in the I-2/AO, Industrial Park District and Airport Overlay District with the following conditions:

1. The Exception shall be limited to the proposed self-storage unit development and accessory off-street parking as outlined in the application documents and shown on the applicant's site plan.
2. All applicable permits shall be obtained.

Hamilton seconded the motion which passed on a vote of 3-0.

**A PUBLIC HEARING to consider an EXCEPTION to allow for a reduction of the minimum fourteen (14) foot front yard setback to thirteen (13) feet for accessory air**

**conditioning units along 9th Street. The property is located at 901 Kearney, in the R-3/M-FRO, Multiple-Family Residential District and Multi-Family Redevelopment Overlay District. (Applicants/Owners: Thierer Construction Inc.)**

Myers presented the Staff Report and recommended approval. She clarified that the Exception was incorrectly advertised at ten (10) feet rather than the needed thirteen (13) feet.

Hardy opened the Public Hearing.

Larry Thierer, property owner, spoke about the air conditioning units being within the building envelope and screened by landscape.

The Board made the following findings of fact for the Exception at 901 Kearney Street.

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The subject site currently complies with all applicable requirements of the Zoning Regulations, other than the one for which an Exception is being requested.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site is zoned R-3/M-FRO, Multiple-Family Residential District and Multi-Family Redevelopment Overlay District. There are various zoning districts surrounding the subject site. To the east of the property the zoning districts include R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District, R-2/TNO, Two-Family Residential District and Traditional Neighborhood Overlay District, and R-M/TNO, Four-Family Residential District and Traditional Neighborhood Overlay District. Properties to the west are also Zoned R-3/M-FRO, Multiple-Family Residential District and Multi-Family Redevelopment Overlay District.

Single family renter or owner occupied housing and multiple family housing make up the neighborhood. Although there is a mixture of housing types, the neighborhood is predominantly renter occupied housing.

Adverse impacts are not anticipated on adjacent properties. The location of the subject site is on a corner lot causing a direct impact to only one adjacent property to the west of the site. The requested Exception is located on the east side of the property, thus there are no issues in regards to neighboring properties. Also, the requested Exception setback is under the building's roof eaves causing the proposed air conditioning units to be within the building's envelope, giving the visual perception of having no physical encroachment towards the street.

Although, there are no directly adjacent properties on the affected subject site, the applicant is proposing screening composed of landscaping to completely cover the low profile air conditioning units. The landscaping plan consists of many types of plants including Pauli Euonymus and Miss Kim Lilac directly surrounding the units. Pauli Euonymus is an evergreen tree that reaches a height of 3-4 feet and a width of 4-5 feet per plant; while, Miss Kim Lilac are a species of Lilac that reach 3-5 feet tall with a width of 3-5 feet, causing the

units to be screened year-round and minimizing impacts to the property owners to the north or east of the subject site.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The Exception request does not encroach upon any utility or drainage easements. The request is not anticipated to negatively affect the public health, safety, or welfare. The applicant proposes landscaping screening which would help buffer the noise and physical encroachment toward the sidewalk. The landscaping around the air conditioning units would be in character with the other landscaping within the site and neighborhood. The requested thirteen (13) foot setback is directly under the roof overhangs, within the building's footprint, which should minimize the effect on the character and order of N. 9<sup>th</sup> street by being inline with the roof line of the street facing façade.

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

If strict application of regulations were enforced, the proposed air condition units would be left in their approved location on the west side of the lot. This location is an adequate position, but the dwellings intended for use are located on the east side of the lot. If the air conditioning units were required to stay on the west side, long plumbing and electrical service lines would be needed to reach the dwelling units on the east, thus increasing energy consumption. Also, if the air conditioning units were left in the original location on the west side, a larger mass of 12 units will be visual for the surrounding neighbors, while if 4 were allowed to be moved the grouping of units on the west would not be as large. The landscaping screening around the proposed air conditioning units are a key factor for approval. Considering the facts and circumstances of the proposed accessory air conditioning units being contained within the building's footprint and screened by landscaping as described by the applicant the Exception would be more energy efficient and no other reasonable alternatives exist.

Aistrup made a motion to approve an Exception to allow for a reduction of the minimum fourteen (14) foot front yard setback to thirteen (13) foot for accessory use air conditioning units. The property is located at 901 Kearney, in the R-3/M-FRO, Multiple-Family Residential District and Multi-Family Redevelopment Overlay District with the following conditions of approval.

1. The Exception shall apply to the four (4) accessory air conditioning units along N. 9th Street as described in the application documents and shown on the site plan.
2. The landscaping shown on the site plan and rendering shall be installed as proposed prior to issuance of the building's certificate of occupancy.
3. Landscaping shall be maintained in good condition.
4. The landscaping shall be no less than 5 gallon bucket size at the time of installation.
5. The air conditioning units shall be installed in the location shown on the site plan.

Hamilton seconded the motion which passed on a vote of 3-0.

Hardy adjourned.

Respectfully Submitted,

Ashley Myers, Planning Intern

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