

**MINUTES  
MANHATTAN BOARD OF ZONING APPEALS  
City Commission Room, City Hall  
1101 Poyntz Avenue  
Wednesday, March 8, 2006  
7:00 PM**

MEMBERS PRESENT: Chuck Jackson, Chair Person; Calvin Emig, Harry Hardy

MEMBERS ABSENT: Connie Hamilton, Daniel Morin

STAFF PRESENT: Steve Zilkie, Senior Planner, AICP; Jeremy Frazzell, Planner

**CONSIDER THE MINUTES**

Hardy moved to approve the February 8, 2006 minutes which was seconded by Emig and passed with a vote of 3-0.

Hardy made a motion to remove the item from the table which was seconded by Emig and passed with a vote of 3-0.

**PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR A DRIVE-IN ESTABLISHMENT ASSOCIATED WITH A PERMITTED RESTAURANT AT 1101 MORO STREET IN THE C-3, AGGIEVILLE BUSINESS DISTRICT. THE REQUEST IS BEING MADE FOR USE OF THE EXISTING DRIVE-IN ESTABLISHMENT WINDOW ON THE EAST SIDE OF THE BUILDING NOW KNOWN AS DAYLIGHT DONUTS. (APPLICANT/OWNER: GWYN RIFFEL/ANTHONY AND ANDY MOEDER) (THIS ITEM WAS TABLED AT THE FEBRUARY 8, 2006, BOARD OF ZONING APPEALS MEETING. REMOVE THE ITEM FROM THE TABLE AND CONDUCT A PUBLIC HEARING.)**

Frazzell presented the Staff Report with a recommendation for approval of the Conditional Use with three conditions.

Anthony Moeder, 727 Colorado Street, had no comment but was available for questions from the board.

Emig commented to Moeder that the parking configuration shown on the site plan identifies opposing backing on the first stall on the right of the entry way and suggested posting a sign to remind drivers to look backwards when backing to prevent cars from backing into one another.

Jackson closed for Public Hearing and opened for Board discussion.

Hardy said he could support the request. He said in 2002 there was an extensive discussion for a drive thru for a different use, but said this was an appropriate use for the Conditional Use drive thru and could support City Staff Report and the application with the conditions.

Emig said the applicant has done all the necessary things, City Staff has recommended approval and he could support the request as well.

The Board made the following findings of fact for the Conditional Use at 1101 Moro Street:

A. The property currently complies with all applicable regulations.

B. The probable effect on adjacent properties should be minimal. The subject property and the adjacent properties to the south and west are located within the C-3, Aggieville Business District. The properties to the north, across Moro Street are also located within the C-3 District. The properties to the east, across North 11<sup>th</sup> Street are located within the R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay and are used as multiple-family residences. The adjacent property to the south is a residence that has been converted to a multiple family dwelling, while the adjacent property to the west is developed as Junior's Barber Shop.

According to the site plan, circulation within the site will have vehicles entering off of 11<sup>th</sup> Street and exiting onto Moro Street. Large painted arrows and additional striping will be used to indicate circulation through the parking lot and drive thru. The proposed use with the pick up window is not anticipated to have an adverse impact on traffic along 11<sup>th</sup> Street or Moro Street as there is adequate space to stack approximately five (5) vehicles from the pick up window and approximately three (3) vehicles from the menu board to 11<sup>th</sup> Street. Moro Street is a one way street and vehicles exiting the subject property will be forced to make a right turn.

A previous tenant obtained a conditional use in September 2002 in order to create and use the pick up window for purposes of selling package liquor. The use of the pickup window had no known implications to the surrounding neighborhood. The proposed use of the pickup window is to sell donuts and similar type pastry items as well as cold and hot beverages (such as soda, bottled water, coffee and hot tea).

The proposed conditional use should not have adverse impacts to the surrounding neighborhood.

C. No adverse impacts to neighboring properties are expected. The subject property is located in the C-3 District, where restaurants co-exist with a broad range of retail shopping facilities and services which primarily consist of specialty shops and stores. Other pick up or drive-in establishments located in the C-3 District include Burger King, Gambinos Pizza, and Arby's.

1. Location, nature, and height of physical improvements: A new door was recently added to the north wall of the existing structure to provide unobstructed handicapped access. The pick up window currently extends from the structure allowing for an in-line drive up aisle, which will help the flow of stacked vehicles.
2. Landscaping and screening: Landscaping is not required for this site and the only existing landscaping on the site consists of the grass area along the right-of-way of 11<sup>th</sup> Street.

D. No accessory off-street parking facilities are required for any use in the C-3 District, except for businesses over 15,000 square feet of floor area and multiple-family residences. The existing parking area will be re-striped to accommodate a total of nine (9) off-street parking stalls which includes one (1) ADA stall in the general northwest corner of the lot. Three (3) angled parking stalls will be located along the east property line that abuts 11<sup>th</sup> Street; two (2) angled parking stalls will be located generally in the middle of the parking area; two (2) parking stalls will be located perpendicular to Moro Street in the general northeast portion of the lot; and two (2) parking stalls which include one ADA parking stall, will be provided along the west property line in the general northwest portion of the lot, generally parallel with Moro Street.

E. The subject property has adequate drainage and public utilities for the proposed use.

F. The site plan depicts that patrons to the site will enter through an existing driveway off of 11<sup>th</sup> Street and exit east onto Moro Street, which is a one-way street. The site plan and application documents show that a 10-foot wide drive up lane will be designated through painted stripes and arrows leading patrons to a menu board, subsequent existing pick up window, and out onto Moro Street. Those patrons who do not wish to utilize the pick up window will have the ability to park in one of the nine (9) proposed parking stalls. The aisle width between the parking stalls is twelve (12) feet and is adequate for the parked vehicles to back up and exit onto Moro Street. City Engineer has reviewed the proposed circulation plan and found it to be adequate for the intended Daylight Donut restaurant use, provided white paint is used for all striping and directional arrows.

Hardy moved to approve a Conditional Use to allow for a drive-in establishment associated with a permitted restaurant at 1101 Moro in the C-3, Aggieville Business District, with the following conditions:

1. The drive-in lane and parking area shall be constructed as proposed on the site plan with white paint used for the guidelines, parking stalls, and painted arrows.
2. The pick up window shall be limited to Daylight Donut franchise products and other products set out in the application documents.
3. The conditional use shall be limited to the hours of operation outlined in the application documents.

Emig seconded which passed 3-0.

**PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW A REDUCTION OF THE MINIMUM FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO TWENTY (20) FEET ALONG A PROPOSED INTERNAL STREET FOR FORTY (40) SINGLE-FAMILY ATTACHED RESIDENTIAL LOTS IN THE PROPOSED KIMBALL TOWNHOME ADDITION, GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF KIMBALL AVENUE AND ANDERSON AVENUE. (APPLICANT/OWNER: BAYER CONSTRUCTION COMPANY, INC.)**

Emig stated he currently has a business relationship with Bayer Construction, as they are working on a project for him. He stated he did not believe this application would conflict with that business relationship.

Frazzell presented the Staff Report with a recommendation for approval of the Exception with three conditions.

Jackson opened for Public Hearing.

Neal Horton, 3904 Rocky Ford Ave., Bayer Construction, said he was available for any questions from the board.

With no questions, Jackson closed for Public Hearing and opened for Board discussion.

Hardy commended the applicant for working with City Staff to make the request self explanatory. He said it was a unique piece of property, unique location, and the applicant is trying to work within the existing zoning regulations to make something usable and to maximize everything concerned on a lot.

He said he could support the request with the conditions in the Staff Report.

Emig commented that the builder has taken a site that almost is unbuildable and made a very unique application to provide housing. He said there is a housing shortage in the market and thought it was great to take a site that has been vacant for many years and utilize it. He commented that he thought there would be a need for empty nester townhouse development and could support the request.

The Board made the following findings of fact for the Exception for the proposed Kimball Townhome Addition:

A. The lot currently complies with all applicable regulations other than the one for which the Exception is being requested.

B. The site is located in the general northwest corner of Kimball Avenue and Anderson Avenue, near the west boundary of the City within an area that is undeveloped, particularly to the north. South and west of Kimball Avenue/Scenic Drive, the character of the area is mostly rural in nature and is limited to scattered single-family homes on large lots along the north side of Anderson Avenue and Blueville Nursery, a landscaping/garden store, on the south side of Anderson Avenue. To the immediate west of proposed Kimball Townhomes is the Four Winds Village PUD which will consist of a mix of commercial and residential townhomes. North is a tract of land that is undeveloped business park. At the northeast corner of Kimball and Anderson is another undeveloped tract that is also used as a borrow area, and just to the north of that tract is a single-family residential neighborhood, Wyndham Heights. To the southeast of proposed Kimball Townhomes, at the southeast corner of Anderson Avenue and Scenic Drive is a medical office center, Stone Creek. The proposed internal street is separated from adjacent properties by distance and slope. The proposed reduction in the front yard setback along the proposed internal street within the proposed Kimball Townhome Addition should not have an adverse effect on adjacent properties.

C. The proposed Exception should not have an adverse effect on the health, safety, or general welfare of the public. Enabling the applicants to reduce the front yard setback along the proposed internal street will allow reduced driveway slopes to be obtained.

D. The site for the proposed Kimball Townhomes is steeply sloped, descending to the west below grade of Kimball Avenue. The applicant has stated that meeting the strict application of the regulations would require either construction of driveways with a 10% slope or 10 to 15-foot retaining walls behind the proposed units on one or both sides of the street. Allowing the proposed Exception will ensure the driveways along the proposed interior street are constructed at a safer and more desirable slope and the height of retaining walls can be reduced. An alternative to the R-2 zoning and subsequent Exception is to have the applicant submit the proposed development as a Residential Planned Unit Development which would allow more flexibility in the design of the development. The applicant has stated they would prefer to pursue traditional zoning and the proposed Exception rather than the PUD to allow them greater flexibility with the floor plans and elevations of individual units they construct, as a response to the housing market. According to the applicant a PUD might not provide the flexibility they would like to have to meet the changing market demands. Although the PUD would provide the flexibility the applicants are requesting, the reasoning for not pursuing the PUD is reasonable. The reduction of the front yard setback along the interior street will be generally consistent throughout the proposed Kimball Townhome Addition and should not adversely impact adjacent properties. When all facts and circumstances are considered, requiring strict application of the regulations is unreasonable and unnecessary.

Hardy moved to approve an Exception to allow a reduction of the minimum front yard setback from twenty-five (25) feet to twenty (20) feet along a proposed internal street for forty (40) single-family attached residential lots in the proposed Kimball Townhome Addition, generally located in the northwest corner of Scenic Drive and Anderson Avenue, with the following conditions:

1. The Exception shall be limited to the front yard setbacks for forty residential lots along the proposed interior street as proposed in the site plans and application documents.
2. The proposed Preliminary Plat and rezonings shall be approved.
3. The Final Plat shall be approved and filed within 180 days of the date of the Notice of Decision in lieu of the period of validity set out in Article XIV, Section 14-608.

Emig seconded which passed 3-0.

**PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW A REDUCTION OF THE FRONT YARD ACCESSORY STRUCTURE SETBACK FROM A MINIMUM SIXTY (60) FEET TO THIRTY-FIVE (35) FEET FOR A PROPOSED SWIMMING POOL ALONG BRIERWOOD DRIVE LOCATED IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT. THE PROPERTY FRONTS ON BOTH KINGWOOD DRIVE AND BRIERWOOD DRIVE, WITH THE HOUSE LOCATED AT 1665 KINGWOOD DRIVE. (APPLICANT/OWNER: RICHARD AND RACHEL WOODARD)**

Jackson announced the item had been withdrawn.

**PUBLIC HEARING TO CONSIDER A CONDITIONAL USE FOR A PROPOSED OFF-STREET PARKING LOT AT 615 N. FAIRCHILD TERRACE AND 601 N. FAIRCHILD TERRACE FOR THE EXISTING ALPHA XI DELTA SORORITY IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, UO, UNIVERSITY OVERLAY DISTRICT, AND TNO, TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT/OWNER: BOWMAN BOWMAN NOVICK INC. ON BEHALF OF ALPHA XI DELTA SORORITY/ALPHA XI DELTA BUILDING CORPORATION)**

**PUBLIC HEARING TO CONSIDER VARIANCES TO ALLOW OFF-STREET PARKING IN A REQUIRED FRONT YARD AND BETWEEN THE FRONT LOT LINES AND A LINE PARALLEL TO THE FRONT LOT LINES DRAWN THROUGH A POINT WHICH IS ON THE SIDE OF THE PRINCIPAL STRUCTURE FURTHEST FROM THE FRONT LOT LINES, YET STILL FACING THE FRONT LOT LINES; A REDUCTION OF THE MINIMUM 75% LANDSCAPED OPEN SPACE BETWEEN THE TWO LINES DESCRIBED ABOVE; AND TO NOT PROVIDE THE REQUIRED SCREENING OF NOT LESS THAN SIX (6) FEET IN HEIGHT FOR A PARKING AREA CONTAINING MORE THAN SIX (6) PARKING STALLS LOCATED WITHIN TWENTY-FIVE (25) FEET OF ADJACENT PROPERTY SITUATED IN A RESIDENTIAL DISTRICT. THE VARIANCES REQUESTED ARE FOR A PROPOSED OFF-STREET PARKING LOT AT 615 N. FAIRCHILD TERRACE AND 601 N. FAIRCHILD TERRACE IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, TNO, TRADITIONAL NEIGHBORHOOD OVERLAY (TNO) DISTRICT, UO, UNIVERSITY OVERLAY DISTRICT, FOR THE ALPHA XI DELTA SORORITY. (APPLICANT/OWNER: BOWMAN BOWMAN NOVICK INC. ON BEHALF OF ALPHA XI DELTA SORORITY/ALPHA XI DELTA BUILDING CORPORATION)**

Frazzell presented the Staff Reports and recommended approval for the Conditional Use with nine conditions and Variances with ten conditions:

Emig asked if the parking lot was going to be right in or right out only. Frazzell said no, the right in right out statement in the presentation was referring to the traffic movements between Fairchild Terrace and Sunset Avenue and was included to describe the neighborhood. A concrete median prevents left hand turning movements from Fairchild Terrace onto Sunset Avenue.

Emig asked what the height of the light pole in the southwest corner of the parking area was. Frazzell responded that he was unsure and that the applicant could answer that question.

Jackson stated a letter of support from the Kappa Kappa Gamma Sorority was provided to the Board.

Jackson opened for Public Hearing.

Jayne Morris-Hardeman, 1822 Laramie, stated she commended the Alpha Xi Delta Sorority for the communication with the neighborhood. She appreciates the screening provided in the landscape plan and felt it was adequate. She said her concern was the precedent of taking down a house to replace it with a parking lot. She said the issue had come up a couple times before within the past three years with another Sorority in the neighborhood who owns a house that they would like to remove to put in a parking lot and who has been to the Board in the past. She explained the differences between the two proposals:

1. In this case there is a house that has been run down, but not by the applicants for an extended period of time, they have recently acquired the rights to it. The property has been damaged by other owners, not the proposed new owners. She continued by stating this is a real difference between. In the past Greek Houses that have owned Annex houses that they have had for twenty to twenty-five years have allowed it to not be maintained for a period of time and then come forward and requested to remove it and replace it with parking. She wanted to be sure that the difference was noted between the two different situations where a house that has been a party house in the neighborhood and has caused problems for a number of years is able to be removed for something that is productive.
2. She stated it was great that they were able to add an additional sixteen parking spaces, as it is productive. Within the neighborhood block there are eight Greek groups with over two hundred people who don't have parking spaces. She said the addition is not going to significantly reduce the load, but it is an important step and positive for the Sorority and not a negative for the neighborhood. She stated there are other situations in the neighborhood that could become negative with other groups coming forward with similar kinds of proposals to remove houses that they themselves have not maintained and now would like to see removed for parking.

Julia Woolfolk, 1109 Mogan Lane, stated she currently serves as treasurer of the Alpha Xi Delta Corporation Board. She stated the project would enhance their Chapter's student quality of life. She stated parking is an issue in the area with many having to park many blocks way. She said they want the project to be positive to the neighborhood by providing some relief to the parking congestion as well as removing a rental house from the neighborhood. She stated with the proposed changes, an improvement would be made to the area.

Jackson closed for Public Hearing and opened for Board discussion.

Hardy said he can support the application. He appreciated Morris-Hardeman's comments as he is aware of the other Sorority situation, and appreciated the distinction between the situations. He said the

applicant has done well with the use of the corner lot and he is familiar with the history of the house. The proposed use is a good use for that particular space. He stated parking is needed in the area and the proposal would help. He said he could support both the Conditional Use and the Variances.

Emig stated he could support the Conditional Use and the Variances. He commented that this is an excellent opportunity for the Alpha XI's to provide additional parking that is needed. He further stated the more off-street parking that can be provided in over crowded areas, the better it is for the residents.

Jackson said he could support it.

The Board made the following findings of fact for the Conditional Use for 601 and 615 N. Fairchild Terrace:

A. A sorority is allowed in the R-1/TNO/UO districts with a Conditional Use. The sorority is a legal nonconforming use and the proposed expansion of the off-street parking requires a Conditional Use and approval of the proposed Variances. The sorority was a permitted use in the UO District until around 1987, at which time the sorority became a Conditional Use at its current location. The existing sorority does not meet the current off-street parking requirements and the proposed parking lot is an attempt to provide additional off-street parking for the sorority use. Variances for off-street parking in the front yard, a reduction in the minimum landscaped open space between the front lot line and a point on the principal structure still facing the front lot line, and the screening requirement for parking lots containing more than six off-street parking stalls within twenty-five feet of adjacent property situated in a residential district are being requested along with the Conditional Use to allow the design of the proposed parking lot at 615 N. Fairchild Terrace.

B. Directly north of the zoning lot is Fairchild Terrace, a local street which begins at the intersection of Sunset Avenue and moves eastward past the zoning lot, gradually bending to the south. Anderson Avenue, a four lane arterial street, is the following street to the north. Directly north of the proposed location for the proposed parking lot is an undeveloped lot with frontage along Anderson Avenue, Sunset Avenue and Fairchild Terrace. Directly north of Fairchild Terrace and the Alpha Xi Delta Sorority zoning lot (west to east respectively) is the aforementioned vacant lot; a rental house with frontage along Anderson Avenue and a parking area in the Fairchild Terrace front yard; two owner occupied single-family residences with driveway access and frontage along Fairchild Terrace; and the Delta Delta Delta Sorority with driveway access, off-street parking, and frontage along Fairchild Terrace and Laramie Street. West of the zoning lot is Sunset Avenue a two lane arterial street which begins to widen at the intersection of Fairchild Terrace and Sunset Avenue to allow traffic movements onto Anderson Avenue, a four lane arterial street. Traffic movements are controlled by traffic lights at the intersection of Anderson Avenue and Sunset Avenue. A concrete median begins south of the intersection of Fairchild Terrace and Sunset Avenue and extends to the intersection of Anderson Avenue and Sunset Avenue. The median is designed to limit vehicular access onto Fairchild Terrace from Sunset Avenue to a right in right out. Further west of Sunset Avenue is a residence used as a multiple family dwelling with driveway access off of Sunset Avenue and an apartment complex with driveway access off of Sunset Avenue. Southwest of the zoning lot is the Sigma Nu Fraternity with driveway access off of Sunset Avenue. South is the Alpha Delta Pi Sorority with off-street parking and driveway access in the front yard along Sunset Avenue. East of the zoning lot is the intersection of Fairchild Terrace and Laramie Street followed by a mix of owner occupied single-family residences and residences used as rentals with frontage and driveway access primarily off of Laramie Street. Southeast of the zoning lot is the Kappa Kappa Gamma Sorority which has driveway access and off-street parking within the front yard along Fairchild Terrace. Further to the southeast is an off-street

parking lot within the front yard setback along Fairchild Terrace and the Kappa Kappa Gamma Sorority annex house. The Alpha Xi Delta sorority has not proposed to change its current facility; they have only proposed to add an additional parking area to the general west which will replace the existing residential house at 615 N. Fairchild Terrace.

The proposed parking area should decrease the amount of Alpha Xi Delta sorority vehicles parked along Fairchild Terrace. According to the applicants, the removal of the house will benefit the surrounding neighborhood by removing “an unsightly, poorly maintained existing residence”. The sorority held an open house to discuss the proposed parking area with surrounding residents. According to the application documents submitted with the proposal, the neighbors in attendance of the open house are in support of the proposed project.

C. 1. The proposed paved parking area is 66-ft. wide by 78 ft. 6 in. long, not including the entry drive, and will have an approximate area of 4,875 square feet. The parking area is proposed to consist of 16 off-street parking stalls which will replace the existing residential structure located on Lot 1, 601 N. Fairchild Terrace. The west portion of the proposed parking area is to be generally parallel with Sunset Avenue and along the twenty-five (25) foot front yard setback. The parking area at its closest point to the north, along Fairchild Terrace, will have a zero (0) foot front yard setback. The proposed parking area will have a fifteen (15) foot side yard setback from the southern property line. The southeastern portion of the proposed parking area will extend beyond Lot 1 onto Lot 2, 615 N. Fairchild Terrace, which contains the existing sorority house. The parking area is proposed to be located two feet below grade of Sunset Avenue, but three feet above grade of Fairchild Terrace. As proposed, the parking area will have a gradual 5% slope from the south portion of the parking area to the north, and a 10% driveway slope. A small modular block retaining wall with a maximum height of 1-ft. 6in. will be located along the south and southeast perimeters of the parking area. Proposed lighting will consist of two (2) thirty inch bollard style lights on the west and east sides of the drive entrance and a pole mounted light fixture located in the southwest corner of the proposed parking lot. Lighting from the pole mounted light fixture will be projected downward and toward the parking lot.

C. 2. Landscaping is proposed around the entire perimeter of the parking area and within the west portion of the zoning lot. Proposed landscaping will consist of trees, shrubs, perennials, and ground cover. Although the applicants would like to have some flexibility in specific specie types, the categorization (deciduous shrubs, ornamental trees, ornamental grass covers, groundcovers/perennials), quantities, size at planting, and overall concept will be as identified in the landscaping site plan. Two large oak and elm trees are located in the northwest corner of the lot and are proposed to remain. Additional trees are proposed along the west, north and south portions of the parking area, which will aid in screening the parking area from Sunset Avenue, Fairchild Terrace, and the property to the south. An additional eleven (11) trees are proposed on the landscape plan and will consist of three (3) ornamental trees (i.e. dogwood, redbud) which will be at 2½-inch caliper at tree planting, two (2) deciduous trees (i.e. elm, oak) which will be at 3½-inch caliper at tree planting, and six (6) evergreen trees (i.e. upright juniper) which will be at 6-feet in height. A screening fence of six (6) feet in height is required for parking areas containing more than six off-street parking stalls located within twenty-five feet of a residential district. A variance is being requested in conjunction with the Conditional Use to not provide the required screening fence along the south portion of the proposed parking lot. In combination with the proposed parking lot being two feet below Sunset Avenue grade, the addition of a 1-ft. 6-in. modular block retaining wall and proposed shrub landscape vegetation, the proposed parking area should be adequately screened from the surrounding neighbors, Sunset Avenue and Fairchild Terrace.



D. The Alpha Xi Delta sorority currently does not meet the parking requirements for a sorority of its size. With a current occupancy between 66 and 72 women, the sorority would be required to provide approximately 50 to 54 off-street parking stalls. Currently the sorority has 24 off-street parking stalls in a parking area located on Lot 2, generally east of the existing sorority house. The proposed parking area will provide an additional 16 off-street parking stalls to the sorority which may help to alleviate the congestion along Fairchild Terrace attributed with the lack of sufficient off-street parking. The gradient west of the existing sorority house is such that providing ADA accessible stalls and subsequent ramp within the proposed parking area could be cost prohibitive and unreasonable, therefore additional ADA stalls will be provided in the existing east parking area to accommodate accessibility needs. The sorority is not expanding its house occupancy, which would require an Exception of the minimum off-street parking requirement.

E. The parking lot is proposed to be graded to maintain a 5% slope from the southeast to the northwest, with an increase of slope to 10% along a small portion of the driveway directly south of Fairchild Terrace. Stormwater is proposed to drain off of the parking lot into a proposed concrete drainage flume along the west portion of the proposed parking lot, which will extend to the general north through the northwest portion of the zoning lot to a proposed curb cut on Fairchild Terrace. Upon leaving the zoning lot, stormwater will drain to the storm drain inlet located on east side of Sunset Avenue, just south of Anderson Avenue. The City Engineer has reviewed and accepted the proposed drainage plan.

F. The existing configuration for Lot 1 has driveway access off of Sunset Avenue. Through the proposed demolition and changes to the site, the existing curb cut is proposed to be closed. The proposed parking area will have a new curb cut approximately forty feet from Sunset Avenue, providing access from Fairchild Terrace. The twenty (20) foot wide driveway as designed will provide efficient two-way traffic in and out of the proposed parking area.

Hardy moved to approve a CONDITIONAL USE for a proposed off-street parking lot at 615 N. Fairchild Terrace and 601 N. Fairchild Terrace for the existing Alpha Xi Delta Sorority in the R-1, Single-Family Residential District, UO, University Overlay District, and TNO, Traditional Neighborhood Overlay District with the following conditions:

1. The Conditional Use shall be limited to the Alpha Xi Delta sorority.
2. The Conditional Use shall be limited to the site plan and application documents for the proposed parking lot.
3. The existing water, sewer, and other utilities existing on Lot 1, Crestview Addition shall be closed in accordance with the appropriate utility's specifications.
4. The existing curb cut shall be closed and the new curb cuts opened according to City Engineer specifications.
5. The proposed landscaping shall be planted at the first planting season as proposed in the site plan and application documents.
6. Lighting shall be as proposed in the site plan and application documents.
7. Landscaping categorization, quantity, and height at planting shall be as proposed in the landscape plan and application documents.
8. The proposed landscaping, irrigation, modular retaining walls, lighting fixtures, and pavement associated with the parking area and drive shall be maintained in good condition.
9. The applicant shall obtain all necessary permits and be in compliance with all applicable codes.

Emig seconded, which was approved with a vote of 3-0.

The Board made the following findings of fact for the Variances for 601 and 615 N. Fairchild Terrace:

1. The Alpha Xi Delta Sorority house is located on Lot 2, Crestview Addition, 601 N. Fairchild Terrace. The house was originally constructed in 1938 with an addition made in 1963. The Sorority's current off-street parking lot does not satisfy the current requirements for off-street parking for a sorority, and the existing lot does not provide an opportunity for a parking lot expansion. The Sorority plans on acquiring Lot 1, Crestview Addition to the west, in order to create additional off-street parking for occupants of the sorority. In doing such, the sorority will create a large corner zoning lot which will front on Sunset Avenue, a arterial street, and Fairchild Terrace, a local street. Minimum twenty-five (25) foot front yard setbacks are along both Sunset Avenue and Fairchild Terrace and minimum fifteen (15) foot side yard setbacks are along the south and east property lines. Due to the corner lot configuration, the minimum setbacks reduce the amount of usable space on the west portion of the zoning lot. Off-street parking is not allowed to be located between the front lot line and the furthest point on the principal structure still facing the front lot line. The corner zoning lot creates two front yards, the frontage along Fairchild Terrace as well as along Sunset Avenue. Similarly, there must be at least seventy-five (75) percent of the aforementioned area maintained as landscaped open space. With a large corner zoning lot containing an existing structure, this requirement restricts the amount of usable space on the west portion of the corner zoning lot. The proposed parking lot would reduce the 75% landscaped open space to 60% along Sunset Avenue and 53% along Fairchild Terrace. The adjacent property to the south currently has a parking area containing more than six (6) parking stalls and is located within twenty-five feet of property located within a residential district; however the parking area is not currently screened. The corner zoning lot is below grade by approximately three feet of the neighboring property to the south.

2. Directly north of the zoning lot is Fairchild Terrace, a local street which begins at the intersection of Sunset Avenue and moves eastward past the zoning lot, gradually bending to the south. Anderson Avenue, a four lane arterial street, is the following street to the north. Directly north of the proposed location for the proposed parking lot is an undeveloped lot with frontage along Anderson Avenue, Sunset Avenue and Fairchild Terrace. Directly north of Fairchild Terrace and the Alpha Xi Delta Sorority zoning lot (west to east respectively) is the aforementioned vacant lot; a rental house with frontage along Anderson Avenue and a parking area in the Fairchild Terrace front yard; two owner occupied single-family residences with driveway access and frontage along Fairchild Terrace; and the Delta Delta Delta Sorority with driveway access, off-street parking, and frontage along Fairchild Terrace and Laramie Street. West of the zoning lot is Sunset Avenue a two lane arterial street which begins to widen at the intersection of Fairchild Terrace and Sunset Avenue to allow traffic movements onto Anderson Avenue, a four lane arterial street. Traffic movements are controlled by traffic lights at the intersection of Anderson Avenue and Sunset Avenue. A concrete median begins south of the intersection of Fairchild Terrace and Sunset Avenue and extends to the intersection of Anderson Avenue and Sunset Avenue. The median is designed to limit vehicular access onto Fairchild Terrace from Sunset Avenue to a right in right out. Further west of Sunset Avenue is a residence used as a multiple family dwelling with driveway access off of Sunset Avenue and an apartment complex with driveway access off of Sunset Avenue. Southwest of the zoning lot is the Sigma Nu Fraternity with driveway access off of Sunset Avenue. South is the Alpha Delta Pi Sorority with off-street parking and driveway access in the front yard along Sunset Avenue. East of the zoning lot is the intersection of Fairchild Terrace and Laramie Street followed by a mix of owner occupied single-family residences and residences used as rentals with frontage and driveway access primarily off of Laramie Street. Southeast of the zoning lot is the Kappa Kappa Gamma Sorority which has driveway access and off-street parking within the front yard along Fairchild Terrace. Further to the southeast is an off-street parking lot within the front yard setback along Fairchild Terrace and the Kappa Kappa Gamma Sorority annex house. The Alpha Xi Delta sorority has not proposed to change its current facility; they have only proposed to add an additional parking area to the general west which will replace the existing residential house at 615 N. Fairchild Terrace.

The off-street parking lot proposed to replace the residential structure is proposed to be approximately two feet below grade of Sunset Avenue and generally three feet below grade of the property to the south. The Sorority to the south currently has a parking area generally along the south property line of 615 N. Fairchild Terrace. Providing a six foot high screening fence would be essentially screening a parking area below grade of another established parking area. Not requiring the screening fence should not adversely affect the adjacent properties or the surrounding neighborhood.

The proposed parking lot is above the Fairchild Terrace street grade; however the parking lot is proposed to be buffered to the west, north, south and east by landscaped vegetation. Proposed landscaping which will aid in buffering the parking lot will consist of trees, shrubs, perennials, and ground cover. Although the applicants would like to have some flexibility in specific specie types, the categorization deciduous shrubs, ornamental trees, ornamental grass covers, groundcovers/perennials), quantities, size at planting, and overall concept will be as identified in the landscaping site plan. Two large oak and elm trees are located in the northwest corner of the lot and are proposed to remain. Additional trees are proposed along the west, north and south portions of the parking area, which will aid in screening the parking area from Sunset Avenue, Fairchild Terrace, and the property to the south. An additional eleven (11) trees are proposed on the landscape plan and will consist of three (3) ornamental trees (i.e. dogwood, redbud) which will be at 2½-inch caliper at tree planting, two (2) deciduous trees (i.e. elm, oak) which will be at 3½-inch caliper at tree planting, and six (6) evergreen trees (i.e. upright juniper) which will be at 6-feet in height.. The proposed parking area will provide an additional 16 off-street parking stalls to the sorority which may help to alleviate the congestion along Fairchild Terrace attributed with the lack of sufficient off-street parking. The proposed landscape vegetation should assist in mitigating for the area potentially lost to landscaped open space associated with the zoning lot.

The parking lot is proposed to be graded to maintain a 5% slope from the southeast to the northwest, with an increase of slope to 10% along a small portion of the driveway directly south of Fairchild Terrace. Stormwater is proposed to drain off of the parking lot into a proposed concrete drainage flume along the west portion of the proposed parking lot, which will extend to the general north through the northwest portion of the zoning lot to a proposed curb cut on Fairchild Terrace. Upon leaving the zoning lot, stormwater will drain to the storm drain inlet located on east side of Sunset Avenue, just south of Anderson Avenue. The City Engineer has reviewed and accepted the proposed drainage plan.

3. Strict application of the Zoning Regulations is a hardship due to the unique conditions of the proposed zoning lot. Denying the proposed Variances would prevent the Sorority from utilizing the adjacent lot to the west for an off-street parking lot as proposed and designed. Although the proposed location for the off-street parking lot has two front yards, in relation to the existing Sorority house, the proposed location for the off-street parking lot is located in the “functional west side yard” of the existing Alpha Xi Delta Sorority. The existing Alpha Xi Delta parking lot located east of the existing structure is within the minimum twenty-five (25) foot front yard setback as is the case with several of the surrounding Sororities. Denying the proposed request would appear to be inconsistent with what currently exists on the zoning lot and within the neighborhood. Requiring strict application of the regulations to prevent off-street parking in the required front yard would require the proposed parking lot in its proposed location to be reduced by at least six parking spaces. According to the applicant, “in order to make the purchase of the property worth pursuing, a reasonable number of parking stalls need to be provided.” The proposed off-street parking lot may reduce congestion associated with parked cars on the street in the neighborhood and will be buffered to surrounding properties with shrubbery vegetation, perennials and ground cover. To deny the applicants the ability to create the proposed parking lot as proposed would prevent the Sorority from creating additional off-street parking spaces.

4. Replacing an existing house with a parking lot will remove vehicles from the street, potentially reducing congestion along Fairchild Terrace. Lighting is proposed to consist of two (2) thirty inch bollard style lights on the west and east sides of the drive entrance and a pole mounted light fixture located in the southwest corner of the proposed parking lot. Lighting from the pole mounted light fixture will be projected downward and toward the parking lot. The proposed parking lot does not encroach into any utility or drainage easements and likewise the proposed lighting structures, landscaping, and retaining walls do not interfere with the vision triangles associated with Fairchild Terrace or Sunset Avenue. The proposed lighting and parking lot should not have an adverse effect on the health, safety, or general welfare of the public.

5. The intent of the front yard restriction is to prevent parking in the front yard specifically associated with parking lots. The existing Alpha Xi Delta parking lot as well as neighboring properties however, offers similar situations in which parking has been located within the front yards, specifically the Sorority to the south. The landscaped open space requirement ensures adequate open space is preserved. According to the applicant, "the parking lot is relatively small and will be surrounded on all sides by well designed landscaping." The parking lot screening requirement ensures that less intensive uses located within twenty-five feet and in a residential district are screened from the light and noise associated with parking lots. In this case, the proposed parking lot is down hill from an adjacent parking lot, and requiring additional screening from an already buffered parking lot is redundant and unnecessary.

Hardy moved to approve VARIANCES to allow off-street parking in a required front yard and between the front lot lines and a line parallel to the front lot lines drawn through a point which is on the side of the principal structure furthest from the front lot lines, yet still facing the front lot lines; a reduction of the minimum 75% landscaped open space between the two lines described above; and to not provide the required screening of not less than six (6) feet in height for a parking area containing more than six (6) parking stalls located within twenty-five (25) feet of adjacent property situated in a residential district. The VARIANCES requested are for a proposed off-street parking lot at 601 and 615 N. Fairchild Terrace in the R-1, Single-Family Residential District, TNO, Traditional Neighborhood Overlay (TNO) District, UO, University Overlay District, for the Alpha XI Delta sorority with the following conditions:

1. A Conditional Use shall be obtained by the Alpha Xi Delta Sorority.
2. The Variances shall be restricted to the parking lot use by the Alpha Xi Delta Sorority.
3. The parking lot shall be constructed as proposed in the site plan and application documents.
4. The existing water, sewer, and other utilities existing on Lot 1, Crestview Addition shall be closed in accordance with the appropriate utility's specifications.
5. The existing curb cut shall be closed and the new curb cuts opened according to City Engineer specifications.
6. The proposed landscaping shall be planted at the first planting season as proposed in the site plan and application documents.
7. Lighting shall be as proposed in the site plan and application documents.
8. Landscaping categorization, quantity, and height at planning shall be as proposed in the landscape plan and application documents.
9. The proposed landscaping, irrigation, modular retaining walls, lighting fixtures, and pavement associated with the parking area and drive shall be maintained in good condition.
10. The applicant shall obtain all necessary permits and be in compliance with all applicable codes.

Emig seconded, which passed with a vote 3-0.

Emig moved to Adjourn the meeting and Hardy seconded.

Jackson closed the Public Hearing.

Respectfully Submitted,

Jeremy Frazzell, Planner