

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, March 14, 2012
7:00 PM

MEMBERS PRESENT: Joe Aistrup, Chairperson; Catherine Lavis; and Bruce Kent

MEMBERS ABSENT: Harry Hardy, Vice Chairperson; Connie Hamilton

STAFF PRESENT: Chad Bunger, CFM, AICP, Planner II and Kevin Credit, Planning Intern

CONSIDER THE MINUTES OF THE FEBRUARY 8, 2012, BOARD OF ZONING APPEALS MEETING.

Lavis moved to approve the February 8, 2012 minutes which was seconded by Kent and passed with a vote of 3-0.

A PUBLIC HEARING to consider a VARIANCE to allow off-street parking between the front lot line and a line parallel to the front lot line drawn through a point which is on the side of the principal structure furthest from the front lot line; and to reduce the minimum landscaped open area required in the front yard area, as described above, from seventy-five percent (75%) to forty-three percent (43%) along Bellerive Drive, all for a proposed paved off-street parking lot for a new multiple-family dwelling on Lot 14, Bellerive Addition, generally located to the west of the intersection of Grand Mere Parkway and Players Terrace, south of Players Terrace, in the R-3, Multiple-Family Residential District. (Applicant: SMH Consultant – Brett Louk, Owner: Banzi, LLC – Zac Burton).

A PUBLIC HEARING to consider a VARIANCE to allow off-street parking between the front lot line and a line parallel to the front lot line drawn through a point which is on the side of the principal structure furthest from the front lot line; and to reduce the minimum landscaped open area required in the front yard area, as described above, from seventy-five percent (75%) to fifty-eight percent (58%) all for a proposed paved off-street parking lot for a new multiple-family dwelling on Lot 19, Bellerive Addition, generally located three hundred (300) feet south of the intersection of Players Terrace and Bellerive Drive on the west side of Bellerive Drive, in the R-3, Multiple-Family Residential District. (Applicant: SMH Consultant – Brett Louk, Owner: Banzi, LLC – Zac Burton).

The Board asked that both of these items be heard together. Bunger presented the staff reports for the Variances for both lots. City Administration recommended approval of both items, with specific conditions of approval for each lot.

Kent asked if any residents in the area have objected to the proposed Variances. Bunger stated that no objections have come to his attention. Kent asked if any objections were raised by the drainage issues on the development or the area. Bunger explained that drainage was a contentious topic when the development was annexed, rezoned and subdivided. A number of conversations had occurred when the Planning Board heard the item in 2011. Kent asked if the proposed drainage plan for the lots were approved. Bunger responded that the proposed development meets the intent of the Preliminary Plat and requirements of the Planning Board and has been approved by the City Engineer.

Aistrup asked if the approved drainage plan envisioned such a large building and parking lot for each site. Bunger deferred that question to the applicant. He did state the Planning Board did not look at the specific details of the size of the buildings or parking lots when the Preliminary Plat was approved. Aistrup commented that maybe the size of the development may be too large for the lots and out of character of the area. He raised concerns of the intensity of the developments for the size of lots. Bunger did state that it appears apartment buildings of this scale was envisioned for the lots in question because of the zoning district that it is located in and the size of the lots.

Aistrup and Bunger discussed a previously approved Variance for parking in the front yard area in the Grand Champions subdivision to the north of the subject sites. Bunger explained that the lots were similar in size and intensity, but the lots were platted and the buildings designed in such a manner to minimize the amount of off-street parking in the front yard area.

Kent expressed that his concern was if all the people that may be impacted were notified of the Variance requests. Bunger explained that requirements that the City must meet to advertise a public hearing. Bunger deferred to the applicant to answer if the applicant spoke with neighboring property owners.

With no further questions from the Board for City staff, Aistrup opened the public hearing.

Jeff Hancock with SMH Consultants spoke on behalf of the property owner. He informed the

Board of the history of the project and addressed the questions and concerns of the Board. Hancock explained that through the rezoning and subdivision process, a number of issues of the surrounding property owners were addressed. Hancock stated that the proposed layout of the buildings and the parking lots were a direct reaction to try to satisfy and appease the concerns of those neighbors. He explained that an initial landscaping plan was proposed. Following the recommendation of City staff, the landscape plan was revised to include more landscaping along Bellerive Drive and Players Terrace to screen the parking and to minimize the impacts on future neighbors in the subdivision.

Hancock addressed the drainage concerns and the intensity of the development. He stated that the use and general footprints of the lots were known prior to it being annexed, rezoned and subdivided; so the drainage is appropriate for the development. He stated that the Grand Mere Master Plan had envisioned that this entire subdivision would be apartment buildings with similar intensities as the two (2) proposed, which would be a much more intense residential development than what the property owner is proposing. Hancock addressed the lot coverage issue and said that these lots could be switched to meet the zoning regulations, but that would most likely create a larger degree of impervious surfaces on both lots and would not meet the desires of property owners in other parts of Grand Mere. Hancock did describe what efforts the property owner did to reach out to neighboring property owners to explain the development.

With no other comments, Aistrup closed the public comment section.

Kent felt that the requests met the Variance standards and no neighbors have expressed issues with the proposal, and that could support the Variance request.

The Board made the following findings of fact for the Variance on Lot 14, Bellerive Addition.

PRESENT USE: vacant, platted land zoned for multiple-family residence

CONDITIONS UNIQUE TO THE PROPERTY: The subject site is vacant land that has recently been annexed, rezoned to R-3, Multiple-Family Residential District and platted in the Grand Mere Development in 2011. The subject site gradually slopes from west to east, with no major grade changes or steep slopes. The subject site backs up to the Grand Mere Parkway to the east. The application documents states that “the owner will be able to situate the apartment building towards the rear of the lot and directly adjacent to Grand Mere Parkway, as opposed to Bellerive Drive.

The subject site is has the unique condition of being a corner lot with frontage along three (3) public rights-of-ways (ROW). Visually, the development of the subject site would naturally have off-street parking along at least one (1) ROW. The subject site was platted in a manner so that the north and east property lines would be considered rear lot lines, which would allow for the off-street parking along them. The applicant and owner have chosen to place the off-street parking lot along Bellerive Drive, the front property line, to minimize its impacts on the parkway and the rest of the Grand Mere Development to the east.

The location of the subject site in the Grand Mere Development is unique when compared to other properties in the City that are zoned in the R-3 District. Two (2) other properties within the Grand Mere Development, located to the north and east of the subject site along Grand Mere Parkway, are also in the R-3 District. An apartment building sits on each of these lots and was completed in 2010. These properties were platted in such a manner that the eastern property line along Champions Circle is determined to be a rear lot line, permitting the placement of the off-street parking lot along Champions Circle. The site plan for these apartment buildings were granted by a Variance by the Board of Zoning Appeals because of the location of the off-street parking in relationship to the buildings front yard, as defined by Section 7-102(C)(2).

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and adjacent properties to the north and south, west of Bellerive Drive, are zoned R-3, Multiple-Family Residential District. Properties to the east of Bellerive Drive are zoned R-2, Two-Family Residential District. The Bellerive Addition was designed to provide a mix of single-family detached, single-family attached and multiple-family dwellings. Two-family dwellings would also be permitted in the development based on the permitted uses in the Zoning Districts. To the west are lots within the Bellerive Addition, zoned R-3 District, and Colbert Hills Golf Course, zoned R-S, Single-Family Residential Suburban District. Beyond the golf course to the west is vacant pasture land, outside of the City limits, zoned Riley County, RPUD, Colbert Hills Residential Planned Unit Development. To the east of the Bellerive Addition is Grand Mere Parkway, vacant pasture land zoned in the Riley County Colbert Hills RPUD and large lot, single-family homes in the Grand Mere Development, zoned R, Single-Family Residential District.

Mary L. Vanier, President of Grand Mere Development, Inc., provided a letter of support for the Variance request. The letter states that “. . . reasons that may or not b obvious have more to with the unique setting within the overall Grand Mere Development. Grand Mere strives to establish individual, recognized neighborhoods that are important elements within the entire Master Plan. This can be seen by driving along Grand Mere Parkway and noting Grand Ridge, Grand Vista, The Heartland, and Grand Champions. Current residents within existing neighborhoods of Grand Mere have expressed a desire to keep parking and the resulting noise and movement of vehicles away from the Parkway. In part, that is why the proposed parking on lot 14 is contained within its own neighborhood of Bellerive.” Mrs. Vanier goes on to state in her letter “Within the Bellerive neighborhood, both of the apartment buildings will be the first building improvements made. Any home owners that purchase a house within Bellerive will know beforehand how the apartment buildings and parking lots are sited. There will be no surprises regarding where the parking activities will occur. And again, those activities will

impact only the Bellerive neighborhood, and not Grand Mere Parkway or the golf course.

Having the proposed off-street parking lot located to the rear or side of the proposed building as required by the Zoning Regulations could adversely impact the rest of the Grand Mere neighborhoods to the east.

The applicant has provided a landscape plans that shows open lawns, deciduous trees and landscape beds along Bellerive Drive and Players Terrace. The landscape beds contain a mixture of spirea, junipers and other bushes and grasses to lessen the impact of off-street parking lot on drivers, pedestrians and the surrounding Bellerive neighborhood.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:

The subject site slopes from west to east, with no steep grades or other physical barriers or limitations that would prevent the development of the site to conform with the minimum requirements of the Zoning Regulations. The application documents states that without the Variance, the “property is not being used to its fullest potential nor in its most efficient manner. It may also draw the ire of surrounding neighborhoods and golfers as they may be upset about looking directly into a parking lot full of cars from their rear windows or on the golf course, as opposed to an architecturally pleasing building.”

The subject site was platted in 2011 with the purpose of developing as a multiple-family dwelling. The Final Plat of the Bellerive Addition restricted the access along Grand Mere Parkway and Players Terrace, making these property lines technically rear lot lines. The platted rear lot lines along the public ROWs would allow for the placement of the off-street parking lot in these areas so that the development of the subject site would comply with the Zoning Regulations. As stated, the owner has chosen to develop the subject site so that the proposed multiple-family building would face the intersection of Grand Mere Parkway and Player Terrace to the northeast with the off-street parking lot located behind the building, along Bellerive Drive. This is to reduce the impacts that the off-street parking lot may have on Grand Mere Parkway and other neighborhoods in Grand Mere. There does not appear to be an unnecessary hardship to the property owner if the regulation is strictly applied. The Board may consider the unique lot configuration and the unique circumstances of developing in Grand Mere; including that placing the off-street parking lot adjacent to Grand Mere Parkway and Players Terrace maybe detrimental to the entire Grand Mere development, which may constitute a hardship to the surrounding area.

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

The proposed location of the off-street parking lot would impact the public order along Bellerive Drive. The general development pattern or order of multiple-family developments in the City is to have the building located towards the street and with the off-street parking located to the side and rear of the building. The proposed site plan is opposite of the typical pattern along the street. However, the design of the subject site takes into account the impact on Grand Mere Parkway and other Grand Mere neighborhoods.

This proposed design of the subject site may adversely impact the adjacent residential

properties. As mentioned, the single-family lots will be developed in the future. Any property owners purchasing these adjacent lots will be aware of the impacts that the proposed parking lot will have on them and their home. The proposed landscape plan does provide landscape beds along Players Terrace and Bellerive Drive to provide a visual buffer between the off-street parking lot and the streets for drivers, pedestrians and adjacent property owners.

The location of the off-street parking will not impact any utility easements or the vision triangle created at the entrance to the development and Bellerive Drive.

RELATIONSHIP TO INTENT OF REGULATIONS:

The intent of the Section 7-102(C)(2) is to prevent off-street parking in front of multiple-family dwellings to reduce the visual impact of large parking areas to passers-by and adjacent residential uses. The regulation is also designed to limit the amount of paving in the front yard area, as defined by the regulation, so that only a driveway for the development is allowed.

The proposed site plan arranges the parking lot in front of the building along Bellerive Drive to mitigate any impacts that the off-street parking would have on the rest of Grand Mere to the east. The purpose of the site plan is to place the proposed apartment building between other Grand Mere neighborhoods and parkway and the parking lot. Although the off-street parking lot is clearly in front of the building and is completely in view of passers-by and adjacent residential properties, it is the only practical arrangement of the site to limit its impact on the rest of Grand Mere. The impacts on adjacent properties are lessened by the proposed landscaping buffer between the off-street parking lot and the adjacent streets.

Kent moved to approve the Variance to allow off-street parking between the front lot line and a line parallel to the front lot line drawn through a point which is on the side of the principal structure furthest from the front lot line; and to reduce the minimum landscaped open area required in the front yard area, as described above, from seventy-five percent (75%) to forty-three percent (43%) along Bellerive Drive, all for a proposed paved off-street parking lot for a new multiple-family dwelling to be located on Lot 14 in the R-3, Multiple-Family Residential District; with the following conditions of approval:

1. The Variance shall only apply to the off-street parking lot as shown in the application materials and site plan.
2. The subject site shall be developed as proposed.
3. The proposed landscaping shall be installed as proposed. The minimum plant material size and heights, as listed on the landscape plan, shall be followed at the time of installation.
4. All applicable permits shall be obtained.

Lavis seconded the motion, which passed with a vote of 3-0.

The Board made the following findings of fact for the Variance on Lot 19, Bellerive Addition.

PRESENT USE: vacant, platted land zoned for multiple-family residence

CONDITIONS UNIQUE TO THE PROPERTY: The subject site is vacant land that has recently been annexed, rezoned to R-3, Multiple-Family Residential District and platted in the Grand Mere Development in 2011. The subject site gradually slopes from east to west, with no major grade changes or steep slopes. The subject site abuts the Colbert Hills Golf Course to the west. Specifically, the subject site is adjacent to the greens of hole #4 and the tee boxes of hole #5. The application documents states that the site was designed specifically to maintain “the integrity of hole number 4 as well as the entire golf course.

The location of the subject site in the Grand Mere Development and being adjacent to the Colbert Hills Golf Course is unique when compared to other properties in the City that are zoned in the R-3 District. Two (2) other properties within the Grand Mere Development, located to the north and east of the subject site along Grand Mere Parkway, are also in the R-3 District. An apartment building sits on each of these lots and was completed in 2010. These properties were platted in such a manner that the eastern property line along Champions Circle is determined to be a rear lot line, permitting the placement of the off-street parking lot along Champions Circle. The site plan for these apartment buildings were granted by a Variance by the Board of Zoning Appeals because of the location of the off-street parking in relationship to the buildings front yard, as defined by Section 7-102(C)(2).

The Manhattan Area Urban Planning Board placed a requirement on the Bellerive Addition preliminary plat have all storm water runoff from the development to be directed towards the existing detention basins and other storm water infrastructure in the Grand Mere Development. This condition was in response to the concerns of flooding along Wildcat Creek, which the development drains into. This is requirement of the Planning Board creates a unique condition to the development. Without the condition of approval, the subject site could potentially be developed so that the parking lot could be located to the west of the building and graded so that drainage would be directed to the west to the golf course and open agricultural lands beyond the golf course.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and adjacent properties to the north, south, and west of Bellerive Drive are zoned R-3, Multiple-Family Residential District. Properties to the east of Bellerive Drive are zoned R-2, Two-Family Residential District. The Bellerive Addition was designed to provide a mix of single-family detached, single-family attached and multiple-family dwellings. Two-family dwellings would also be permitted in the development based on the permitted uses in the Zoning Districts. To the west is the Colbert Hills Golf Course, zoned R-S, Single-Family Residential Suburban District. Beyond the golf course to the west is vacant pasture land, outside of the City limits, zoned Riley County, RPUD, Colbert Hills Residential Planned Unit Development. To the east of the Bellerive Addition is Grand Mere Parkway, vacant pasture land zoned in the Riley County Colbert Hills RPUD and large lot, single-family homes in the Grand Mere Development, zoned R, Single-Family Residential District.

Bernie Haney, Executive Director of KSU Golf Course Management and Research Foundation, provided a letter of support for the applicant’s request. In part, the letter states: “We believe it will improve the golfers experience at Colbert Hills with the apartment building view instead of a parking lot adjacent to Championship Course Hole #4. Most likely it will

decrease the potential damage to those resident vehicles and alleviate noise from the parking area to the golfers nearby.” Vehicles would be better protected from golf balls if the parking lot was to the east and north of the building as proposed. The view from the golf course of parked vehicles could be mitigated by a screening fence, landscape screening or earth berms.

Mary L. Vanier, President of Grand Mere Development, Inc., also provided a letter of support for the Variance request. The letter states that “The parking configuration on lot 19 is influenced significantly by the unique circumstance of having a championship golf course in the back yard. The golf course is existing. Respecting the design of the course, and the beauty of that community asset by placing the building back and the parking to the front of the lot seems a wise choice.” The letter goes on to state that “Within the Bellerive neighborhood, both of the apartment buildings will be the first building improvements made. Any home owners that purchase a house within the Bellerive will know beforehand how the apartment buildings and parking lots are sited. There will be no surprises regarding where the parking activities will occur. And again, those activities will impact only the Bellerive neighborhood, and not Grand Mere Parkway or the golf course.

Having the proposed off-street parking lot located to the rear or side of the proposed building as required by the Zoning Regulations could adversely impact the golf course adjacent to the subject site.

The applicant provided a landscape plans that shows open lawns and deciduous trees and a landscape bed with spirea, junipers and other bushes and grasses along Bellerive Drive to provide a visual buffer between the street and the parking lot. This should mitigate any visual impacts on adjacent properties.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:

The subject site slopes from east to west, with no steep grades or other physical barriers or limitations that would prevent the development of the site to conform with the minimum requirements of the Zoning Regulations. The application documents states that the “property that is not being used to its fullest potential nor in its most efficient manner. It may also draw the ire of surrounding neighborhoods and golfers as they may be upset about looking directly into a parking lot full of cars from their rear windows or on the golf course, as opposed to an architecturally pleasing building.” The subject site was platted in 2011 with the purpose of developing as a multiple-family dwelling. During the platting process, the Manhattan Urban Area Planning Board required that all storm water runoff from the development be directed to the east towards existing storm water infrastructure. This condition effectively made placing the off-street parking at the side or rear of the building impractical. The amount of site grading and infrastructure needed to collect storm water from a parking lot on the west side of the subject site and direct it towards the east would be extremely difficult and would create a hardship to the property owner.

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

The proposed location of the off-street parking lot would impact the public order along Bellerive Drive. The general development pattern or order of multiple-family developments

in the City is to have the building located towards the street and with the off-street parking located to the side and rear of the building. The proposed site plan is opposite of the typical pattern along the street. However, the design of the subject site takes into account the impact on the Colbert Hills Golf Course. The site design also is limited to the requirement by the Planning Board in regards to how storm water is collected and managed.

This proposed design of the subject site may adversely impact the adjacent residential properties. As mentioned, the single-family lots will be developed in the future. Any property owners purchasing these adjacent lots will be aware of the impacts that the proposed parking lot will have on them and their home. The applicant has attempted to reduce these impacts on adjacent properties and the general public by proposing a landscape bed to the east of parking stalls along the street to create a visual buffer.

The location of the off-street parking will not impact any utility easements or the vision triangle created at the entrance to the development and Bellerive Drive.

RELATIONSHIP TO INTENT OF REGULATIONS:

The intent of the Section 7-102(C)(2) is to prevent off-street parking in front of multiple-family dwellings to reduce the visual impact of large parking areas to passers-by and adjacent residential uses. The regulation is also designed to limit the amount of paving in the front yard area, as defined by the regulation, so that only a driveway for the development is allowed.

The proposed site plan arranges the parking lot in front of the building along Bellerive Drive to mitigate any impacts that the off-street parking would have on the adjacent golf course to the west. The purpose of the site plan is to place the proposed apartment building between the golf course and the parking lot. The site design also meets the requirement placed on the Bellerive Addition development to direct all storm water runoff to the east. If the site was designed to meet the Zoning Regulations and the requirements from the Preliminary Plat, significant grading and installation of storm water infrastructures would need to be done to meet the regulations and requirements. Although the off-street parking lot is clearly in front of the building and is completely in view of passers-by and adjacent residential properties, it is the only practical arrangement of the site. The impacts on adjacent properties and the view from the street will be mitigated by the proposed landscaping that creates a visual buffer of parking lot.

Kent moved to approve a Variance to allow off-street parking between the front lot line and a line parallel to the front lot line drawn through a point which is on the side of the principal structure furthest from the front lot line; and to reduce the minimum landscaped open area required in the front yard area, as described above, from seventy-five percent (75%) to fifty-eight percent (58%) all for a proposed paved off-street parking lot for a new multiple-family dwelling on Lot 19, Bellerive Addition, located in the R-3, Multiple-Family Residential District with the following conditions of approval:

1. The Variance shall only apply to the off-street parking lot as shown in the application materials and site plan.
2. The subject site shall be developed as proposed.
3. The proposed landscaping shall be installed as proposed. The minimum plant material

size and heights, as listed on the landscape plan, shall be followed at the time of installation.

4. All applicable permits shall be obtained.

Lavis seconded the motion, which passed with a vote of 3-0.

A PUBLIC HEARING to consider a VARIANCE to allow for the increase of the maximum area of a sign in the R, Single-Family Residential District from forty (40) square feet to one-hundred and twenty (120) square feet for a ground sign to be located approximately one-hundred and twenty (120) feet to the north of Gillespie Drive and from forty (40) square feet to one-hundred and sixty (160) square feet for a new wall sign facing Ft. Riley Boulevard at the Westview Community Church, 615 Gillespie Drive. (Applicant/Owner: Melissa Cooper - Westview Community Church)

Bunger provided the Staff Report for the Variance request, recommending approval with two (2) conditions of approval.

Kent asked Bunger if the proposed signs would impact traffic in any. Bunger felt that the two (2) signs should not impede traffic in the public streets or within the off-street parking lot on the subject site. Kent asked if there were any complaints were raised to the Community Development Department. Bunger said that he has spoke with one (1) neighbor who was curious as to what the proposal was, but she did not raise any complaints or issues.

Aistrup opened the public comment. The applicants were present. With no one speaking; Aistrup closed the public comment section and opened it up for Board discussion.

Aistrup felt that there were no issues with this application.

Lavis agreed with Aistrup and sympathized with the church.

The Board made the following findings of fact for the Variance at 615 Gillespie Drive.

PRESENT USE: Westview Community Church

CONDITIONS UNIQUE TO THE PROPERTY: The subject site is a large platted lot with a large church on it, which is situated on the edge of a residential neighborhood. The church previously had direct access to the intersection of Davis Drive and Ft. Riley Boulevard via a private driveway in the Ft. Riley Boulevard ROW. In addition to the access, a large

identification ground sign (120 square feet in area) was located near the intersection, which provided the church with adequate directional and identification signage.

In 2010, KDOT acquired the access to the driveway, which eliminated its use, so that the intersection can be improved for an interchange over Ft. Riley Boulevard. KDOT also required that the existing signage be removed from the ROW. These circumstances moved the churches primary access from the intersection near Ft. Riley Boulevard to Gillespie Drive, a local residential street in the adjacent residential neighborhood. The loss of access and sign placement to the major highway by property acquisition is a unique condition. The applicant's proposed signage will provide identification and directional signage to those traveling along Ft. Riley Boulevard, as well as when guests arrive at the subject site from the local residential streets.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and surrounding properties are zoned R, Single-Family Residential District. To the east of the site, east of DeHoff Drive are properties zoned R-2, Two-Family Residential District and R-3, Multiple-Family Residential District. The immediate area surrounding the subject site is single-family homes. To the north of the subject site is Ft. Riley Boulevard, a four-lane divided highway ROW. The ROW width varies in this area from approximately 330 feet to over 450 feet. The subject site is roughly forty (40) feet above the grade of the highway. The residential properties across the from the subject site to the north are at the relatively same elevation.

The Variance requests should have minimum adverse impacts on adjacent properties. The property lines that adjoin the residential properties to the south are screened by evergreen and deciduous trees. The only view of the proposed Gillespie Drive sign will be from the road way. The combination of the existing trees and the distance of the sign from the south property line (approximately 120 feet) should lessen the impacts that the large sign will have on the adjacent property owners.

The proposed 160 square foot sign on the north side of the building should not adversely impact the properties across Ft. Riley Boulevard. These residential properties are nearly 450 feet from the sign location. Most of these residential properties have their rear yards along Ft. Riley Boulevard and have screening fences. Most of these properties may not even see the sign because of the fences. The residential properties that front onto Arbor Lane and face the subject site are over 500 feet from the sign location.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS: The strict application of the size limitation of identification sign in the residential district may be a hardship to the applicants. Recently, KDOT acquired the primary access to the subject and the location of the church's sign. The sign near the intersection of Davis Drive and Ft. Riley Boulevard served as the church's main identification and directional sign. Because of the new design of Ft. Riley Boulevard, with an interchange at Davis Drive, the only access to the subject site will be from local residential streets, Gillespie Drive and DeHoff Drive. The sign that was near Ft. Riley Boulevard will be reused and located on the subject site to inform patronage and guest that they have arrived at the church. The proposed building sign will inform drivers on Ft. Riley Boulevard of the church's location on Gillespie Drive. Both of

these functions were accomplished with the one (1) sign near the Davis Drive/Ft. Riley Boulevard Intersection.

In addition to this, the subject site is large and on top of the hill next to Ft. Riley Boulevard. The size and elevation of the subject site in combination with the speed of the traffic on the highway would render a sign that met the size requirements of the regulation useless. The size is a function of these conditions.

The application documents states that “Our property is not only used for our purposes but also hosts meetings and events for our community including. . . General and National Elections, Jr. League of the Flint Hills, Kansas Children’s Service League, The Farm Inc., Pawnee Mental Health, USD 383 Early Childhood Development, Girl Scouts, American Red Cross, Neighborhood Association Groups, Wycliffe, College Accredited Classes, Seniors Health Fair, MOPS (Mothers of Preschoolers), Fellowship of Christian Athletes, Project Self-Esteem, Delta Theta Sigma Sorority, MFLC (Military Family Life Consultants).” Without adequate identification signage; members, guests and visitors to the church may become lost trying to find the subject site.

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

Minimal adverse effects of the public health, safety or general welfare should be seen. The location and size of the sign will not distract from drivers on Ft. Riley Boulevard. The Ft. Riley Boulevard sign will be similar in character to signs in commercial areas to the east along the Ft. Riley Boulevard and Seth Child Road.

The size of the sign off of Gillespie will be out of character with the residential neighborhood to the south of the subject site. However, its location, being 120 feet from the south property line, would separate it from the adjacent residential properties.

The locations of the signs are not within any public easements or vision triangles.

RELATIONSHIP TO INTENT OF REGULATIONS:

The intent of the regulations requiring a maximum gross surface area for signs in a residential district is to ensure visual compatibility with other properties in the residential districts by maintaining an appropriately scale for nearby properties, pedestrians and drivers. Although the proposed signs are significantly larger in area than what is permitted in residential districts, the subject site is also significantly larger than most properties located in the R District. The subject site is over 7.6 acres in area, has a lot depth of approximately 300 feet and a width of over 1000 feet in width. The proposed signs will be adequately separated from adjacent residential properties to minimize the impacts on these properties. The size of the proposed signs are within the scale of the subject site and at the same time do not impact the adjacent residential properties.

Kent moved to approve a Variance to allow for the increase of the maximum area of a sign in the R, Single-Family Residential District from forty (40) square feet to one-hundred and twenty (120) square feet for a ground sign to be located approximately one-hundred and

twenty (120) feet to the north of Gillespie Drive and from forty (40) square feet to one-hundred and sixty (160) square feet for a new building sign facing Ft. Riley Boulevard at the Westview Community Church at 615 Gillespie Drive, with the following conditions of approval:

1. The proposed signs shall be installed as described in the application documents and shows on the site plans.
2. All permits shall be obtained.

Lavis seconded the motion, which passed by a vote of 3-0.

A PUBLIC HEARING to consider an EXCEPTION to allow for the reduction of the minimum required front yard setback from twenty-five (25) feet to eleven (11) feet for a proposed addition to the existing house at 2904 Roma Terrace in the R, Single-Family Residential District. The Exception request is also for the existing house, which is located approximately fifteen (15) feet from the front property line, to give the property owner clear and marketable title of the property. (Applicant/Owner: Robert R. and Diana G. Williams)

Bunger provided the staff report; recommending approval with two (2) conditions of approval.

The Board had no question of City staff.

Aistrup opened the floor for public comment. No one approached the Board to make public comments. The applicants were present. Public comments were closed.

The Board made the following Finding of Facts for the Exception at 2905 Roma Terrace.

DESCRIPTION OF EXCEPTION REQUESTED: The subject site is an irregular shaped, interior lot on the north side of Roma Terrace. The lot follows the curve of Roma Terrace right-of-way and has an angled rear property line. The single-family home on the site, which was constructed in 1971, is L-shaped, with the two-car garage situated on the west side of the front façade. It appears that the existing front yard setback of the house, set at approximately twenty-three (23) feet, does not conform to the minimum required twenty-five (25) foot setback. It is unclear how this encroachment of the existing house occurred. The site plan on file with the Code Service Office shows the house to be setback the required twenty-five (25) feet. However, the site plan on file does not show the same site design as what is present today. The existing encroachment may be because the building setback was measured to the foundation and not to the leading edge of the building, as it is measured today.

The applicant would like remodel the front door entrance area to have it resemble a Craftsman

style home. The proposed front façade remodel would extend the covered area of the front door approximately two (2) feet, add stone and wood pillars to the new front door roof overhang, incorporate a bay window to the east of the front door and install new siding to the front façade to give the 1970's ranch style home the desired Craftsman style. The proposed additions to the front area would bring the building to approximately twenty-one (21) feet from the front property line. The applicants are requesting an Exception of the minimum required front yard setback from twenty-five (25) feet to twenty-three (23) feet for the existing house and to twenty-one (21) feet for the proposed additions to the front façade.

PRESENT USE: Single-family home

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The house on the subject site was constructed in 1971. According to the application site plan, the existing house is located approximately twenty-three (23) feet from the front property line, and encroaches into the minimum required twenty-five (25) foot front yard setback required in the R, Single-Family Residential District. It is unclear how this occurred. The building permit site plan on file with the Code Service Department shows a different site design compared to the development of the subject site. The building permit site plan shows that the structure was to be located twenty-five (25) feet from the front property line, which would have complied with the Zoning Regulations. The Exception request includes the reduction of the minimum required front yard setback for the existing house. Other than this issue, and the Exception request for the proposed façade renovation, the subject site complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and all surrounding properties are located in the R, Single-Family Residential District. The area consists of single-family homes. The proposed renovations to the front façade of the home would update and enhance the existing home. The applicants want to renovate the front façade to have a Craftsman style, with the addition of a new roof overhang to the front door, stone and wood pillars to support the new front door overhang, a new bay window to the east of the front door and new siding.

The proposed additions to the front of the house will be approximately twenty-one (21) feet from the front lot line. The existing house is already located approximately twenty-three (23) feet from the front property line. The existing encroachment is visually mitigated by the curvature of Roma Terrace. Because the house sits on the outside of curve, the house does not appear to be as close to the front property line as it is. In addition, it appears that several of the houses on the same side of Roma Terrace are located approximately the same distance from the front property line as the subject site. The proposed building additions are relatively minor in scale to the house and would be similar in character and location to other houses in the surrounding area.

The applicants have meet with several of the surrounding neighbors to explain their plans for the front façade renovation and the Exception request process. They have submitted the optional application form that was signed by nine (9) neighbors showing support for the applicant's request.

The proposed Exception requests for the existing house and proposed building additions should not adversely impact adjacent property owners.

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

The existing house and proposed building additions does not encroach into any public easements or vision triangles. Several of the surrounding properties are located at a similar distance from their front property line. The proposed additions will not be out of character with the surrounding properties. The proposed Exception requesting should not adversely affect the public health, safety or general welfare.

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

The strict application of the front yard setback would prohibit the applicants from renovating the front facades of the house to incorporate the bay window and new roof overhang of the front door to visually create a Craftsman style home. Other options may exist to incorporate elements of a Craftsman style home to the front façade that would not require an Exception request.

The proposed building additions are relatively minor in scale to the rest of the house and would not be out of character to the neighborhood. The subject site is on the outside of the curve of Roma Terrace, which should help mitigate any impacts that the proposed building additions would have when travelling down the street. Several surrounding property owners have shown their support for the front façade renovations by signing a support form letter. Considering these factors, the strict application of the front yard setback for the existing house and proposed building additions appear to be unreasonable.

Kent made a motion to approve an EXCEPTION to allow for the reduction of the minimum required front yard setback from twenty-five (25) feet to twenty-three (23) feet for the existing house and twenty-one (21) feet for the proposed additions to the existing house in the R, Single-Family Residential District with the following conditions of approval:

1. The Exception shall apply to the existing house and the proposed building additions as shown on the site plan and detailed in the application documents.
2. All applicable permits shall be obtained.

Lavis seconded the motion, which passed by a vote of 3-0.

A PUBLIC HEARING to consider a VARIANCE to allow for an internally illuminated wall sign, as well as an increase in the maximum allowable gross surface area from forty (40) square feet to sixty-one (61) square feet for a wall sign, both for a sign to be located along Oak Street at the Sunset Zoo, 2333 Oak Street, in the R, Single-Family Residential District (Applicant: Thomas Sign Service - Paul Petty, Owner: City of Manhattan)

Credit provided the staff report for the Variance; recommended approval with two (2) conditions of approval. Credit provided the Board with an email from a concerned neighbor asking the Board to deny the request.

Kent asked City staff to address the concerns of neighbor who wrote in the email to City staff. Credit explained the location of the sign and that the nature of the proposed signs. Kevin gave the opinion that the proposal will not impact the adjacent residential properties.

Lavis stated that the letter from the neighboring property owner did raise a concern, but decided that after hearing the details of the sign's locations and lighting characteristics, that she was comfortable with approving the Variance.

Kent agreed that the light will not shine directly onto the neighbor's home. Kent stated that he was concerned about the neighbor's concerns, he did not see it would impact him.

The Board made the following finding of facts for the Variance request at 2333 Oak Street.

PRESENT USE: Public Zoo.

CONDITIONS UNIQUE TO THE PROPERTY: Being a public zoo, the use of the subject site is extremely unique to the R, Single-Family Residential District; it is a large institutional facility which encompasses a wide range of associated uses – educational, entertainment-related, and commercial, among others – and thus requires the clear and simple identification of the premises to the public. Also, due to the fact that the zoo often has public events at night, the premises must be as easily-identifiable in the dark as in the daylight.

Few, if any, other properties in the R District resemble the unique mix of associated activities embodied by the zoo. Other institutional uses serving the public, such as churches, in Residential Districts have been previously approved for illuminated signs, due to their similar need to be able to be clearly identified at night.

The property is also unique in respect to its overall size and the natural features and open space that immediately surround it – the sign and associated zoo buildings are planned to be over three-hundred and forty (340) feet from the nearest property line to the north, and at least four-hundred and fifty feet (450) from the nearest property line to the east, providing an extremely-large buffer, consisting of open space and an off-street parking lot, between the subject site and neighboring properties. Likewise, the zoo property is screened by extensive natural vegetation, effectively shielding the location of the sign from view of the surrounding neighborhood.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and properties to the immediate east and north are zoned R, Single-Family Residential District; to the south are properties also zoned R, Single-Family Residential District, with a few properties zoned R-2, Two-Family Residential District also to the south, along Poliska Lane. Directly to the west are properties zoned R-5, Manufactured Home Park, and to the northeast are properties zoned R-1, Single-Family Residential District, with TNO, Traditional Neighborhood Overlay District, and UO, University Overlay District.

The subject site and surrounding area is largely a single-family residential district, with a mix of single-family dwellings and multiple-family dwellings, both renter- and owner-occupied, as well as several large institutional uses, including the subject site (the Sunset Zoo), the Manhattan High School West Campus, and the Sunset Cemetery.

Due to the unusually large size of the subject site, being roughly one-hundred and twenty-four (124) acres, and the fact that its edges are surrounded by natural vegetation and shrubbery of various kinds, the probable effect on adjacent properties due to the granting of these Variances will be minimal. The effect of the proposed twenty-one (21) square foot increase in maximum required sign surface area will be mitigated by the substantial distance between the sign and any adjacent property owners – no less than approximately three-hundred and forty (340) feet, according to the estimates of City Administration.

Similarly, due to the nature of the internal illumination – which casts a background “glow” rather than flashing or projecting light – and the fact that, as stated earlier, the sign will be located a great distance from neighboring properties and effectively shielded from view by existing vegetation, proposed buildings, and an off-street parking lot, the effect on adjacent properties from allowing the sign to be internally illuminated should be negligible.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS: Under the strict application of the regulations, the property owner would not be able to construct the identification sign as proposed. Considering the fact that there is a distance of at least approximately three-hundred and forty (340) feet from the location of the proposed sign to the nearest neighboring property line, and that the property is buffered at its edges by vegetation, the strict application of the Zoning Regulations in this case is unnecessary. Similar internally illuminated signs have previously been allowed for institutional or public uses in residential districts, including schools and churches – thus, the granting of this Variance would not afford the property owner more rights than properties in similar positions, which primarily serve the public and offer events at night that require clear identification of the premises.

The intent of regulations requiring a maximum gross surface area for a sign are to ensure a high-quality visual appearance to properties in residential districts and to maintain an appropriately “human-scaled” streetscape for pedestrians; similarly, the intent of the regulations prohibiting internally illuminated signs are to reduce the negative impact of (potentially distracting) sign-related illumination on motorists and to prevent the possibility of unwanted light pollution in residential districts. Due to the fact that the property currently has a wide separation from adjoining properties, the subject site is surrounded by natural vegetation which will effectively screen the proposed sign from view, the nature of the

planned illumination on the sign is not directed outward, but rather casts a “glow” around the metal letters, and the use is of a more public nature than is typical of most residential properties , none of these intentions will be greatly compromised if the requested Variances are granted

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

There should be minimal effects on the public health, safety or welfare due to these Variances – the exceptionally wide separation between the subject site and surrounding properties, the background nature of the illumination of the sign, and the presence of dense existing vegetation mitigate the impact to the public of the proposed sixty-one (61) square foot internally illuminated sign; in fact, the sign will allow the zoo to identify itself to visiting members of the public, both during the day and at night, thus providing something of a public benefit to those who make use of the zoo on a regular basis.

RELATIONSHIP TO INTENT OF REGULATIONS:

The intent of regulations requiring a maximum gross surface area for a sign are to ensure a high-quality visual appearance to properties in residential districts and to maintain an appropriately “human-scaled” streetscape for pedestrians; similarly, the intent of the regulations prohibiting internally illuminated signs are to reduce the negative impact of (potentially distracting) sign-related illumination on motorists and to prevent the possibility of unwanted light pollution in residential districts. Due to the fact that the property currently has a wide separation from adjoining properties, the subject site is surrounded by natural vegetation which will effectively screen the proposed sign from view, the nature of the planned illumination on the sign is not directed outward, but rather casts a “glow” around the metal letters, and the use is of a more public nature than is typical of most residential properties, none of these intentions will be greatly compromised if the requested Variances are granted

Kent moved to approve a Variance to allow for an internally illuminated wall sign, as well as an increase in the maximum allowable gross surface area from forty (40) square feet to sixty-one (61) square feet for a wall sign, both for a sign to be located along Oak Street at the Sunset Zoo, 2333 Oak Street, in the R, Single-Family Residential District, with the following conditions of approval:

1. The Variance shall apply to the proposed development as outlined in the Staff Report and application documents and as illustrated in the site plan.
2. All applicable permits shall be obtained.

Lavis seconded the motion, which was approved by a vote of 3-0.

A PUBLIC HEARING to consider a VARIANCE to allow an internally illuminated wall sign on the Douglas Community Center, 900 Yuma Street, to be located along Yuma Street in the R-2/TNO, Two-Family Residential District and Traditional Neighborhood

Overlay District. (Applicant: Thomas Sign Service - Paul Petty, Owner: City of Manhattan – David Baker, Douglas Community Center Director)

Bunger provided the staff report for the Variance request; recommending approval with two (2) conditions of approval.

Kent asked if anyone from the public has contacted the City raising concerns of the proposed signs.

An unidentified individual in the audience stated that he supported the sign and that it would be an improvement to the neighborhood.

Aistrup opened the floor to public comment. No one spoke on the item. Aistrup closed the public comments.

The Board made the following finding of facts for the Variance request at 2333 Oak Street.

PRESENT USE: Douglas Community Center

CONDITIONS UNIQUE TO THE PROPERTY: The Douglas Community Center is a unique use within the R-2/TNO, Two-Family Residential District and Traditional Neighborhood Overlay District. The Douglas Community Center is a neighborhood and community meeting place, provides after school programming, and a recreation and fitness center with a gymnasium. Other than parks and park related facilities, the City of Manhattan does not have a community center building located in a residential district. The most similar use in a residential district would be elementary schools or churches. The Community House, 120 N. 4th Street, provides similar activities, although it is in the C-4, Central Business District, which permits internally illuminated signs.

The Douglas Community Center is also in a unique area within the R-2/TNO District. There are no residential uses along the north or south side of the 900 block of Yuma Street, which the Community Center is located in. To the south are the Douglas Community Center Annex Building and Douglas Park. To the east is the Mt. Zion Church of God Church and the Kaw Blue Masonic Lodge building. To the south east in the 800 block of Yuma Street is the Pilgrim Baptist Church.

Similar uses, such as churches and schools, have been granted internally illuminated signs in residential districts. The Mt. Zion Church of God Church and Pilgrim Baptist Church have internally illuminated bulletin board signs. There are unique conditions with the use of the Douglas Community Center and the area of the City that it is located within.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and surrounding properties to the east, south and west are in the R-2/TNO, Two-Family Residential District, with Traditional Neighborhood Overlay District. This area is a mix of single-family

residential, two-family residential uses, the Community Center, churches, park land and vacant lots. To the north of the subject site are residential properties zoned R-1/TNO, One-Family Residential District, with Traditional Neighborhood Overlay District.

The subject site is within the 500 foot environs of the Houston & Pierre Streets Residential Historic District. The applicant submitted an applicant to the Manhattan Historic Resources Board (HRB) for approval of the new sign. The HRB application included having the eight (8) foot by twenty (20) inch sign be internally illuminated. The HRB found that the proposed internally illuminated sign met the *Standards and Guidelines for Evaluating the Effect of Projects on Environs* in August, 2011. On August 31, 2011, the State Historic Preservation Office agreed with findings of the HRB and stated that the proposed sign may be installed.

There are no adjacent properties that would be adversely impacted by the new sign being internally illuminated. The properties most impacted by the building sign would be the Douglas Community Center Annex Building to the south, the Douglas Park and the Pilgrim Baptist Church. There would be no negative impacts on these properties by this sign. Any residential properties are to the east or north of the subject site. The location of the building sign is away from these properties.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:

The strict application of the sign regulation would prevent the building sign to be internally illuminated. The building sign could be externally illuminated with downcast or up cast lights to produce similar illumination effects to adequately identify the building at night. An internally lit building sign would create a cleaner sign that is more presentable to the public and would accentuate the efforts that have recently been completed to update the Douglas Community Center. The Douglas Community Center holds several meetings and programs in the evening hours. The internally illuminated sign would be easier to read by drivers along Yuma Street and S. 9th Street at night because of the reduced glare compared to externally illuminated signs.

Other non-residential uses, such as schools and churches, have been granted signs that are internally illuminated in the past. These approved signs have primarily been bulletin board type ground signs with changeable copy areas to display information about up-coming events, etc. The previously granted Variances for these types of relied on findings that bulletin board types signs are traditionally internally illuminated for better readability of the changeable copy signs. To a lesser extent, the potential for external illuminated ground signs to be vandalized compared to an internally lit sign was also a deciding factor.

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

The proposed internal illumination of the current building sign should not impact the public health, safety or general welfare. The sign is located above the main entrance to the Douglas Community Center and parallel to the Yuma Street right-of-way. The location of the internally illuminate sign should not impact drivers or pedestrians along Yuma Street or S. 9th Street.

The Zion Church of God Church and Pilgrim Baptist Church have internally illuminated bulletin board signs in front of the buildings. The lighting characteristics of the proposed sign will be in character with similar signs in the area.

RELATIONSHIP TO INTENT OF REGULATIONS: The intent of the Sign Regulations within residential districts is to limit the size, placement, number, and illumination characteristics so that residential properties are not negatively impacted. The intent on the restriction of internally illuminated identification and bulletin board signs is to lessen the potential commercial feel to a residential area.

As stated in the *Affects on Adjacent Properties* standard, there are no residential properties adjacent to the subject site that will be adversely impacted by the internally illuminated signs. The internally illuminated building sign does have a commercial feel in appearance and characteristic. Similar signs can be found in the commercially zoned properties to the south of the subject site, along Ft. Riley Boulevard. However, considering the use of the subject site, with meetings and activities held primarily during the evening hours, there appears to be a need to have adequate signage similar to a commercial use. Considering these factors, it appears that the intent of the regulation is met for this type of sign for the particular use on the subject site.

Kent made a motion to approve the Variance to allow an internally illuminated building sign on the Douglas Community Center to be located along Yuma Street at 900 Yuma Street in the R-2/TNO, Two-Family Residential District and Traditional Neighborhood Overlay District with the following conditions of approval:

1. The Variance shall be limited to the proposed building sign as outlined in the application documents.
2. All applicable permits shall be obtained.

Lavis seconded the motion, which passed unanimously.

A PUBLIC HEARING to consider an EXCEPTION to allow for the reduction of the minimum required front yard setback along S. 15th Street from twenty-five (25) feet to nine (9) feet for an existing carport at 1501 Yuma Street in the C-5, Highway Service Commercial District. Applicant: Rob Karsmizki, Owner: City of Manhattan – Raymond and Dora Karsmizki

Bunger provided the staff report; recommending approval with three (3) conditions.

Kent asked if the landscaping provides adequate coverage of the existing carport. Bunger responded that the existing landscaping does not cover it. The carport is noticeable.

Aistrup asked if the situation was handled correctly and sought an Exception before installing the carport, what would have City staff's recommendation been? Would they have required

additional screening or architectural improvements to blend in with the neighborhood?
Bunger stated that he did not look at the Exception in that manner.

Aistrup opened the public comment.

Rob Karsmizki, applicant, provided the Board with information about the Exception request and how he would have handled the situation if he would have known that a building permit was required and that an application to the Board of Zoning Appeals was needed.

Aistrup closed the public comment section.

Aistrup said that if he lived across the street from the site, he would not support the Exception request, because it is an eye sore, but it is immaterial. When you live next to a commercial district, you can expect things to look different than if it was a residential property.

The Board made the following finding of facts for the Exception at 1501 Yuma Street.

PRESENT USE: Karsmizki Locksmith commercial business

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: Other than for the conditions related to the Exception request, the subject site complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and a portion of the adjacent zoning lot are zoned C-5, Highway Service Commercial District. The remainder of the zoning lot to the west and south of the subject site is zoned I-3, Industrial Park District. The industrial site consists of the Ag Press business, a commercial printing business. To the east of the subject site are properties in the R-2/TNO, Two-Family Residential District and Traditional Neighborhood Overlay District and I-3 District. The properties in the I-3 District to the east are a four-family dwelling, a single-family dwelling, a business office and the City Parks maintenance building. To the north of the subject site is properties zoned R-2/TNO District. The properties in the R-2/TNO Districts are a mix of single-family and two-family dwellings.

The properties most impacted by the recently installed structure are those immediately to the east and north of the subject site. The structure is approximately nine (9) feet front the front property line along S. 9th Street. The location of this structure is closer to the front property line than would be allowed for a principle or accessory structure. The location of the new carport does not appear to be out of character with the surrounding neighborhood in terms of location along S. 15th Street. Some of the homes in the immediate area along encroach into required front yard setbacks. The property to the north, along S. 15th Street, is approximately eight (8) feet from that front property line. A house to the east of the subject site is located approximately five (5) feet from the S. 15th Street front property line.

The applicant installed the carport to protect his personal RV motor home that was parked in this location to protect it from the elements. The RV motor home has been parked in this

location for an undetermined amount of time. The aerial photos, taken in February 2011, show the applicant's RV motor home in this location. In general, the surrounding area appears to have grown accustomed to a large structure, albeit a RV motor home, in this location. The carport for the RV is similar in design and construction to the smaller carport to the west of the structure. All three structures on the subject site (the 2 carports and the commercial building) are similar in color. A landscape bed, with evergreen and deciduous bushes, is present to the east of the carport. This landscaping does create a visual buffer from the carport and RV motor home.

Following the installation of the new carport for the RV, a concerned citizen, who did not give a name or home address, called and asked if the structure had been issued a building permit and if the location of the structure was permitted. The caller was informed that a permit was not issued, that the structure was not in the proper location and that the owner would need to remove the structure or seek an Exception to remedy the situation. No other questions or complaints of the new carport on the subject site are on file with the Community Development Department. It appears that the adjacent property owners are not adversely impacted by the existing carport in the S. 15th Street front yard setback.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The existing carport is not located in any utility easements. The location of the structure is within the area of a ten (10) foot vision triangle created by the private drive intersecting with S. 15th Street. However, the structure does not encroach into the vision triangle because the support beams that are within the area of the vision triangle are less than twelve (12) inches in diameter, which are permitted in the vision triangle by Section 3-411(E).

As previously mentioned in the *Impact on Adjacent Properties* standard, a number of residential homes are located within the required front yard setback along S. 15th Street. The location of this structure would not be out of character with public order.

The carport does not adversely impact the public health, safety or general welfare.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The strict application of the front yard setback requirement for accessory structures would require that the new carport for the RV mobile home be removed from the subject site. Because of the development of the subject site, there is not a location that would allow for the construction of the structure. The existing commercial development is located to the southwest of the subject site. Placing the structure in front of the building in this location would encroach into the sixty (60) foot front yard setback for accessory setback along Yuma Street.

Considering this and how the existing structure does not appear to be impacting the adjacent property owners, it appears that the strict application of the regulation is unnecessary.

Ken moved to approve the Exception to allow for the reduction of the minimum required front

yard setback along S. 15th Street from twenty-five (25) feet to nine (9) feet for an existing carport at 1501 Yuma Street in the C-5, Highway Service Commercial District, with the following conditions of approval.

1. The Exception shall only apply to the existing carport as stated in the application documents and shown on the site plan.
2. The existing landscape beds along S. 15th Street shall be maintained in good condition to continue to provide a visual buffer of the carport.
3. A building permit shall be applied for and issued within thirty (30) day of the Notice of Decision.

Lavis seconded the motion, which passed unanimously.

With no other items of business, Aistrup adjourned the meeting.

Respectfully Submitted by Chad Bunger, Planner II

sr