

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, August 8, 2012
7:00 PM

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

MEMBERS ABSENT: Catherine Lavis

STAFF PRESENT: Chad Bunger, CFM, AICP, Planner II;

CONSIDER THE MINUTES OF THE JULY 11, 2012, BOARD OF ZONING APPEALS MEETING.

Hamilton moved to approve the July 11, 2012 minutes, which was seconded by Hardy and passed with a vote of 4-0.

CONSIDER A REQUEST FOR A 180 DAY EXTENSION FOR APPROVED EXCEPTION TO ALLOW FOR A REDUCTION IN THE MINIMUM REQUIRED NUMBER OF OFF-STREET PARKING SPACES FROM 63 PARKING SPACES TO 3 PARKING SPACES FOR A PROPOSED SELF-STORAGE UNIT BUSINESS ON PROPERTY LOCATED AT 4850 EUREKA DRIVE IN THE I-3/AO, LIGHT INDUSTRIAL DISTRICT AND AIRPORT OVERLAY DISTRICT. (APPLICANT/OWNER: K & M HOLDING)

Hamilton stated that even though she had no issues concerning the request for extension under consideration, it must be understood that the Board's approval of multiple extensions has been driven by the current economic downturn and that it should not be considered as means to unnecessarily buy time and delay projects. Bunger agreed to Hamilton and informed that Board that the City Staff is careful and strategic in considering projects seeking an extension in that only projects that have a building permit approved are entertained compared to speculative projects.

Hardy moved to approve the request for a 180 day extension for approved exception to allow for a reduction in the minimum required number of off-street parking spaces from 63 parking spaces to 3 parking spaces for a proposed self-storage unit business on property located at 4850 eureka drive in the I-3/AO, Light Industrial District and Airport Overlay District which was seconded by Hamilton and passed with a vote of 4-0.

A PUBLIC HEARING FOR A CONDITIONAL USE TO ALLOW FOR A PROPOSED NEW OFFICE BUILDING WITH MEETING ROOMS FOR A RELIGIOUS ORGANIZATION AT 1300 FREMONT STREET, IN A R-M/UO/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT, UNIVERSITY OVERLAY, DISTRICT AND TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT/ OWNER: DAVE GELDART, NEW HOPE CHURCH).

A PUBLIC HEARING FOR AN EXCEPTION FOR THE REDUCTION OF THE MINIMUM REQUIRED NUMBER OF OFF-STREET PARKING SPACES FOR A PROPOSED NEW OFFICE BUILDING WITH MEETING ROOMS FOR A RELIGIOUS ORGANIZATION FROM EIGHT (8) PARKING SPACES TO SEVEN (7) PARKING SPACES AT 1300 FREMONT STREET, IN A R-M/UO/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT, UNIVERSITY OVERLAY, DISTRICT AND TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT/ OWNER: DAVE GELDART, NEW HOPE CHURCH).

Bunger presented the staff reports for the two items together. The City Administration recommended approval of both items, with five (5) specific conditions of approval for the Conditional Use, three (3) specific conditions of approval for the Exception.

Hamilton requested Bunger to identify the seven (7) proposed parking spaces on the site plan so that she could be sure about the proposed parking arrangement for the proposed development.

Kent asked bunger to shed some light upon how the proposed use would affect traffic congestion situations in that area especially during special event days. Bunger said that traffic in that area is always busy and that an extra fifteen (15) cars would not have a huge impact to the traffic congestion situation.

Hamilton asked Bunger if the request for exception was to reduce the minimum required parking spaces from eight (8) to seven (7) i.e., a reduction of one (1) space, to which Bunger said yes. She further asked if fifteen cars discussed in the staff report is to merely consider the impact of the proposed use in terms of traffic congestion and not a zoning requirement to which Bunger said yes.

Hamilton asked what the sign regulations would allow for this use. Bunger explained the allowable signs in the residential district. Hamilton expressed her concerns of any impacts that a sign may have on the adjacent park.

Kent wondered if the permitted signs were discussed with the neighbors. Aistrup inputted that he felt that the discussion should be limited to the request at hand. Hamilton felt it was an appropriate discussion to have. Hardy recommended that the Board ask the applicant of their signage.

Aistrup opened up the discussion to the public.

Justin Weavers, an elder with the church, provided information on the project and specifically to the questions of the Board and signs as well as the number of amount of visitors they anticipate to new building.

Kent thanked him for his remarks.

Hamilton asked if they had any concerns with the condition of approval for the fence. Weaver's response was no, they anticipated the need. It was just omitted from the site plan.

Hardy expressed his appreciation of keeping the new building looking like a house.

Aistrup closed the public hearing.

Aistrup stated that he did not have any issues with the requests.

Hardy agreed and thought the project was a good fit with the neighborhood.

Hamilton concurred with Aistrup and Hardy. She did discuss some changes in the findings for

“Probable effect on adjacent properties” standard for both the Conditional Use and Exception. She also made recommendations to the “Strict application” standard for the Exceptions. She recommended changes, which are found in the finding below for both requests.

The Board made the following findings of fact for the Conditional Use at 1300 Fremont Street.

PRESENT USE: Existing vacant four (4) unit multiple-family home

STANDARDS FOR A CONDITIONAL USE

A. Compliance with all applicable regulations: The subject site conforms to the lot size requirements—minimum lot area of ten thousand (10,000) square feet, minimum lot width of sixty (60) feet, and minimum lot depth of hundred (100) feet—as mentioned in Section 4-105 (C) of the Zoning Regulations. The proposed site plan also conforms to the bulk regulations—maximum building height of forty (40) feet, minimum front and back yard setback of twenty five (25) feet, minimum side yard setback of fifteen (15) feet and minimum lot coverage of thirty five (35) percent—as mentioned in Section 4-105 (D) of the Zoning Regulations.

For the subject site to facilitate an office building, the subject site requires a Conditional Use Permit to maintain full compliance with the Zoning Regulations. In addition, the proposed plan does not meet the minimum off-street parking requirement of one (1) parking space for each three hundred (300) square feet of floor area which would be eight (8) parking spaces for a total area of two thousand five hundred and twenty (2,520) square feet as required by Section 7-103 (B)(8). The applicant is therefore requesting an Exception to reduce the minimum required number of off-street parking spaces from eight (8) to seven (7).

The proposed plan does not comply with Section 7-102(E)(5) of the Zoning Regulations which requires screening of off-street parking areas that have more than six (6) parking spaces because the applicant has proposed screening only along the west property line. Therefore, in order to maintain full compliance, the subject site must have sight obscuring fences that are at least six (6) feet high along both west and north property line. Other than these conditions, the property complies with all applicable regulations.

B. Probable effect on adjacent properties: The subject site and properties to the immediate west are zoned R-M/UO/TNO, Four-Family Residential District and University Overlay District and Traditional Neighborhood Overlay District. To the south of the subject site is City Park which is three (3) blocks wide. Properties to the immediate east are zoned R-M/UO, Four-Family Residential District and University Overlay District. The properties to the west of City Park, a block apart from the subject site to the west are zoned R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District. In general, surrounding properties are mostly multiple-family dwellings, Kansas State University Greek housing and a few single family residential properties. The subject site is also in close proximity to C-3, Aggieville Business District located approximately to the north and north east of the subject site. The adjacent block northwest to the subject site is the Manhattan Christian College

Campus. Considering the proposed use, the subject site essentially has a unique location with proximity to City Park, Aggieville District, Manhattan Christian College, Greek houses, and several other rental properties that support a section of Manhattan's student population, and Kansas State University campus. Also, being a corner lot, the subject site has access to two busy streets in town; Fremont Street and N. Manhattan Avenue.

The proposed office building to be built in the residential architectural style would have no adverse effect on the adjacent properties in terms of architecture and aesthetics. The proposed office building might result in increased traffic flow and parking constraints compared to the existing four (4) unit multiple-family apartment but the change is not expected to be more than that from any other permitted use within the R-M, Four-Family Residential District.

In accordance with the application procedure for Conditional Uses, the applicant held a neighborhood meeting to discuss the proposed use of the subject site. Neighbors within 200 feet of the subject site were invited to attend the meeting, to which only one neighbor; Ruth Schrum, owner of Lamplighter apartments, showed up who supported the proposed project.

C. Domination by use over neighboring properties: The proposed use would have negligible impact on density of the neighborhood. The proposed office on the subject site would have regular working hours and is not intended for a high density use. Properties in the close vicinity are largely used for multiple-family residential apartments; Greek housing associated with Kansas State University and commercial uses which increase density and traffic in the neighborhood. The proposed office building might result in increased traffic which would be largely mitigated by the availability of on-street parking along both Fremont Street and N. Manhattan Avenue and nearby public parking lots in City Park and Aggieville Business District. The proposed office building would also be designed as a residential building in appearance and therefore would not dominate the residential character of the neighborhood. Therefore, it may be concluded that the Conditional Use if granted would not dominate over the neighboring properties.

- 1. Location, nature, and height of physical improvements:** The proposed office building would be a two (2) story structure on the southern half of the lot, and shall be designed to achieve the appearance of a residential building. With an area of approximately two thousand five hundred and twenty (2,520) square feet, the proposed building shall have approximately twenty five (25) percent lot coverage.
- 2. Landscaping and screening:** The proposed landscaping on the subject site would include grass lawn in the front yard and side yards, an existing large tree on the front yard, bark mulch, and two (2) inch caliper trees thereby maintaining compliance with Section 7-102(E) (2). The applicant proposes a screening fence along the west property line. However, for full compliance with Section 7-102(E) (5) of the Zoning Regulations which requires screening of off-street parking areas that have more than six (6) parking spaces; the subject site must have at least six (6) feet high sight-obscuring fences that screen the proposed parking area from properties on both west and north side of the subject site.

D. Adequate provision of parking and loading: The proposed plan does not meet the minimum off-street parking requirement of one (1) parking space for each three hundred (300) square feet of floor area which would be eight (8) parking spaces based on the total area of two thousand five hundred and twenty (2,520) square feet, as required by Section 7-103 (B)(8). The applicant is therefore requesting an Exception to reduce the minimum required number of off-street parking spaces from eight (8) to seven (7). See the accompanying staff report for the Exception request for findings related the amount of off-street parking spaces.

E. Adequate provision of drainage and other public utilities: Adequate drainage and utilities exist for the site and no changes are proposed.

F. Adequate provision of access: Vehicular access to the proposed off-street parking lot is provided through N. Manhattan Avenue. On-street parking along Fremont Street and N. Manhattan Avenue provides additional vehicular access to the subject site. Pedestrian access is provided through the front sidewalk, with a paved pathway on both south and east side of the subject site connecting the front porch to the street sidewalk.

Hardy made a motion to approve a Conditional Use to allow for a proposed new office building with meeting rooms for a religious organization in an R-M/UO/TNO, Four-Family Residential District, University Overlay, District and Traditional Neighborhood Overlay District, with the following conditions:

1. The Conditional Use Permit shall apply to the proposed development as shown on the site plan and stated in the application documents.
2. The associated Exception of the required minimum number of parking spaces shall be approved.
3. All applicable permits shall be obtained.
4. Sight obscuring fences that are at least six (6) feet high along both west and north property line that screens the entire proposed parking area shall be built.
5. The proposed off-street parking area shall be paved.

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

The Board made the following findings of fact for the Exception at 1300 Fremont Street.

PRESENT USE: Existing vacant four (4) unit multiple-family apartment

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject site conforms to the lot size requirements—minimum lot area of ten thousand (10,000) square feet, minimum lot width of sixty (60) feet, and minimum lot depth of hundred (100) feet—as mentioned in Section 4-105 (C) of the Zoning Regulations. The proposed site plan conforms to the bulk regulations—maximum building height of forty (40) feet, minimum front and back yard setback of twenty five (25) feet, minimum side yard setback of fifteen (15) feet and minimum lot coverage of thirty five (35) percent—as mentioned in Section 4-105 (D) of the Zoning Regulations.

For the subject site to facilitate an office building, the subject site requires a Conditional Use

Permit to maintain full compliance with the Zoning Regulations. In addition, the proposed plan does not meet the minimum off-street parking requirement of one (1) parking space for each three hundred (300) square feet of floor area which would be eight (8) parking spaces as required by Section 7-103 (B)(8). The applicant is therefore requesting an Exception to reduce the minimum required number of off-street parking spaces from eight (8) to seven (7). The proposed plan does not comply with Section 7-102(E)(5) of the Zoning Regulations which requires screening of off-street parking areas that have more than six (6) parking spaces because the applicant has proposed screening only along the west property line. Therefore, in order to maintain full compliance, the subject site must have sight obscuring fences that are at least six (6) feet high along both west and north property line. Other than these conditions, the property complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and properties to the immediate west are zoned R-M/UO/TNO, Four-Family Residential District and University Overlay District and Traditional Neighborhood Overlay District. To the south of the subject site is City Park which is three (3) blocks wide. Properties to the immediate east are zoned R-M/UO, Four-Family Residential District and University Overlay District. The properties to the west of City Park, a block apart from the subject site to the west are zoned R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District. In general, surrounding properties are mostly multiple-family dwellings, Kansas State University Greek housing and a few single-family residential properties. The subject site is also in close proximity to C-3, Aggieville Business District located approximately to the north and north east of the subject site. The adjacent block northwest to the subject site is the Manhattan Christian College Campus. Considering the proposed use, the subject site essentially has a unique location with proximity to City Park, Aggieville District, Manhattan Christian College, Greek houses, and several other rental properties that support a big section of Manhattan's student population, and Kansas State University campus. Also, being a corner lot, the subject site has access to two busy streets in town; Fremont Street and N. Manhattan Avenue.

According to the applicant, the proposed office building shall primarily accommodate five (5) staff during regular working hours. Other frequent activities would include a few people who would come by the office to meet one on one with a pastor for a counseling/discipleship session and some students who might walk from campus to spend some time studying at the library. The applicant in an email conversation has confirmed that up until now infrequently they have a small-medium sized meeting over the evening hours, usually on a weekend, that normally includes around fifteen (15) cars. Therefore, in terms of traffic, the proposed office building being an office for a religious institution would not function as a typical professional office with frequent in and out customers.

The proposed office building might result in increased traffic flow compared to the existing four (4) unit multiple-family apartment but the change is not expected to be more than that from any other permitted use within the R-M, Four-Family Residential District, or C-3, Aggieville District. As proposed, seven (7) parking spaces are sufficient for the regular parking needs of the proposed use; considering five (5) staff and few short-spanned (one or two) frequent visitors. In addition to the proposed seven (7) off-street parking spaces, there are on-street parking spaces along both Fremont Street and N. Manhattan Avenue. However, both

these streets are highly used by students during regular working hours so may not be always available for visitors to the subject site. The subject site has three other proximal public parking venues at fairly walkable distances—two (2) City public parking lots along Laramie Street on adjacent blocks north and north east of the subject site and one (1) City public parking lot in the City Park which is immediately south of the subject site. Considering the minimal traffic generated by the use, sufficient proposed off-street parking, and presence of several other proximal venues for parking, a reduction in the minimum required number of parking spaces from eight (8) to seven (7) does not present any future adverse impact on the adjacent properties.

In accordance with the application procedure for Conditional Use and Exception, the applicant held a neighborhood meeting to discuss the proposed use of the subject site. Neighbors within 200 feet of the subject site were invited to attend the meeting, to which only one neighbor; Ruth Schrum, owner of Lamplighter apartments, showed up who supported the proposed project.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The reduction of one (1) parking space is expected to have a negligible or nonexistent impact on public easements, vision clearance, open space provision, and/or overall visual appearance of the surrounding neighborhood. Granting the Conditional Use permit and companion Exception might result in some of the visitors to the subject site using on-street parking along Fremont Street and N. Manhattan Ave, thereby, leading to an added load on the street parking availability. However, this additional load is anticipated to be minimal and would not be heavy, regular and adverse. Also, presence of two City public parking lots along Laramie Street on adjacent blocks north and north east of the subject site and one City public parking lot in the City Park which is immediately south of the subject site, would suffice mitigate the resultant minimal addition parking load in the neighborhood at large. Therefore, adverse impact of any kind on public resulting from the exception if granted is not anticipated.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The subject site being a corner lot requires a twenty five (25) feet setback on east and south side, thereby, reducing the usable lot area. This building setback constricts the number of parking space that could be provided for the proposed office building. To accommodate the needed eight (8) off-street parking spaces, the setback along N. Manhattan Avenue could be reduced. However, the reduction of the building setback may impact the visual building line along the street and reduce the open green space, which is a neighborhood amenity being near the City Park.

The proposed office building being an office for a religious institution would not function as a typical professional office in terms of traffic. The proposed seven (7) parking spaces are sufficient for the regular parking needs of the proposed use considering five (5) staff and few short-spanned (one or two) frequent visitors.

In addition to the proposed seven (7) off-street parking spaces, there are on-street parking

spaces along both Fremont Street and N. Manhattan Avenue. The subject site has three other proximal public parking venues at fairly walkable distances—two (2) City public parking lots along Laramie Street on adjacent blocks north and north east of the subject site and one (1) City public parking lot in the City Park which is immediately south of the subject site. Strict application of this regulation is unnecessary considering the minimal traffic generated by the use, sufficient proposed off-street parking, and presence of several other proximal venues for parking.

Hardy made a motion to approve an Exception for the reduction of the minimum required number of off-street parking spaces for a proposed new office building with meeting rooms for a religious organization from eight (8) parking spaces to seven (7) parking spaces in a R-M/UO/TNO, Four-Family Residential District, University Overlay, District and Traditional Neighborhood Overlay District with the following conditions:

1. The Exception shall apply to the existing and proposed development as shown on the site plan, and as stated in the application documents.
2. The Conditional Use to establish a building for office and meeting space devoted to a religious institution shall be approved
3. All applicable permits shall be obtained.

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

A PUBLIC HEARING FOR A CONDITIONAL USE TO ALLOW FOR AN EXISTING SINGLE-FAMILY DWELLING AT 100 S. MANHATTAN AVENUE IN THE C-1, RESTRICTED BUSINESS DISTRICT. THE PROPOSED CONDITIONAL USE IS REQUIRED TO BRING THE PROPERTY INTO FULL CONFORMANCE WITH THE ZONING REGULATIONS. (APPLICANT/ OWNER RANDALL AND ADENA WEISER).

A PUBLIC HEARING FOR A VARIANCE TO ALLOW A REDUCTION IN THE MINIMUM REQUIRED LOT DEPTH FROM ONE-HUNDRED (100) FEET TO EIGHT-NINE (89) FEET AND TO ALLOW A REDUCTION IN THE MINIMUM LOT AREA FROM 5,000 SQUARE FEET TO 4,450 SQUARE FEET FOR AN EXISTING SINGLE-FAMILY HOUSE AT 100 S. MANHATTAN AVENUE THAT IS SEEKING A CONDITIONAL USE IN THE C-1, RESTRICTED BUSINESS DISTRICT TO BRING THE PROPERTY INTO COMPLIANCE WITH THE ZONING REGULATIONS (APPLICANT/ OWNER RANDALL AND ADENA WEISER).

A PUBLIC HEARING FOR AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK ALONG POYNTZ

AVENUE FROM TWENTY-FIVE (25) FEET TO THREE (3) FEET; THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK ALONG S. MANHATTAN AVENUE FROM TWENTY-FIVE (25) FEET TO FOUR (4) FEET; AND THE REDUCTION OF THE MINIMUM REQUIRED SIDE YARD SETBACK ON THE WEST PROPERTY LINE FROM EIGHT (8) FEET TO FOUR (4) FEET FOR AN EXISTING SINGLE-FAMILY HOUSE AT 100 S. MANHATTAN AVENUE THAT IS SEEKING A CONDITIONAL USE IN THE C-1, RESTRICTED BUSINESS DISTRICT. THE EXCEPTION IS TO BRING THE PROPERTY INTO CONFORMANCE WITH THE ZONING REGULATIONS (APPLICANT/ OWNER RANDALL AND ADENA WEISER).

Bunger provided the staff reports for all three (3) items, which City Administration recommended approval. City Administration recommended four (4) conditions of approval for the Conditional Use and Variance and three (3) conditions of approval for the Exception.

Kent asked if the house impacted traffic vision because of its location. Bunger admitted that it is located within the vision triangle as defined by the Zoning Regulations, but would be “grandfathered” because of how long the house has been in that location.

Aistrup opened the public hearing on the requests.

No one spoke. The applicants were present to answer questions. Aistrup closed the public hearing.

Hardy stated that he could support all three (3) items.

The Board made the following findings of fact for the Conditional Use at 100 S. Manhattan Avenue

A. Compliance with all applicable regulations: According to the Riley County Appraiser’s Office, the principal structure was built in 1905 as a single-family home, prior to the adoption of Zoning Regulations in the City of Manhattan. According to the Polk Directory and City files, the subject site has been used as a single-family house, a multiple-family dwelling and in the early 1990’s, a clothing store was located in the structure. The nonconforming condition was originally created in 1969, when the subject site’s zoning classification changed “B” Multiple-Family Dwelling District to C-1, Restricted Business District.

The house on the subject site does not meet the minimum required twenty-five (25) foot front

yard setback along Poyntz Avenue or S. Manhattan Avenue. It appears that the house was built in this condition prior to the adoption of Zoning Regulations in the City of Manhattan. The subject site also does not meet the minimum lot depth of 100 feet or lot area of 5,000 square feet required for a single-family detached dwelling in the R-3 District. The subject site was originally platted as a 50 foot by 150 foot lot in Ward 6. Documents from the Riley County Register of Deeds show that the land was subdivided in 1930 to create two (2) lots. The southern lot, along the mid-block alley acquired the southern 61 feet of the original lot. The subject site is the remainder of the lot and has 89 feet of lot depth and a total lot area of 4,450 square feet. The applicants are making the Conditional Use, Variance and Exception requests to bring the subject site into compliance with the Zoning Regulations. Other than these conditions, the property complies with all applicable regulations.

B. Probable effect on adjacent properties: The subject site and properties to the east and west along Poyntz Avenue and north of the mid-block alley are zoned C-1, Restricted Business District. Properties to the south of the mid-block alley are in the R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District. To the north of the subject site is the City Park, zoned R-3, and Multiple-Family Residential District.

No adverse impacts on adjacent property owners are anticipated from approving the Conditional Use for the single-family house. The existing structure was built in 1905 and has been part of the neighborhood ever since. The property has been used as a single-family house since at least 2007. The applicants are proposing to continue using the structure as a single-family home following the completion of the interior renovations. The existing use that requires the Conditional Use is less intense than what is permitted in the C-1 District and matches the residential uses found to the south of the subject site.

C. Domination by use over neighboring properties: The existing house was built in 1905 and has been used as a single-family home since at least 2007. The use will not dominate over neighboring properties.

- 1. Location, nature, and height of physical improvements:** The house is three-stories tall with its front door towards Manhattan Avenue. The house was built approximately three (3) feet from the front property line along Poyntz Avenue to the north; four (4) feet from the front property line along S. Manhattan Avenue to the east; four (4) feet from the west property line and seventeen (17) feet from the south property lines.
- 2. Landscaping and screening:** Because of the size of the lot and the existing house, there are minimum yard areas. What is present is landscaped lawns and flower beds. No fences existing on the site.

D. Adequate provision of parking and loading: Two (2) off-street parking spaces are provided to the south of the house in a covered carport attached to the house. Section 7-103(2) requires a minimum of two (2) off-street parking spaces be provided for single-family homes. Adequate parking is provided.

E. Adequate provision of drainage, and other public utilities: Adequate drainage is provided. The subject site drains towards the streets to the north and west to the existing storm water system. Adequate public utilities are provided to the subject site.

F. Adequate provision of access: Vehicular access to the subject site is provided from S. Manhattan Avenue from an existing curb cut and driveway. Pedestrian access is provided by sidewalks along Poyntz Avenue and S. Manhattan Avenue. Adequate access is provided.

Hamilton made a motion to approve a Conditional Use for a single-family dwelling at 100 S. Manhattan in the C-1, Restricted Business District, with the following conditions of approval:

1. The Conditional Use shall apply to the single-family house as proposed in the application documents and shown on the site plan and floor plans.
2. The Variances to reduce the minimum lot depth and lot area shall be approved.
3. The Exceptions to reduce the minimum front yard setbacks and side yard setbacks shall be approved.
4. All applicable permits shall be obtained.

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

The Board made the following findings of fact for the Variance at 100 S. Manhattan Avenue.

PRESENT USE: Nonconforming Single-Family House

CONDITIONS UNIQUE TO THE PROPERTY: The conditions surrounding the existing lot depth and lot area of the subject site is unique to the property. The subject site was originally platted as a 50 foot by 150 foot, 7,500 square foot, lot in Ward 6 in 1884. A Deed search with the Riley County Register of Deeds shows that the southern 61 feet of the lot was subdivided to create a second lot in 1932, leaving a lot that is 50 feet by 89 feet, with a lot area of 4,450 square feet. The Zoning Regulations at the time the subject site was subdivided required a minimum lot area of 4,500 square feet. The lot depth requirement was only ten (10) feet, presumably measured similarly to a building setback. The subject site met the minimum requirements at that time. The condition has existed for eighty (80) years.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and properties to the east and west along Poyntz Avenue and north of the mid-block alley are zoned C-1, Restricted Business District. Properties to the south of the mid-block alley are in the R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District. To the north of the subject site is the City Park, zoned R-3, and Multiple-Family Residential District.

No adverse impacts are anticipated from approving the Variance requests to reduce the minimum lot depth and minimum lot area for the single-family house on the subject site. The lot was subdivided to create its current lot depth and area in 1932. At the time, it met the minimum requirements of the Zoning Regulations. Up until 2007, the subject site had been used as a nonconforming four-family dwelling in the past. The proposed single-family dwelling will be less intense than prior uses. The depth and size of the lot for the single-

family house should not adversely impact adjacent property owners.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:

The strict application of the lot depth and lot area regulations would leave the lot virtually undevelopable. The minimum lot depth is 100 feet for all uses. The minimum lot area varies from 15,000 square feet for any permitted uses in the C-1 District to 5,000 square feet for a single-family dwelling, which is a Conditional Use in the district. Without the Variance request, a new permitted or conditional use could not be established on the subject site. Without approving the Variance, the only alternative to meet the Zoning Regulations would be to acquire adjacent land. The adjacent properties are developed with established uses. Other than granting the Variance, no feasible alternatives exist to bring the subject site into compliance, which is a hardship to the applicants.

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

Adverse impact on the public is not expected. The subject site has an eleven (11) foot discrepancy between the required 100 foot minimum lot depth and the existing lot depth of 89 feet. Likewise the difference between the minimum required lot area and the existing condition of the subject site is 50 square feet. The discrepancies are expected to have a negligible or nonexistent impact on public easements, vision clearance, open space provision, and/or overall visual appearance of the surrounding neighborhood.

RELATIONSHIP TO INTENT OF REGULATIONS:

The intent of the regulation for minimum lot width is to ensure that each zoning lot has adequate space to: contain a permitted use, allow room for sunlight and fresh air to enter the building, provide sufficient open space for required side yards, and to provide adequate separation from adjacent properties. The use on the subject site requires a number of Board of Zoning Appeals requests, including a Conditional Use to legally establish the single-family dwelling, Exceptions of the front yard and side yard setbacks and the Variances described in this staff report.

The structure on the subject site was constructed in 1905, prior to Zoning Regulations being adopted in 1926. The setbacks of the house were generally established at this time and appear to be adequate. The proposed use is a single-family house, which a previous owner was in the process of establishing before the applicant's purchased the subject site. The applicants are proposing to complete the interior renovations of the structure to continue using it as a single-family home. Prior to the 2007, the structure was used as a legally nonconforming four-family dwelling. The single-family dwelling will be less intense than the previous use or any permitted use of the C-1 District in terms of the amount light, noise and traffic. Considering these factors, it appears that the intent of the regulations is met if the Variance is approved.

Hamilton made a motion to approve a VARIANCE to allow a reduction in the minimum required lot depth from one-hundred (100) feet to eight-nine (89) feet AND to allow a reduction in the minimum lot area from 5,000 square feet to 4,450 square feet for an existing single-family house at 100 S. Manhattan Avenue in the C-1, Restricted Business District with the following conditions of approval:

1. The Variance shall apply to the existing development as shown on the site plan, floor plans, and stated in the application documents.
2. The associated Conditional Use Permit shall be approved.
3. The associated Exception of the required front yard and side yard setbacks shall be approved.
4. All applicable permits shall be obtained.

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

The Board made the following findings of fact for the Exception at 100 S. Manhattan Avenue.

PRESENT USE: Nonconforming Single-Family House

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: According to the Riley County Appraiser's Office, the principal structure was built in 1905 as a single-family home, prior to the adoption of Zoning Regulations in the City of Manhattan. According to the Polk Directory and City files, the subject site has been used as a single-family house, a multiple-family dwelling and in the early 1990's, a clothing store was located in the structure. The nonconforming condition was originally created in 1969, when the subject site's zoning classification changed "B" Multiple-Family Dwelling District to C-1, Restricted Business District.

The house on the subject site does not meet the minimum required twenty-five (25) foot front yard setback along Poyntz Avenue or S. Manhattan Avenue. It appears that the house was built in this condition prior to the adoption of Zoning Regulations in the City of Manhattan. The subject site also does not meet the minimum lot depth of 100 feet or lot area of 5,000 square feet required for a single-family detached dwelling in the R-3 District. The subject site was originally platted as a 50 foot by 150 foot lot in Ward 6. Documents from the Riley County Register of Deeds show that the land was subdivided in 1930 to create two (2) lots. The southern lot, along the mid-block alley acquired the southern 61 feet of the original lot. The subject site is the remainder of the lot and has 89 feet of lot depth and a total lot area of 4,450 square feet. The applicants are making the Conditional Use, Variance and Exception requests to bring the subject site into compliance with the Zoning Regulations. Other than these conditions, the property complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and properties to the east and west along Poyntz Avenue and north of the mid-block alley are zoned C-1, Restricted Business District. Properties to the south of the mid-block alley are in the R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District. To the north of the subject site is the City Park, zoned R-3, and Multiple-Family Residential District.

No adverse impacts are anticipated from approving the Exception requests to reduce the front yard setbacks along Poyntz Avenue or S. Manhattan Avenue, nor the side yard setback on the west property line. The house was constructed in 1905 and has been in its existing condition since that time. No complaints on the location of the house have been filed with the

Community Development Department. The subject site has been used as a single-family house since at least 2007.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: No affects on the public health, safety or welfare are anticipated. The house has been a part of the surrounding neighborhood since 1905 when it was constructed. The Exception requests are to bring the subject into compliance with the Zoning Regulations.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The strict application of the Zoning Regulations would require that a substantial portion of the house be removed to comply with front yard and side yard setbacks. With the required setbacks, the building envelop would be seventeen (17) feet wide, much narrower than the existing size of the house. Considering the age of the structure and how it has not been an issue in the surrounding neighborhood for over 100 years, the strict application of the front yard and side yard setbacks are unreasonable in this situation.

Hamilton made a motion to approve an EXCEPTION to allow for the reduction of the minimum required front yard setback along Poyntz Avenue from twenty-five (25) feet to three (3) feet; the reduction of the minimum required front yard setback along S. Manhattan Avenue from twenty-five (25) feet to four (4) feet; and the reduction of the minimum required side yard setback on the west property line from eight (8) feet to four (4) feet for an existing single-family house at 100 S. Manhattan Avenue, seeking a Conditional Use in the C-1, Restricted Business District, with the following conditions of approval:

1. The Exception shall apply to the existing single-family dwelling as shown on the site plan, floor plans, and stated in the application documents.
2. The associated Conditional Use Permit shall be approved.
3. All applicable permits shall be obtained

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

A PUBLIC HEARING FOR A VARIANCE TO ALLOW FOR TWO (2) PROPOSED INTERNALLY ILLUMINATED SIGNS, BOTH NINE (9) FEET ONE (1) INCH HIGH AND FOUR (4) FEET THREE (3) INCHES WIDE AT THE RILEY COUNTY HEALTH DEPARTMENT, 2030 TECUMSEH ROAD, IN THE R-3/UO, MULTIPLE-FAMILY RESIDENTIAL DISTRICT AND UNIVERSITY OVERLAY DISTRICT. (APPLICANT/ OWNER: ROD MEREDITH, RILEY COUNTY PUBLIC WORKS).

Bunger provided the verbal staff report. It was discovered that the Board did not receive copies of the staff report. The Board decided to proceed, but held the option to table the item

if specific questions arose that needed further clarification.

City Administration recommended approval of the request with two (2) conditions of approval, which Bunger read aloud.

Hamilton asked for clarification on the number of signs and their location. Bunger responded that they were proposing for 2 signs and showed the general location of the signs.

Kent asked for a comparison of the size of the existing and proposed signs. Bunger provided the dimensions and area of the signs.

Aistrup opened the meeting for public comment.

There was no one who spoke. The applicant's representative was present. Aistrup closed the public hearing.

The Board agreed that it was a good request.

The Board made the following findings of fact for the Variance at 2030 Tecumseh Road.

PRESENT USE: Riley County Health Department

CONDITIONS UNIQUE TO THE PROPERTY: The Riley County Health Department is an institution building that sited on a large 7.6 acre lot within R-3/UO, Multiple-Family Residential District and University Overlay District. Considering the zoning district it falls under, the fact that the proposed signs serve as identification signs for an institution located on a large lot acts a unique condition to the property. In addition, the proposed signs are merely replacing already existing internally illuminated signs that have been in place for a long time without any known complaints.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The properties immediately north of the subject site across Claflin Road are zoned R-1, Single-Family Residential District. Properties immediately south across Tecumseh Road are zoned R, Single-Family Residential District. Properties immediately west across Wharton Manor Road are also zoned R-1, Single-Family Residential District. The block east of the subject site has two large lots that are zoned R-3, Multiple-Family Residential, of which the northern property along Claflin houses Pawnee Mental Health Services and the southern property along Platt Street houses Lafene Health Center.

Considering that internally illuminated signs have been in place on the subject for a long time

without any known complaints and that the size of the proposed signs has been approved by the City Administration, minimal or no adverse effect on adjacent properties is anticipated. Additionally, the proposed signs are sufficiently set back from the property line and are sufficiently separated from the surrounding residential properties by the streets abutting the subject site.

Also, an internally illuminated sign on the subject site would not be an alien element in the neighborhood because along Sunset Avenue, there are three other internally illuminated signs; two located in front of the Lafene Health Center and the third located on the corner of Sunset Avenue and Claflin Road in front of Pawnee Mental Health.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:

Considering that the Riley County Health Department is a healthcare institution, it is important that a visible, easily readable and aesthetically pleasing identification sign be in place. The proposed internally illuminated signs alongside identifying Riley County Health Department would also offer better readability and aesthetics. Also, internally illuminated sign would eliminate the glare problem resulting from externally illuminated signs. The strict application of regulations would not allow the applicant to fulfill this need for a visible, aesthetically pleasing, and easily readable identification sign and this would constitute an unnecessary hardship to both the applicant and public at large.

Also, since the proposed signs are meant to replace existing internally illuminated signs, strict application of the regulation would require the applicant to replace internally illuminated signs with externally illuminated signs causing an adverse effect on the much needed aspects of readability and aesthetics of the signs in consideration, thereby, resulting in unnecessary hardship.

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

The effects on the health, safety, morals, order, convenience, prosperity, or general welfare of the public should be minimal. The proposed internally illuminated sign should have little or no effect on public. Internal illumination of the proposed sign would not change the order of the neighborhood because the proposed signs with a different size intend to merely replace existing internally illuminated signs for better aesthetics. The location of the signs and the proposed illumination of the signs should not adversely impact traffic along Claflin Road, Wharton Manor or Tecumseh Road. The proposed signs would not obstruct any vision clearance triangles.

RELATIONSHIP TO INTENT OF REGULATIONS:

The intent of the Sign Regulations within residential districts is to limit the size and illumination characteristics so that residential properties are not negatively impacted. Identification and bulletin board signs are allowed to be externally illuminated, ground lit for example. The intent is of an aesthetic nature to maintain a residential character. However, the residential character in this particular location has already been compromised by two other healthcare facilities adjacent to the subject site.

The proposed sign at the corner of Claflin Road and Wharton Manor Road is of acceptable size and faces a large open space west of the subject site, therefore in no way adversely affect surrounding residential properties.

Likewise, the proposed sign of the same size along Tecumseh Road would be positioned in such a way so as to mark the entrance to the Riley County Health Department's parking lot without directly facing surrounding residences. Since neither of the two (2) proposed signs seem to negatively impact the neighborhood, granting the Variance to allow the two (2) proposed internally illuminated signs on the subject site would not contradict or nullify the intent of the regulation under consideration.

Hardy made a motion to approve a Variance to allow for two (2) proposed internally illuminated signs in the R-3/UO, Multiple-Family Residential District and University Overlay District, with the following conditions:

1. The Variance shall apply to the proposed signs as shown on the site plan and stated in the application documents.
2. All applicable permits shall be obtained.

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

A PUBLIC HEARING FOR A CONDITIONAL USE TO AMEND AN APPROVED CONDITIONAL USE ALLOW FOR A SECOND DRIVE-THRU FOR AN EXISTING RESTAURANT AT 1101 WEST LOOP PLACE IN THE C-2, NEIGHBORHOOD SHOPPING DISTRICT (APPLICANT/ OWNER: MCDONALD'S USA LLC).

Bunger provided the staff report for the request. City Administration recommends approval with four (4) conditions of approval.

Kent asked if traffic concerns were discussed at the City staff level. Bunger responded that the City engineers have reviewed the request and had no comment other than the need to add or relocate the drive-thru sign.

Aistrup opened the public hearing.

Howard Johnson, representative for the applicant, provided further details of the proposed project. He stated that he agreed to relocate the drive-thru sign.

With no other comments, Aistrup closed the public hearing.

The Board made the following findings of fact for the Conditional Use at 1101 Westloop Place.

PRESENT USE: McDonald's restaurant with an approved drive-thru

STANDARDS FOR A CONDITIONAL USE

A. Compliance with all applicable regulations: Other than proposed amendment to the Conditional Use, the subject site complies with all applicable regulations. The location of the off-street parking on Anderson was granted a Variance in September, 1986. The location of a pole sign was granted a Variance in November, 1986.

B. Probable effect on adjacent properties: The subject site is zoned C-2, Neighborhood Shopping District. Properties to the south of Anderson Avenue are zoned C-5, Highway Commercial District and C-2 District. To the north is the West Loop Shopping Center, which is zoned West Loop Commercial Planned Unit Development.

No adverse impacts should occur if the proposed second drive-thru lane is approved. Anecdotal evidence has shown that during peak hours of the restaurant, including breakfast and lunch times, customers are backed up for several cars into the driving aisle of the West Loop Shopping Center. This naturally impacts businesses in the West Loop Shopping Center. By increasing the amount of vehicles that can line up in the drive-thru and efficiencies of the drive-thru for the restaurant; the impacts on adjacent properties will be lessened. The proposal will greatly reduce the number of vehicles that wait in the driving aisle to the east and block travel other businesses in the West Loop Shopping Center.

Properties to the south of Anderson Avenue should not be impacted. The current or proposed conditions of the drive-thru will not change the traffic patterns on the five-lane arterial road.

C. Domination by use over neighboring properties: The proposed amendment to the Conditional Use should not dominate over neighboring properties. The restaurant and its drive-thru match the character of other commercial properties along Anderson Avenue to the east and west of Seth Child Road.

- 1. Location, nature, and height of physical improvements:** The existing restaurant is a single-story restaurant with a drive-thru aisle and window that has been on the subject site since 1986. The structure is roughly 4,600 square feet in area and is sited generally in the middle of the lot. A pole sign is located in the southwest corner of the site.
- 2. Landscaping and screening:** Areas along the east, south and west property lines are landscape areas, primarily with manicured lawns and flower beds. No fences or screening is located on the subject site. The trash dumpster and concrete block enclosure is located on the adjacent property to the north.

D. Adequate provision of parking and loading: Thirty-nine (39) off-street parking spaces area located along the building or at the outer edges of the lot. The total number of off-street parking spaces met the requirements at the time the use established and the building was constructed. The proposed second drive-thru will not eliminate any off-street parking spaces.

E. Adequate provision of drainage, and other public utilities: The site is generally built-

out. Storm water is collected on site via parking lot inlets and directed towards storm water sewers along Anderson Avenue. Adequate storm water drainage is provided for the subject site. Adequate utilities are provided to serve the use on the subject site.

F. Adequate provision of access: Access to the subject site is from Anderson Avenue to the south via a forty-two (42) foot wide curb cut. This curb cut accommodates in coming traffic from Anderson Avenue and left and right turning movements leaving the site. A second main access point is to the northeast corner of the site off of the West Loop driving aisle. This is the main entrance to the drive-thru. The Public Works Department has requested that a new or relocated drive-thru identification sign be located at the intersection of Anderson Avenue and West Loop driving aisle to inform customers that the drive-thru can be access from the driving aisle to the east.

A sidewalk is provided to the south of subject site on Anderson Avenue. Access to the subject site is adequate for both vehicles and pedestrians.

Hardy made a motion to approve a Conditional Use to amend an approved Conditional Use to allow for a second drive-thru for an existing restaurant at 1101 Westloop Place in the C-2, Neighborhood Shopping District, with the following conditions of approval:

1. The Condition of Approval shall apply only to the second drive-thru and building improvements as described in the application documents and shown on the site plan.
2. The subject site shall be developed as proposed on the site plan and described in the application documents.
3. A drive-thru identification sign shall be constructed near the intersection of Westloop Place and Anderson Avenue as required by the Public Works Department. The identification sign shall apply to all applicable regulations.
4. All applicable permits shall be obtained.

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

Aistrup adjourned the meeting.

Respectfully submitted by Chad Bunger, AICP, CFM, Planner II