

MINUTES
MANHATTAN BOARD OF ZONING APPEALS

City Commission Room, City Hall
1101 Poyntz Avenue

Wednesday, October 9, 2019

7:00 p.m.

MEMBERS PRESENT: Harry Hardy, Chairperson; Angie Danner; Sara Fisher; La Barbara Wigfall

MEMBERS ABSENT: Connie Hamilton, Vice-Chair

STAFF PRESENT: John Adam, Senior Planner; Ben Chmiel, Planner III; Dre'Vel Taylor, Planning Intern

Hardy called the meeting to order at 7:00 p.m.

Staff called roll and a quorum was established.

1.1 **CONSIDER THE MINUTES OF THE September 11, 2019, BOARD OF ZONING APPEALS MEETING.**

Wigfall moved to approve the September 2019 minutes. **The motion was seconded by Danner and approved; 4-0.**

- 2.1 A PUBLIC HEARING to consider an **EXCEPTION** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow up to a 10-foot encroachment into the 25-foot front-yard setback; and, an increase in lot coverage from 30 percent to 32 percent for a building and parking lot expansion for property in an R, Single-Family Residential District located at 2600 Kimball Avenue. (*Applicant/Owner: USD 383 Manhattan-Ogden School District; file no. EXC-19-061*)

Adam presented the staff report for the **EXCEPTION** at 2600 Kimball Avenue with staff recommending approval of the request to allow a setback reduction up to 10 feet for parking spaces and an exception to allow an increase in lot coverage from 30% to 32% with conditions.

Hardy opened the floor for public comment:

Hardy noted the applicant is present.

Hardy closed public comment and opened for Board discussion:

Wigfall, Danner and Hardy agree that the **EXCEPTION** will reduce the amount of non-conformity.

Hardy closed the Board discussion.

Roll call vote was taken; motion was approved with conditions by a vote of 4-0.

THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE EXCEPTION AT 2818 OREGON LANE:

Present use: Educational facility

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

Apart from the substandard setback and building coverage, the property complies with all applicable regulations of the zoning district, including other setbacks, building height, and parking.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

Setbacks. The current parking lot violates the setback requirement on the south and east sides. On the east side (Sunnymeade Road) the parking spaces encroach about 17–18 feet into the required 25-foot front yard. In other words, it's 7–8 feet from the property line. On the south side (Kimball Avenue) the encroachment is about 15 feet, or 10 feet from the property line. The proposed project would reduce the encroachment on the east and south sides to about 8 feet on each side. It is an overall reduction of the existing degree of nonconformity.

Lot coverage. The lot is about 91,000 square feet in extent. The difference between the maximum building size under the 30% regulation and the increase being requested would be about 1,800 square feet. In the context of a two-acre site—the equivalent of 9 lots of minimum lot size for the R district—the additional square footage is negligible because the difference is not discernable to casual view. The articulation in the building façade will also diminish any possibility of bulkiness.

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

Parking spaces are subject to setbacks because they might otherwise encroach into the right-of-way, inconveniencing pedestrians, and to allow for landscaping between them, although landscaping is not required. The setback distance for parked vehicles is the same as for any structures on the lot, despite their lesser bulk. In this instance the applicant is requesting a roughly one third decrease in the setback for a few parking spaces and is providing landscaping to soften the appearance of the lot from public view. And as noted in findings above, the 2% difference in lot coverage will be hardly discernable except as measured on a site plan. Neither situation poses a threat to public health or welfare.

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

Presumably the building was *not* designed to exceed its programmatic requirements. Presumably it is the size it needs to be to achieve the district’s educational objectives. Removing 1,800 square feet from the building would undercut those objectives, but the negative impact on the public of allowing the additional area will be negligible. Likewise, the parking will pose a minor intrusion into the setback—as it does now—but that edge will be mitigated by landscaping.

2.2 A PUBLIC HEARING to consider a **CONDITIONAL USE** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow the construction of a 130 foot tall monopole telecommunications tower and accessory structures in the LM-SC, Light Manufacturing-Service Commercial District on property located at 409 Fair Lane. (*Applicant: Eco-Site II, LLC / Owner: William and Rita Enlow; file no. CUP-19-062*)

2.3 A PUBLIC HEARING to consider an **EXCEPTION** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow a reduction of three required setbacks of a proposed telecommunications tower from one hundred and thirty (130) feet to one hundred and ten feet (110) feet from the north property line, to forty seven feet (47) feet from the east property line and to seventeen feet (17) feet from the south property line in the LM-SC, Light Manufacturing-Service Commercial District for property located at 409 Fair Lane. (*Applicant: Eco-Site II, LLC / Owner: William and Rita Enlow; file no. EXC-19-063*)

Hardy stated the board will hear 2.2 and 2.3 together.

Chmiel presented the staff report for the **CONDITIONAL USE** and **EXCEPTION** for 409 Fair Lane together.

CONDITIONAL USE to allow the construction of a 130 foot tall monopole telecommunications tower and accessory structures in the LM-SC, Light Manufacturing-Service Commercial District on property located at 409 Fair Lane.

EXCEPTION to allow a reduction of three required setbacks of a proposed telecommunications tower from one hundred and thirty (130) feet to one hundred and ten feet (110) feet from the north property line, to forty seven feet (47) feet from the east property line and to seventeen feet (17) feet from the south property line in the LM-SC, Light Manufacturing-Service Commercial District for property located at 409 Fair Lane.

Wigfall asked for clarification that the sentence within the conditional use “An administrative permit for a telecom structure shall be approved prior to the construction of the proposed telecommunication tower and before each additional

telecommunication provider's equipment is installed." Is dependent upon approval of the BZA; Chmiel answered in the affirmative.

Fisher asked why is the structure construction plan required to be on that location and not square on the lot? Chmiel answered that he is unsure and the applicant will have to respond; he also confirmed the setback request is for each direction except west. Chmiel stated the staff is comfortable recommending approval of the reduced setbacks because the tower will collapse upon itself.

Hardy opened the floor for public comments:

Justin Anderson, 6809 23rd Avenue West, Bradenton, FL 34209, is representing Eco-Site II, LLC. Anderson responded to Fisher that the site location for the tower is to ensure the remainder of the property is useable for the property owner. The tower would require an exception request regardless of placement location. The recommended location is closer to a dead end street, railroad tracks and farther away from Fort Riley Blvd. The tower is being installed to help with indoor cellular coverage and upgraded technologies for marginal coverages across the area. A wood screening fence will be installed pending approval immediately surrounding the tower.

Wigfall asked why is it the best tower design for the location? The tower's height made it relative difficult to disguise or hide it, so Anderson answered that it is the best for the area and location due to the height requirement of 120' it doesn't require a crane to complete most services. The company weighed the tower differences due to the terrain and the district it is located in. Anderson mentioned there is a T-Mobile representative present if there are any further questions.

With no further public comment, Hardy closed the public hearing for board discussion.

Roll call vote was taken on the CONDITIONAL USE; motion was approved with conditions by a vote of 4-0.

Roll call vote was taken on the EXCEPTION; motion was approved with conditions by a vote of 4-0.

THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE FOLLOWING ITEMS:

2.2 CONDITIONAL USE 409 Fair Lane

PRESENT USE: Warehouse and retail business.

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The proposed wireless telecommunication tower and accessory structures comply with the requirements of Article XII, Telecom Structures, except for the proposed reduced setback of the tower, in which a companion exception is being applied for.

The applicant will be required to submit the necessary documentation for the administrative permit required by Article XII prior to the issuance of any building or electrical permits. Future wireless telecommunication providers locating in the lease area and on the tower will be required to submit a completed administrative permit, as required by Article XII, as well.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The proposed telecommunications monopole and accessory structures are to be located in an area that is industrial in nature and has a mix of light manufacturing and service commercial uses. All immediately adjacent properties are within the LM-SC District with the closest residential zone and structure being greater than 500 feet away from the subject property. The Union Pacific Railroad is located immediately to the south of the subject site. Further to the north, across Fort Riley Boulevard is a C-5 district and various PUDs. The area to the east remains LM-SC until it is met by the levee and Southeast Park. Further to the south is a one-lot deep R-1 zoning district, then the levee, followed by agricultural land of Riley County. The LM-SC District continues to the west for 4 blocks.

Although the application materials state the design of the tower is such that it will collapse upon itself in the event of the tower's structural failure, it is appropriate to note the fall zone of the entire tower measured from the base of the tower. The only two structures within 130 feet of the proposed tower are that of the property owners of the parent parcel in which the lease space is contained therein. Rights-of-way contained within 130 feet from the base of the proposed tower are Fair Lane, 4th Street, and the Union Pacific Railway. Fair Lane serves primarily as an alley for adjacent businesses and patrons to access parking. 4th Street terminates in a dead-in to the south before reaching the Union Pacific Railway – there are no plans for 4th Street to extend further south. With a 15 foot fall radius certified by the applicant's monopole manufacturer, failure of the proposed tower should be contained within the lease area.

Similarly tall towers and structures are present in the general area south of Fort Riley Boulevard, with the most comparable being a telecommunications tower located at 1210 Pottawatomie Avenue which is 100 feet in height. Six (6) light towers surround the sports field at Griffith Park which are 75 feet in height.

The base of the proposed 130 foot monopole tower and accessory structures and equipment will be screened from adjacent property in the City by the an opaque fence made from wood or vinyl. The Conditional Use should not adversely affect adjacent properties.

The applicant held a neighborhood meeting on August 22, 2019 regarding the proposed tower on the subject site. According to the applicant, no property owners attended the meeting. The construction of the 130 foot monopole tower should not adversely affect the value of adjacent properties.

DOMINATION BY USE OVER NEIGHBORING PROPERTIES: (SITE PLAN)

1. LOCATION, NATURE, AND HEIGHT OF PHYSICAL IMPROVEMENTS:

The maximum height of a tower and antenna allowed by the Zoning Regulations is 150 feet, not including lightning rods, which shall not exceed 20 feet in height. The height of the proposed tower and lightning rod is 130 feet. The proposed tower should not be out of character with the general area which includes 75 foot tall light towers at the Griffith Park sports fields and another telecommunication tower at 1210 Pottawatomie which stands at 115 feet including the lightning rod. The accessory structures and equipment will be screened from view of nearby properties, none of which are residential, by an opaque six (6) foot fence. Considering the presence of these structures and how the accessory structures will be obstructed from the view of nearby property owners, the proposed 130 foot monopole tower should not dominate the surrounding properties.

2. LANDSCAPING AND SCREENING:

The LM-SC, Light Manufacturing and Service Commercial District does not have specific screening or landscaping requirements for this type of use. The LM-SC District requires that sight-obscuring screening be provided for storage of equipment and materials. This does not apply in this situation. The subject site, specifically the lease area, is presently gravel.

The leased area will be enclosed with a 6 foot tall wood or vinyl fence. The entrance to the enclosed area will be 12 feet wide on the east side of the lease area with a double swing gate. The proposed gate and screening shall be reviewed and approved by the Board of Zoning Appeals, if deemed appropriate subject to Article XII, Section 12-112 (D), Screening and Landscaping.

ADEQUATE PROVISION OF PARKING AND LOADING:

Section 12-112 (E) requires at least one (1) off-street parking space to be located on the site. The submitted site plan does not show a specific area for an off-street parking space associated with the lease area. The subject site is a large zoning lot with several areas devoted to the parking of service vehicles and other equipment. A 30 foot wide utility/access easement is proposed to be dedicated between the property owner and lease holder leading from the terminus of 4th Street on the east side of the subject site. Adequate space is located immediately to the east of the lease area in this utility/access easement to accommodate the parking of vehicles to inspect and service the wireless telecommunication equipment.

ADEQUATE PROVISION OF DRAINAGE, AND OTHER PUBLIC UTILITIES:

Adequate utilities are provided to the subject site. There is no anticipated storm water runoff created by the development on the subject site.

ADEQUATE PROVISION OF ACCESS:

An existing driveway exists off 4th Street on the east side of the subject site. A proposed 30 foot wide utility/access easement between the property owners and the lease holder is to follow this existing driveway leading to the lease area. Adequate access is provided.

WHETHER THE PROPOSED TELECOM STRUCTURE(S) HAS INCORPORATED A REASONABLE LEVEL OF STEALTH DESIGN TO MINIMIZE THE VISUAL IMPACT OF THE TELECOM STRUCTURE(S), GIVEN THE TYPE OF TELECOM STRUCTURE AND THE CHARACTER OF THE AREA IN WHICH THE STRUCTURE(S) IS PROPOSED TO BE LOCATED:

Stealth design is, "A method of designing, constructing, and/or locating any telecom structure to blend in with the character and environment of the area in which it is located, and to enhance compatibility with nearby land uses and the area by minimizing visual impacts, incorporating the design principles of Article XII, Section 12-114." The proposed 130 foot tall monopole does not incorporate any stealth design features. Requiring the applicant to incorporate stealth designs for the proposed tower maybe inappropriate because of the similar structures existing in the general area and that the subject site is void of any trees, especially trees that would of height and size for a stealth tower to be effective.

2.3 EXCEPTION 409 Fair Lane

PRESENT USE: Warehouse and retail business.

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The proposed wireless telecommunication tower and accessory structures comply with the requirements of Article XII, Telecom Structures, except for the proposed reduced setback of the tower, which is what the Exception request is for. A Conditional Use has been requested to construct the proposed 130 foot monopole tower on the subject site.

The applicant will be required to submit the necessary documentation for the administrative permit required by Article XII prior to the issuance of any building or electrical permits. Future wireless telecommunication providers locating in the lease area and on the tower will be required to submit a completed administrative permit, as required by Article XII, as well.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The proposed telecommunications monopole and accessory structures are to be located in an area that is industrial in nature and has a mix of light manufacturing and service commercial uses. All immediately adjacent properties are within the LM-SC District with the closest residential zone and structure being greater than 500 feet away from the

subject property. The Union Pacific Railroad is located immediately to the south of the subject site. Further to the north, across Fort Riley Boulevard is a C-5 district and various PUDs. The area to the east remains LM-SC until it is met by the levee and Southeast Park. Further to the south is a one-lot deep R-1 zoning district, then the levee, followed by agricultural land of Riley County. The LM-SC District continues to the west for 4 blocks.

Although the application materials state the design of the tower is such that it will collapse upon itself in the event of the tower's structural failure, it is appropriate to note the fall zone of the entire tower measured from the base of the tower. The only two structures within 130 feet of the proposed tower are that of the property owners of the parent parcel in which the lease space is contained therein. Rights-of-way contained within 130 feet from the base of the proposed tower are Fair Lane, 4th Street, and the Union Pacific Railway. Fair Lane serves primarily as an alley for adjacent businesses and patrons to access parking. 4th Street terminates in a dead-in to the south before reaching the Union Pacific Railway – there are no plans for 4th Street to extend further south. With a 15 foot fall radius certified by the applicant's monopole manufacturer, failure of the proposed tower should be contained within the lease area. The Exception request should not adversely affect adjacent properties.

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

The proposed tower is located outside of the floodplain, outside of the levee critical zone, not within or directly adjacent to a residential zone, adjacent to a right-of-way which terminates into a dead end (4th Street), and adjacent to a right-of-way which serves primarily as an alleyway to access parking (Fair Lane). The proposed telecommunication tower should not impact the public's 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 setback requirements for wireless telecommunication towers would require the applicant to find a different location, because this site does not meet the minimum requirements of the Zoning Regulations. The ideal location would need to be a minimum of 260 feet in width and depth with the tower located in the middle of the property. This site is approximately 250 feet wide and 132 feet deep. The subject site is not adequate to strictly meet the Zoning Regulations. However, the design of the monopole to collapse upon itself in case of structural failure reduces its impact zone to be contained within the lease area. Considering the design of the proposed pole and that it should not adversely affect adjacent properties, requiring a tower setback equal to the height is unnecessary at this location.

FOR ALL EXCEPTIONS, WHETHER THE PROPOSED TELECOM STRUCTURE HAS INCORPORATED A REASONABLE LEVEL OF STEALTH DESIGN MEASURES TO MINIMIZE THE ADVERSE VISUAL IMPACT OF THE TELECOM STRUCTURE(S), GIVEN THE CHARACTER

OF THE TELECOM STRUCTURE AND THE AREA IN WHICH THE TELECOM STRUCTURE(S) IS PROPOSED TO BE LOCATED:

Stealth design is, "A method of designing, constructing, and/or locating any telecom structure to blend in with the character and environment of the area in which it is located, and to enhance compatibility with nearby land uses and the area by minimizing visual impacts, incorporating the design principles of Article XII, Section 12-114." The proposed 130 foot tall monopole does not incorporate any stealth design features. Requiring the applicant to incorporate stealth designs for the proposed tower maybe inappropriate because of the similar structures existing in the general area and that the subject site is void of any trees, especially trees that would of height and size for a stealth tower to be effective.

IN THE CASE OF A REQUEST FOR AN EXCEPTION OF THE HEIGHT LIMIT, THAT THE EXCEPTION IS NECESSARY TO DO THE FOLLOWING:

Not Applicable

(A) TO FACILITATE CO-LOCATION OF OTHER PROVIDERS IN ORDER TO AVOID CONSTRUCTION OF A NEW TOWER; OR, Not Applicable

(B) TO MEET THE COVERAGE REQUIREMENTS OF THE APPLICANT'S PERSONAL WIRELESS TELECOMMUNICATIONS SYSTEM: Not Applicable

2.4 A PUBLIC HEARING to consider an **EXCEPTION** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow an increase in the maximum lot coverage from 30% to 34.3% to accommodate construction of a carport in an R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay at 1515 Humboldt Avenue. (Applicant/Owner: Robert Shivley and Marlene Irvine; file no. EXC-19-066)

Taylor presented the staff report.

City Administration recommends approval of the Exception to allow an increase in the maximum lot coverage from 30% to 34.3% to accommodate construction of a carport in an R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay, located at 1515 Humboldt Street.

Fisher asked for clarification if the reason this is being presented to the BZA today is that is it overhanging by 3 feet on each side? Taylor answered in the affirmative and that he is required to present the case due to current regulations not expected changes. The BZA case is here today because of the overhang; if the applicant planned to place the carport directly above the concrete pad there would not be a required exception.

Hardy asked why the vegetation plan was not required by city administration as a condition of approval? Taylor answered he did not feel it was appropriate for the city

administration to recommend it; in this case. Adam commented that the BZA may provide additional conditions concerning additional landscaping if deemed the construction of the carport may impact the neighborhood.

Hardy opened the floor to public comments:

Robert Shivley, 1515 Humboldt Street, mentioned he decided to install a carport due to requests from the current tenants. The carport is designed to fit the maximum amount of space to fit the four tenant's vehicles without extending too far. Shivley commented that the likely intent on vegetation by his wife, the other applicant, is to screen the posts from view.

Hardy closed the public hearing and asked for board discussion.

Fisher commented during her site visit that there is a carport very similar already installed by a neighboring property and has no issue with the carport on this property.

Danner agreed the carport looks fine, a likely improvement

Hardy states he agreed with the design and doesn't intend to put a vegetation condition on the application.

Wigfall mentioned she agreed it would be nice to screen the cars from view but it is up to the applicant on how to do that.

Roll call vote was taken; motion was approved by a vote of 4-0

THE BOARD MADE THE FOLLOWING FINDINGS FOR THE EXCEPTION AT 1515 HUMBOLDT:

PRESENT LAND USE DISTRICT:

R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The existing structure is in conformance with all applicable zoning regulations, including setbacks and lot coverage. The current structure consumes 30% of the total lot space.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The proposed carport is intended to shield the applicant's residences vehicles from the elements. The carport in question will have open sides and be constructed with the addition of more landscaping to minimize adverse visual characteristics. 1519 and 1509 Humboldt Street are the adjacent property owners who would receive the most visual impact of the carport. Neither property has a primary entry from the rear-yard, therefore, minimal visual impact is expected. If the residents of 1509 Humboldt wanted to utilize

their rear-yard for outdoor activities they would see the carport as well. The carport will likely cast a shadow on neighboring properties to the east and west. The impact of such shadows will be minimal to non-existent to either property. The property to the west has a similarly constructed parking lot. The property to the east would receive full sunlight until the sun began to set. At this point, the shadow would only impact a small section of the rear property, thereby leaving the remaining property open to growing grass or other plant life if the property owner/neighboring tenants so desired.

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

The addition of a carport would serve to protect the vehicles of tenants living at 1515 Humboldt Street. The carport would face the south and primarily be visible to visitors to the Manhattan Arts Center and neighboring properties. The Manhattan Arts Center is primarily a large parking lot. From said parking lot, patrons would view the vehicles of the tenants and the proposed carport. From the patron's perspective, the addition of a carport would obstruct the view of the rear of the property but should not cause any feeling of encroachment or clutter. The proposed carport with landscaping should improve the visual appeal of the alley.

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

Staff finds that the overall impact of constructing the proposed carport on adjacent properties and the general public to be minimal. The carport as described by the applicant would provide protection to the tenant's vehicles and consume an additional 4.3% of lot coverage than is allowed under the Traditional Neighborhood Overlay. Under current regulations for R-1, Single-Family Residential Districts, maximum lot coverage is 35%.

- 2.5 A PUBLIC HEARING to consider a **CONDITIONAL USE** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow a lodging/boarding house for temporary shelter in the R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay at 711-715 Humboldt Street. (*Applicant: Bruce McMillan Architect / Owner: BCD, LLC; file no. CUP-19-064*)

- 2.6 A PUBLIC HEARING to consider an **EXCEPTION** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow a reduction in the required amount of off-street parking from 11 spaces to four (4) spaces; and, to reduce the side yard setback on the west side of the property from 15-feet to eight (8) feet on property in a R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay at 711-715 Humboldt Street. (*Applicant: Bruce McMillan Architect, Owner: BCD, LLC; file no. EXC-19-065*)

Hardy stated the board will hear 2.5 and 2.6 together.

Adam presented the staff report for the **CONDITIONAL USE** and **EXCEPTION** for 711-715 Humboldt Street.

City Administration recommends approval of the requested **CONDITIONAL USE** to establish a lodging/boarding house on a property in an R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay at 711-715 Humboldt Street.

City Administration recommends approval of the requested **EXCEPTIONS** to allow for a reduction of the minimum required side yard setback along the west property line from fifteen (15) feet to eight (8) feet; and, a reduction in the required amount of off-street parking from eleven (11) spaces to four (4) spaces, equal to the maximum number of staff that will be on-site at any one time on a property in the R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay, located at 711-715 Humboldt Street.

Wigfall asked about the conditional use landscaping plan is the plan listed in the staff report PowerPoint presentation, Adam answered in the affirmative.

Fisher asked is there a similar sized lot or lots nearby with structures generally equal or 150 or greater? Adam answered that an apartment building nearby assembled two lots, in a similar manner but a different design. He is unsure of any others specifically but comments in general there is a fair amount of lot assemblage in that area that is like the request. Adam mentioned there is a church that combined two lots but one lot is for a building and one lot is for surface parking.

Fisher asked for confirmation that if there is no visitors, residents, etc. but that only parking spots is for staff? Adam deferred to the applicant for that answer.

Hardy opened the floor to public comments:

Bruce McMillan, 555 Poyntz, he mentioned he is representing the 501(c)(3) organization and that there are additional board members in the audience. He confirms the staff report is very thorough and is appreciative of the work completed on it. McMillan mentions that a lot of attention has been paid to ensure compliance with the design and character of the building with the look of the neighborhood. McMillan comments that the neighborhood meeting held was very successful and that they have put in details to the plan to ensure neighborhood needs are met, for example, there is a fence that will be installed surrounding the whole house and neighboring properties. McMillan states that the property was designed to match as close as possible to the requirements of the R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay.

Hardy commented to the applicant that he appreciates the design and detail to match the character of the neighborhood because it is not often that someone puts in that much care and detail into that aspect.

Hardy closed the public hearing and asked for board discussion.

Wigfall reinforces Hardy's comments that this application enhances the TNO and spirit of the characteristics required.

Hardy commented that the staff report was extremely detailed and well written. The report accurately describes the applicant's intent to meet the requirements within the R-1/TNO.

Fisher asked about the letter included as an additional document to the application, which mentions a wall/fence. McMillan answered and described the fence and other modifications along the eastern side yard.

Fisher asked for an explanation about the volunteer parking requirements. McMillan deferred to another representative.

Hardy opened the floor to public comment:

Judy Davis, 711-715 Humboldt, responded to the volunteer question, that there will be only a couple volunteers at a time and for limited time periods. The volunteers will typically park along the street if there is no on-site parking available and will shuttle if needed. Davis mentions that there are no visitors at all, it is very restricted.

Hardy closed the public hearing to continue board discussion.

Danner mentions that she is pleased that the staff report recommends a condition to if the 503(c)(3) status changes it will comply with appropriate requirements and will support the application.

Roll call vote was taken on the CONDITIONAL USE; motion was approved with conditions by a vote of 4-0.

Roll call vote was taken on the EXCEPTION; motion was approved with conditions by a vote of 4-0.

THE BOARD MADE THE FOLLOWING FINDINGS FOR THE CONDITIONAL USE AND EXCEPTION AT 711-715 HUMBOLDT STREET.

2.5 CONDITIONAL USE

PRESENT USE: Single-family dwelling

STANDARDS FOR A CONDITIONAL USE:

The Board of Zoning Appeals shall not grant a Conditional Use, as authorized by Sec. 14-

704 of the Zoning Regulations, unless it shall, in each specific case, make specific written findings of fact, based upon the particular evidence presented to it, that **all** the following standards have been met.

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: As proposed, the Conditional Use provides for demolition of the existing single-family dwelling to accommodate construction of the boarding house. The subject property and proposed improvement complies with the lot size requirements, bulk regulations and performance standards of the R-1/TNO District with two (2) exceptions. In conjunction with this request, the applicant is seeking an Exception to reduce the side yard setback on the west side of the property from 15-feet to eight (8) feet; and, a second Exception to reduce the off-street parking requirement from 11 spaces to four (4) spaces. Approval of the Conditional Use, as requested, will be contingent upon both Exceptions being granted.

- a. **TNO, Traditional Neighborhood Overlay District.** Consistent with its setting as part of the original town Ward Districts, the subject property is part of an area extending north of Poyntz Avenue that is zoned the TNO, Traditional Neighborhood Overlay District. The TNO District is intended to conserve the traditional character of the older neighborhoods through compatibility standards. The compatibility standards require that new infill residential buildings, and additions and modifications to existing residential building, incorporate basic design and site layout elements characteristic of homes in the traditional neighborhoods. Any new structure being constructed as a residential building shall comply with both *Site Design* and *Building Design* compatibility standards of Sec. 4-111(F)(1) and (2), respectively.

(1) ***Site Design Standards.*** Standards applicable to this project are referenced below with the standard identified by italics.

(a) *Driveways and Curb Cuts:* *For lots that are reasonably accessible from an alley, any parking area and access shall be constructed in the rear or side yard with access only from the alley.* In this case, the property currently maintains a single car driveway on Humboldt Street on the east side of the property, but also includes parking off the alley to the rear. The applicant proposes to pave the parking area along the alley that will support four (4) vehicles. In order to allow necessary circulation through the site and align with the existing driveway on Humboldt Street, the applicant proposes a one-way circulation system with vehicles entering the site from the alley to the rear and exiting onto Humboldt Street. Electronically controlled gates will limit vehicle entering and exiting the property.

(b) *Parking:* *There shall be no off-street parking spaces, nor any parking, in the area located between the front lot line and the residential building.* As noted, off-street parking will be provided off the alley at the rear of the

property.

(2) ***Building Design Standards.***

- (a) Windows: *The total surface area of the primary façade on new residential buildings shall contain a minimum 15% window area and windows follow a width-to-height ratio of 2:3. The calculated area of the primary façade is 982 square feet, of which 15% is 147 square feet. The window area of the primary façade calculates to be 234 square feet. The front wall of the breezeway connecting the house and office area is essentially all glass. If this area is excluded from the calculation, it reduces the window area to 150 square feet, still in compliance with the minimum requirement. All windows comply with the minimum width-to-height ratio except for the two (2) accent windows on either side of the primary doorway.*
- (b) Roof Pitch: *The roof pitch of a new residential building shall be in the following range; from 6:12 to 12:12 rise to run...The roof pitch for porches shall not exceed the roof pitch of the residential building to which it is attached. The proposed structure includes a 6:12 roof pitch with the front porch not exceeding the roof pitch of the residential building.*
- (c) Roof Eave Overhang: *The roof eave overhang of residential buildings shall be no less than one (1) foot. The design of the residential building is compliant with the one (1) foot eave overhang requirement.*
- (d) Entrances: *There shall be a main entrance on the primary façade of any new residential building. Complies.*
- (e) Orientation: *The residential building shall be placed on the lot so that the primary façade is parallel with the street to which it faces. Complies.*
- (f) Porches: *Residential buildings are encouraged to include a porch on the primary façade, if a porch is architecturally appropriate for the style of the building in question. It is recommended that porches extend a minimum two-thirds of the width of the primary façade. Complies.*

The proposed structure and site improvements are compliant with the compatibility standards of the TNO District, as presently zoned.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property is part of the original town Ward districts. This area is comprised of a diverse mixture of land uses ranging from single-family dwellings, dwelling conversions to apartment units, apartment buildings, churches, and limited office and commercial uses. Properties fronting on Poyntz Avenue, across the alley to the south, are zoned C-1, Restricted Business District and recognizes

their historical use for office, institutional and limited commercial use. The area north of the alley and west of N Juliette Avenue is part of the original core area neighborhood and zoned the Traditional Neighborhood Overlay District. This area consists of older housing stock, some of which is retained as single-family housing, but others have been converted to apartment units. Interspersed throughout this area are apartment buildings as well as many older churches. The block of Humboldt Street, including the subject property, includes original housing stock dating back as far as 1880. The newest structure in the block is the 12-unit garden apartment building directly across the street from the subject property built in 1975. The proposed boarding house will be designed to complement the historical character of neighboring residential property including a pitched roof at a 6/12 roof pitch with asphalt shingles, lap siding, a covered porch with support columns, exposed masonry foundation, and standard door and window installations.

The proposed Conditional Use is not anticipated to cause substantial injury to the value of other property in the neighborhood in which it is to be located. To cause substantial injury to the value of neighboring property assumes the operational characteristics of the proposed use and design of proposed improvements are at variance to the predominant character and use of neighboring property. In this case, the proposed boarding house will be restricted to a social service agency whose mission is to serve a population needing temporary lodging in a healthy, safe and orderly environment. Traffic will be limited to staff only with guests of the facility transported to the site by the owner. From a design perspective, the proposed boarding home includes architectural elements meant to be consistent with the historical context of the core area neighborhood of which it is a part. Accordingly, the proposed boarding house is anticipated to be a quite addition to the neighborhood and not create impacts incompatible with surrounding residential property.

DOMINATION BY USE OVER NEIGHBORING PROPERTIES: As noted, the proposed boarding house will be owned and operated by a 501(c)(3) not-for-profit social service agency that will provide temporary lodging to people in unique circumstances. The house will be operated 24-hours a day with a maximum of four (4) staff members on-site at any one time. On-site parking will be limited to four (4) spaces to coincide with the maximum number of staff that are working at the house. The rear yard will be enclosed by a six (6) foot wooden privacy fence and foundation plantings will be provided along the front and sides of the house. As previously described, the house will be designed to be architecturally compatible with the historical context of the surrounding neighborhood.

Location, Nature, and Height of Physical Improvements: The Conditional Use provides for the replacement of the existing single-family dwelling with a new two (2) story boarding house. The design of the structure is intended to be architecturally compatible with existing house stock in the context of the surrounding core area neighborhood. The proposed structure consists of two (2) component parts including the two (2) story residential structure with a main floor living area of 1,798 square feet and a total living area of 3,596 square feet, not including the basement; and, a single-story office area

comprising 624 square feet and connected to the house by an enclosed breezeway. From Humboldt Street, the proposed structure will appear as a two (2) story residential dwelling with what appears to be a single-story attached garage to the side.

Parking will be limited to four (4) parking space at the rear of the property off the alley; and, the rear yard area will be enclosed by a six (6) foot privacy fence. For all practical purposes, the location, nature and height of the proposed improvement will appear as a residential structure of a scale and design consistent and compatible with the character of neighboring residential property.

Landscaping and Screening: Although a specific landscape plan has not been submitted, the applicant's site plan does reflect foundation plantings along the front and sides of the residential building. The plantings are anticipated to be a nice complement to the exposed masonry foundation extending around the perimeter of the structure. Screening is not required in conjunction with the proposed improvement, however, the applicant does plan to install a six (6) foot wooden privacy fence around the perimeter of the rear yard area.

The proposed use and its location, nature, and height of physical improvements should not adversely impact or dominate the surrounding area. Staff does recommend that the perimeter foundation landscaping be provided as shown on the site plan.

ADEQUATE PROVISION OF PARKING AND LOADING: Section 7-103(A)(5) of the Zoning Regulations, requires lodging/boarding houses to provide a minimum of two (2) parking spaces, plus one (1) parking space per sleeping room. With a total of nine (9) sleeping rooms, a total of 11 parking spaces are required to be provided. In conjunction with this request, the applicant is seeking an Exception to reduce the required amount of parking to four (4) spaces.

The boarding house will be owned and operated by a 501(c)(3) social service agency whose mission is to serve a population needing temporary lodging in a healthy, safe and orderly environment that contributes to the guest's general welfare. Due to the nature of the guests at the facility, the applicant indicates no guests' vehicles will be permitted to be parked on-site. Guests will be transported to the site by the owner from an off-site location maintained by the owner. The applicant proposes to reduce the amount of off-street parking provided to four (4) spaces, equal to the maximum number of staff that will be on-site at any one time. The four (4) spaces will be directly accessible from the alley at the south end of the property. The parking spaces coincide with existing parking extending across the south end of the property along the alley that are signed "Church Parking Only". It is believed these spaces are signed for the benefit of the Congregational Church at 700 Poyntz Avenue. Given the restricted nature of the proposed use in providing temporary lodging to guests that will be transported to the house from an off-site location, the reduction of on-site parking is not seen as compromising the surrounding neighborhood and recommended by City Administration for approval.

As proposed, City Administration believes that adequate parking will be provided in conjunction with the proposed use. In conjunction with the Exception request, City Administration recommends that should the use change from a not-for-profit social service agency to another residential use, the Exception to reduce the required amount of parking shall become void and the new residential use shall be required to comply with the minimum off-street parking requirement.

ADEQUATE PROVISION OF DRAINAGE, AND OTHER PUBLIC UTILITIES: The subject property has adequate drainage and existing public utilities have been reviewed and approved by the Public Works Department.

ADEQUATE PROVISION OF ACCESS: As noted previously, guests will be transported to the site with no accommodation made for guest parking. Site circulation will be limited to entering the site from the alley and existing through the existing driveway on Humboldt Street. Control gates will be stationed for vehicles entering off the alley and exiting on to Humboldt Street that will be controlled electronically from within the building.

2.6 EXCEPTION

PRESENT USE: Single-family dwelling

The subject property is a 12,684 square foot interior lot that resembles an upside down "L" with 100-feet of frontage on Humboldt Street and extending to a depth of 150-feet with 60-feet of frontage on the alley to the rear. The site is currently occupied by 1,633 square foot, 2½-story single-family dwelling constructed in 1910. The house is situated in the east-half of the property with a single car driveway on Humboldt Street near the east property line.

In conjunction with this request, the applicant seeks a **Conditional Use** to construct a boarding house on the property to provide for temporary residential housing for up to potentially 33 guests. To accommodate the proposed structure, the applicant seeks an **Exception** to reduce the side yard setback requirement on the west side of the property from 15-feet to 8-feet. The setback reduction is sought to permit construction of the proposed boarding house while maintaining the existing 10-foot wide driveway on Humboldt Street on the east side of the property. A 15-foot side yard setback is applicable to all permitted and conditional uses other than residential buildings. The reduction in side yard setback to 8-feet is consistent with the side yard setback requirement otherwise applicable to all other residential properties in the R-1 District as presently zoned.

The applicant also seeks an **Exception** to reduce the required amount of off-street parking in conjunction with the proposed use from 11 to four (4) spaces. The boarding house will be owned and operated by a 501(c)(3) social service agency whose mission is to serve a population needing temporary lodging in a healthy, safe and orderly environment. Due

to the nature of the guests at the facility, the applicant indicates no guests' vehicles will be permitted to be parked on-site. Guests will be transported to the site by the owner from an off-site location maintained by the owner. In accordance with the off-street parking regulations, a minimum of two (2) parking spaces, plus one (1) parking space per sleeping room is required. Including nine (9) sleeping rooms, a total of 11 parking spaces is required to be provided on-site. The applicant proposes to reduce the amount of off-street parking provided to four (4) spaces, equal to the number of staff that will be on-site at any one time.

STANDARDS FOR EXCEPTIONS:

The Board of Zoning Appeals shall not grant an Exception as authorized in Section 14-604 of the Zoning Regulations unless it shall, in each case, make specific written findings of fact, based upon the particular evidence presented to it, that *all* of the following standards have been met.

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The subject property is currently occupied by a 2½-story, 1,633 square foot single-family dwelling constructed in 1910. The dwelling is proposed to be razed to accommodate the proposed boarding house. The subject property complies with the minimum lot size requirements of the R-1 District as presently zoned. Based on the applicant's site plan, the proposed boarding house has a calculated lot coverage of 27%, compliant with the 30% maximum lot coverage requirement established by the TNO, Traditional Neighborhood Overlay District. The structure, as proposed, will be compliant with the bulk requirements of the R-1/TNO District other than the side yard setback as requested.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The two (2) requested Exceptions are sought in conjunction with the applicant's request for a Conditional Use to establish a boarding house on the subject property. The accommodation of the boarding house will be made possible by the removal of the existing dwelling on the property at 711 Humboldt Avenue.

The subject property is part of the original town Ward districts. This area is comprised of a diverse mixture of land uses ranging from single-family dwellings, dwelling conversions to apartment units, apartment buildings, churches, and limited office and commercial uses. Properties fronting on Poyntz Avenue, across the alley to the south, are zoned C-1, Restricted Business District and recognizes their historical use for office, institutional and limited commercial use. The area north of the alley and west of N Juliette Avenue is part of the original core area neighborhood. This area consists of older housing stock, some of which is retained as single-family housing, but others have been converted to apartment units. Interspersed throughout this area are apartment buildings as well as many older churches. The block of Humboldt Avenue including the subject property includes original housing stock dating back as far as 1880. The newest structure in the block is the 12-unit garden apartment building directly across the street from the subject property that was built in 1975. The proposed boarding house will be designed to

complement the historical character of neighboring residential dwellings including a pitched roof at a 6/12 roof pitch with asphalt shingles, lap siding, a covered front porch with support columns, exposed masonry foundation, and standard window and door installations. The intent is not to distinguish the house but to make it complementary within the context of the surrounding neighborhood.

It is not anticipated the requested Exceptions to have an adverse impact on neighboring residential property. The effect of the side yard setback reduction is to permit the proposed boarding house to be built at the same setback as required for other residential structures in the R-1 District. The 15-foot side yard setback requirement is applicable to all other permitted and conditional uses in the R-1 District. Residential buildings are otherwise subject to an 8-foot side yard setback. By definition, lodging and boarding houses are regarded as a “residential building” for which an 8-foot side yard setback would be required except for the Conditional Use in this case. Within the context of the immediate neighborhood, the proposed side yard setback reduction is not anticipated to have a substantial adverse effect on nearby property.

The Exception to reduce the amount of required off-street parking is in recognition of the house’s use and occupancy by a 501(c)(3) social service agency. The mission of the applicant is to serve a population needing temporary lodging in a healthy, safe and orderly environment that contributes to guest’s general welfare. As noted, guests of the home will be transported from an off-site location by the applicant. With no guest parking allowed on-site, the applicant requests to reduce the amount of off-street parking from 11 spaces, as required, to four (4) spaces that coincides with the number of staff that will be on-site at any one time. The four (4) spaces would be directly accessible from the alley at the south end of the property. The parking spaces coincide with existing parking extending across the south end of the property along the alley that are signed “Church Parking Only”. It is believed these spaces are signed for the benefit of the Congregational Church at 700 Poyntz Avenue. As proposed by the applicant, the proposed reduction in parking is not anticipated to have an adverse effect on neighboring property nor create parking congestion on nearby public streets.

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

No adverse impacts on the public health, safety, morals, convenience, prosperity, or general welfare is expected. The proposed Exceptions are not anticipated to be intrusive or create off-site impacts injurious to the surrounding neighborhood.

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

The provisions of the Zoning Regulations sought to be modified by Exception are reasonable within the context of this core area neighborhood. It is important to the applicant that the proposed boarding house be located in the general center of the community. The applicant indicates this site was made available, in part, by an adjoining

church that was sensitive to the services provided by the applicant. The setback reduction is not seen as being out of character with that of neighboring residential property. Given the restricted nature of the proposed use in providing temporary lodging to guests that will be transported to the house from an off-site location, the reduction of on-site parking is not seen as compromising the surrounding neighborhood. Based on the intended use and improvement of the property, the strict application of the regulations, in this case, are unreasonable when all facts and circumstances are considered.

Hardy entertained a motion to table the item 2.7 until the November 13th 2019 meeting.

2.7 A PUBLIC HEARING to consider a **CONDITIONAL USE** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow conversion of a single-family dwelling to a lodging/boarding house in the R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay at 1716 Laramie Street. **CONTINUED**

Wigfall moved to approve the motion to table item 2.7 until November 13, 2019. The motion was seconded by Danner and approved; 4-0.

Wigfall mentioned that the board packet and presentation of application files by the city staff is a great improvement and recommends that the staff sustain this level of detail and organization of information for each meeting.

Danner, Hardy and Fisher affirm Wigfall's comment.

Hardy adjourned the meeting at 8:02 p.m.

NEXT MEETING: Wednesday, November 13, 2019

Respectfully submitted by, Zachary Rossow, Planning and GIS intern