

MINUTES

HARRISBURG PLANNING COMMISSION REGULAR MEETING September 7, 2022

MEMBERS PRESENT: Joseph Alsberry, Chair
Vern McKissick, Vice Chair
Shaun E. O'Toole
Jamesetta Reed
Anne Marek
Ausha Green

STAFF PRESENT: Jacob Bowen, Deputy Planning Director
Neil Grover, City Solicitor

CALL TO ORDER: 6:35 PM

APPROVAL OF MINUTES: Commissioner McKissick moved, and Commissioner O'Toole second the motion, to approve the minutes from the July 6 and August 3, 2022 meetings without corrections; The motion was adopted by a (5-1) vote with Commissioner Reed abstaining.

NEW BUSINESS:

1. **Variance & Special Exception Application for 1100 North 17th Street & 1616 Harr Street**, zoned Residential Medium-Density (RM), filed by Mazaruddin Amani with USA Mini Market, LLC, to establish a "Convenience Store" use on-site by changing from an existing nonconforming use and request relief from the off-street parking requirements which requires Special Exceptions, and to install a nonconforming internally-illuminated wall sign, which requires a variance.

Mr. Bowen gave a synopsis of the report, recommending Denial for the following reason(s):

1. The proposed new use will have a greater impact in external effects on the surrounding neighborhood than the pre-existing nonconforming use.
2. The proposed use is not compatible with the surrounding community and would likely generate adverse impacts for the nearby residential properties; additionally, there are more compatible uses that have occupied the building in the past and for which approval would require equal or lesser zoning relief.
3. There is a limited need within the community for the proposed use as the subject property is currently located within 550 feet of an existing "Convenience Store" use.
4. The proposed signage is not compatible with primarily residential character of the surrounding neighborhood and does not represent the minimum variance that will afford relief with the least modification possible

The case was represented by David Getz (508 North 2nd Street, Harrisburg, PA 17108) with Wix, Wenger & Weidner (aka the Applicant).

Commissioner Alsberry asked the Applicant why the proposed project should not be denied. The Applicant stated that the proposal involves a total of four properties which include two properties to the rear which formally contained a playground and includes additional parking. The Applicant noted that they have ideas to improve the additional properties including possible green space. He noted that it is unlikely the proposed use will have negative impacts on the neighborhood and that the hours of operations of the previous daycare center were 7am to 11pm with frequent trips generated with the previous use. The Applicant noted that neighbors could frequent the proposed use to purchase food including trips by foot. He stated the convenience store will not be a typical store and will include fresh foods and meats. The Applicant believed that D&L Hood Good Food is considered a restaurant and not a convenience store.

Regarding the proposed signage, the Applicant noted that the signage being proposed is compatible with the signage with the church across the street. He stated that more appropriate signage could be considered for the proposed use.

Commissioner Alsberry asked if the Applicant reached out to the surrounding community. The Applicant stated that they sent out the required letters and reached out to two local churches to host public outreach meetings but were unable to have an agreement for hosting a meeting. Commissioner Alsberry noted that the commission always wants to know the input from community members.

Commissioner Mckissick asked for clarification on the number of parking spaces for the proposed use. Mr. Bowen stated that the parking lot at 1616 Herr Street can accommodate approximately 11 off-street parking spaces within conformance of the Zoning Code as a legally nonconforming accessory parking for the daycare center. He stated that the property that formally accommodated the playground with additional parking is no longer viewed as a legally nonconforming parking area given the parking was for the playground which has been removed. Mr. Bowen noted that lots previously containing the playground had parking for approximately 11 spaces which would still fall short of the required number of off-street spaces if considered legally non-conforming spaces.

Commissioner Mckissick inquired if the playground has been removed. Mr. Bowen stated that it was. The Applicant also confirmed that the playground equipment had been removed. Commissioner Mckissick asked if the playground was part of the former childcare center. Mr. Grover confirmed that it was.

Commissioner O'Toole asked when the daycare closed. Mr. Bowen stated that the daycare closed either 2017 or 2018.

Commissioner Green stated that the convenience store on Herr Street serves two purposes as both a restaurant and a convenience store. The Commissioner also noted that Herr Street is busy and that she had traffic/safety concerns particularly with the traffic incident that occurred recently on Herr Street. The Commissioner wanted to see a more detailed plan related to how

people will get to the store in regards to traffic. The Applicant noted that they anticipate that a number of people will walk given the number of residents living close by.

Commissioner Marek stated a concern regarding the number of convenience stores within a few block radius and that the proposal is not the best use for the property. The Commissioner also noted she wanted to hear some of the possible neighbor concerns. The Applicant noted that other convenience stores in the neighborhood suggest the proposal is a compatible use.

Commissioner Alsberry asked whether there was anyone from the public that was for or against the project. Folasha Anderson (1117 North 15th Street, Harrisburg, PA 17103) stated that she was against the proposed project. Ms. Anderson noted that impacts would be negative. She stated safety concerns regarding traffic and crime. She noted that convenience stores generally generate crime. Ms. Anderson noted that mostly children will walk to the proposed convenience store and had concerns regarding the incident that occurred nearby with a child.

Chantel Muhammad (1102 North 17th Street, Harrisburg, PA 17103) stated that before purchasing her home, which is next to the proposed convenience store, she did research and confirmed that only the daycare center is grandfathered in within the Residential Medium zoning district. Ms. Muhammad stated that she would have never purchased her home if she knew a convenience store would be next store. She noted that work had begun on the property without permits and the city issued a stop work order. She had concerns of a possible exhaust vent facing her front porch. Ms. Muhammad noted that the Applicants did not reach out to the public. She stated that the Applicant also recently cut down trees on the property without approvals. She stated that she is speaking on behalf of older residents that could not attend the meeting noting that they do not support the proposal which includes herself.

Angelo Muhammad (1102 North 17th Street, Harrisburg, PA 17103) stated that him and his wife did research before buying the property and had concerns that the proposed use would turn the area into something similar as 13th and Derry Streets which have had recent killings. He noted that the Applicant improperly removed hedges. He noted that people are working hard to have the neighborhood as a viable black neighborhood and that the first black American doctor use to live two doors down from the proposed use. Mr. Muhammad stated that the nearby convenience store does offer fresh foods but is tired of the area being a food desert. He noted concerns with the Applicant's other store on 13th and Derry Street. He stated issues with the hiring of undocumented workers at the proposed site. He noted having a possible meeting on his front porch with the Applicant. Mr. Muhammad noted addition construction at the property after a stop work order was issued.

Jennifer Ayers (1617 Herr Street, Harrisburg, PA 17103) stated that she has lived in her home for 40 years and recalls the daycare center being open from 6am to 6pm. She stated she does not want a mini mart due to traffic and safety concerns. Ms. Ayers noted that she had concerns regarding gun violence that could be associated with the proposed use.

Ellise Howard (1617 Herr Street, Harrisburg, PA 17103) stated that she lives with her aunt at 1617 Herr Street and was raised in that home. She remembered and attended the daycare at the subject property. Ms. Howard stated that the daycare was the type of business that strengthen the

community. She stated that the nearby convenience store has issues such as loitering. She noted the Applicant would likely not want to have a convenience near where they live. She stated she does not want the proposed store and will not patronize the business and will encourage others not to as well. Ms. Howard stated she does not want to see what the area will look like with the proposed convenience store.

Patricia Parker (1612 Herr Street, Harrisburg, PA 17103) stated she has lived at her residence for almost 40 years and is located next to the parking lot associated with the proposed business. Ms. Parker noted minor issues related to traffic associated with the previous daycare use and that the issues will likely occur again for the proposed business. She noted that she walks, rides her bike, and has grandchildren. She stated that she intends to sell or pass her home on and does not want her children or grandchildren to deal with a convenience store. Ms. Parker believes that the neighborhood is one of the top areas in the city to live in and she wishes for the community to remain this way. She noted crime issues with another nearby convenience store.

Kabir Amani (6422 Creekbend Drive, Mechanicsburg, PA 17050) stated that he is the son of the Applicant and wanted to speak on behalf of his father due to a language barrier and can also translate for him. He noted that his dad owns multiple businesses and that he personally runs a martial arts studio that teaches kids. Mr. Amani stated that the safety of children is a primary concern. He stated that his dad intends for the business to be well done and to not bring a crowd the neighborhood would not be happy about. He stated that they hope to have a convenience store in Mechanicsburg as well. Mr. Amani said they have been part of the community for the past 15 years since immigrating to the US. He stated that they did not hire undocumented workers and were unaware that their hired contractor did not obtain the required permits before starting work. He stated he agreed the neighborhood is one of the best in Harrisburg and hopes that they can make it better. Mr. Amani stated that their other business, USA Fried Chicken, is a very clean and ethical.

Commissioner Alsberry stated it is always important for Applicants to reach out to communities before coming before the Planning Commission.

Debra Porter (1407 Marion Street, Harrisburg, PA 17102) stated that though she doesn't live on the hill she believes that a martial arts studio would be helpful to the community as opposed to a convenience store. She noted the community would likely be more receptive to a martial arts studio.

The Applicant clarified that the proposed business is different than the chicken restaurant owned by Mr. Amani and the proposed use will be a convenience store which will provide fresh foods. He noted that the upstairs portion of the building may become a martial arts studio in the future. He stated he would like to have a meeting on Mr. Muhammad's porch which he appreciated the offer to do so.

Commissioner O'Toole asked if the Applicant if they own the building and if so when was it purchased. The Applicant confirmed that they did, and the purchase date was March 2022. The Commissioner asked if a realtor was involved and if the realtor was informed what the planned use was. The Applicant stated yes to both questions. Commissioner O'Toole asked if they were

informed of the zoning restrictions. They stated that they were not. The Commissioner noted that this is a common issue.

Cheyenne Johnson (2229 Green Street, Harrisburg, PA 17110) stated that she grew up at both Green Street and North 17th Street. Ms. Johnson expressed concerns regarding the Applicant not expressing their visions with the community. She noted that the Applicant should offer the martial arts studio in Harrisburg and not just Mechanicsburg. She noted that fried chicken is not a healthy food which is offered at the Applicant's other business. Commissioner O'Toole noted that the Applicant was not proposing to offer fried chicken at the proposed business. She noted that other nearby business already offer food.

Commissioner O'Toole moved, and Commissioner Green seconded the motion, to Deny the request. The motion was adopted by unanimous vote (6-0).

2. **Variance & Special Exception Application for 1610 North 4th Street**, zoned Residential Medium-Density (RM), filed by Chris Bryce with Midtown Redevelopment, LLC, to construct a mixed-use building featuring a 36-unit, "Multifamily Dwelling" use with accompanying access and site improvements requiring a Special Exception for the use and parking requirements, and relief from development regulations which require variances.

Mr. Bowen gave a synopsis of the report, recommending approval with the following conditions:

1. If granted approval for the requested zoning relief, the Applicant will subsequently file a Preliminary Lot Consolidation & Land Development Plan, and a Street Vacation for any public rights-of-way through the site, and receive approval from the Planning Commission and City Council.
2. The Applicant shall reconfigure the accessory surface parking lot drive aisles and spaces to Zoning Code specifications, creating three-foot-wide areas along the northern and southern sides of the lot, in which landscape screening will be planted. Landscape screening will also be installed along the Logan Street frontage and in all setback areas around the proposed building; the Applicant should coordinate with the owners of 1620 & 1622 North 4th Street to confirm whether a six-foot-high privacy fence would be an acceptable accommodation.
3. Site conditions allowing, the Applicant shall construct the proposed accessory parking lot with pervious materials to mitigate the effects of stormwater runoff. If the site cannot accommodate pervious materials the Applicant must provide sufficient documentation indicating factors that prevent the use of such materials (such as poor geology), and work with CRW (through the Land Development Plan process) to ascertain whether other stormwater management techniques, such as a green roof, are viable.
4. The Planning Bureau recommends adding a vehicular connection from the first-floor parking area to the Logan Street parking lot to increase internal traffic circulation associated with the project.
5. The Applicant will coordinate with the Department of Public Works to confirm the appropriate size and location of refuse collection on-site, and update the billing accounts to reflect the new use.

6. The Applicants will provide secure bike storage on-site; the Bureau would recommend such storage occupy the location of the proposed stairway/elevator (see Condition #7) or by providing publicly-accessible sidewalk racks along from North 4th Street.
7. The Planning Bureau recommends that the floor plan be redesigned to have the main pedestrian building entry be along 4th Street instead of in the southwestern corner of the first-floor parking area, as it would be more accessible to residents and visitors.
8. The Bureau would recommend that the North 4th Street and Clinton Street elevations be designed with vertically-distinct façade treatments to help the building better blend in with the surrounding rowhome streetscapes.
9. The Applicant will file Easement applications for the proposed awnings over the commercial spaces along North 4th Street.

The case was represented by Matthew Long and Chris Bryce (2901 North Front Street, Harrisburg, PA 17110) with Midtown Redevelopment LLC (aka the Applicant).

Commissioner Alsberry asked the Applicant whether the conditions in the case report were acceptable. The Applicant noted concerns with the vagueness to condition eight and the project is proposing to have only one vehicular entrance. The Applicant believes that most people will likely enter from the rear of the building associated with the parking lot off of Logan Street. The Applicant stated that they are acceptable to all conditions with the exceptions of Condition eight and seven.

Mr. Bowen noted that condition eight is intended to mitigate the effects of the building width exceeding 20 percent of the block making the building more consistent with the surrounding row homes. Mr. Bowen noted that having the primary entrance along North 4th Street and associated access would address safety concerns of pedestrians traversing through the parking area, particularly with the presence of senior residents.

The Applicant noted that there will be an entrance in the front of the building, but they foresee the rear of the building being used more frequently. The Applicant noted that they put a lot of effort into the design of the building and are not acceptable of the condition to change the design.

Commissioner McKissick asked for confirmation if the awnings are extending into the public right of way. The Applicant stated that they believe they are asking for zoning relief to do so. Mr. Bowen noted that awnings extending into the public right-of-way does not require zoning relief but would require an easement which is an administrative process.

Commissioner Reed inquired about the size of the apartments. The Applicant stated that the sizes range from 830 square feet to about 1000 square feet. The Applicant noted the gathering space, indoor bike parking and a gym will also be included within the building. The Commissioner asked if the units will be market rate. The Applicant stated that they units will either be income restrictive or market rate. The Applicant noted that the goal of all their projects (this includes both the Capital Heights Phase 2 & Market Place Projects) is 20 percent affordability.

Commissioner Marek noted that the overall the project was great. The Commissioner noted that condition eight was a bit vague. The Commissioner inquired about access to the accessory lot.

The Applicant stated access would be from Logan Street. The Applicant noted both ingress and egress would be from a single entrance given sufficient drive aisle space. The Applicant stated that Geoffrey Knight had suggested adding an additional egress from the building into the proposed parking lot, but the project would lose three off-street parking spaces. The Applicant stated that the neighborhood would not be supportive of taking away off-street parking spaces. The Commissioner noted that she agrees with the Planning Bureau regarding the proposed parking lot redesign to accommodate stormwater management which will come up in the Land Development process.

Mr. Bowen noted that condition eight is intentionally vague to allow different design considerations. The Applicant noted that the previous historic preservation Frank Grumbine advised that buildings should not emulate nearby historic buildings. The Applicant stated that the building should not look like other row homes.

Commissioner Alsberry asked whether there was anyone from the public that was for or against the project. Renda Wright (431 Hamilton Street, Harrisburg, PA 17102) stated that she was the president of the Lots Ville Community Organization which has been in existence since 1988. Ms. Wright noted that the organization was involved with other developers to building previous phases of development, but the developer had backed out of doing further development. She stated that she was very glad that new development was going to occur. She noted excitement about the proposed project if affordable housing is included.

Chelsea Howard-Foley (278 Muench Street, Harrisburg, PA 17102) stated she was neither for nor against the proposed project. She noted that a lot of impervious surface area will be created from the proposed development and inquired if there will be an environmental impact study to consider stormwater and runoff. She also noted that the developer intends to use Harrisburg Commercial Interiors, which Nicholas Long (the former owner) was convicted of payroll tax evasion and was sentenced to over a year in prison in 2017. She asked how affordable housing will be defined and if construction jobs will be union and local.

The Applicant stated that all of their projects use permeable pavers when possible. He stated Harrisburg Commercial Interiors is his brother's business and that he (the Applicant) took the business over and retained the employees when his brother went through hard times. The Applicant noted that he hopes the reputation of the business has been reestablished after doing work in the city for several projects. The Applicant stated that his company is made up of over 70% of Harrisburg City residents.

Commissioner McKissick moved, and Commissioner Green seconded the motion, to Approve the request with Staff Conditions. The motion was adopted by a unanimous vote (6-0).

3. Variance & Special Exception Applications for Capitol Heights (Phase Two), located on forty-one (41) parcels on nine proposed sites in the blocks generally bounded by Hamilton Street to North, North 5th Street to the east, Harris Street to the South, and Logan Street to the West, zoned Residential Medium-Density (RM), filed by Chris Bryce & David Long with Midtown Redevelopment, LLC, to request various zoning relief from use and development

regulations required for the construction of four townhomes, seventy-six (76) multifamily dwelling units, 9,557 square feet of commercial space, and 95 off-street parking spaces.

Mr. Bowen gave a synopsis of the report, recommending a continuance for the following reason(s):

1. The Planning Bureau feels that the relationship of the proposed development sites to the surrounding properties and to each other needs to be better clarified and described to fully understand the impacts of the projects and conformance with the Comprehensive Plan and Zoning Code. The Bureau believes that dividing the current proposal into smaller projects through the submission of distinct applications (Bureau staff recommend submissions on a block-by-block basis) will enable city staff, the public, and review boards to better evaluate the impacts of the overall project and its compatibility with the surrounding community.
2. The Applicant needs to submit more complete documentation (such as a pro forma or letter from a financial institution) regarding the justification for the Variance relief being requested, and to clarify what relief is being requested, i.e., Applicant has shown none of the required trees based on the paving area or the required plant screenings around buildings and parking lots, and thus Bureau staff is unsure whether those elements are being included or waivers from those aspects are being requested.
3. The Planning Bureau notes that the sites for Buildings Four through Eight were previously subdivided as lots for townhome development, with infrastructure and utility connections provided specifically for that configuration, as part of a previous Capital Heights development project that was partially completed (as evidenced by the construction in the blocks to the north, and the shared dimensions of the developed and currently-vacant parcels). As such, the burden of proof on the Applicant to explain why they cannot now be developed as townhomes (which would be in conformance with the Zoning Code) is greater than for other sites within the overall proposal.

The case was represented by Matthew Long and Chris Bryce (2901 North Front Street, Harrisburg, PA 17110) with Midtown Redevelopment LLC (aka the Applicant).

Commissioner McKissick noted a positive view of the project. The Commissioner was in favor of using the sketch submission process for a preliminary review. The Applicant noted that he disagrees with a continuance and that they had been working with the Planning Bureau since July. The Applicant noted that they hoped to avoid having the application pushed to the November agenda given the typical length of agendas during the end of the year. He noted that other municipalities have approached applications with multiple buildings. The Applicant stated that they have no intention to break the application up. The Applicant noted they had two public hearings in the past two months with the public which included no opposition. The Applicant stated they have been working with the community for two and half years regarding the proposed project.

The Applicant noted that they feel that they met the criteria for the Variances. Commissioner McKissick noted that they were being approached for the first time regarding the project and that a schematic meeting could have been requested on the agenda. The Applicant stated that a special meeting was refused. Mr. Bowen stated that the Applicant had requested a special

meeting given the possible length of the meeting. Mr. Bowen noted that given the current agenda only had one additional item, it made sense to proceed with the regular meeting. He also noted the request by the Applicant was for formal zoning relief and not for a preliminary review. The Applicant stated that they tried to send preliminary information to board members but did not receive a response. The Applicant noted that he may have used incorrect emails. He stated he wants the case to be fully discussed.

Commissioner Marek stated that it would be difficult to make a decision on the case given that the Planning Bureau did not provide conditions of approval. The Applicant also requested the Planning Bureau send the current plan sets (for the Market Place application) to the Planning Commission for a review.

Mr. Bowen noted that the continuance would allow a more thorough review and give the Applicant an opportunity to provide a better justification for some of the request prior to going before the Zoning Hearing Board. Mr. Grover noted that the code provides the opportunity to refuse incomplete applications. He noted that it appears the application was incomplete, and the project was much larger than what the city typically deals with. Mr. Grover stated that it was unlikely that both the Planning Bureau and the Applicant could agree on the exact number of variances required for the application and that five elements for each variance would need to be proved before the zoning board. He stated that presenting before the zoning board would be challenging and that the case is complicated. Mr. Grover inquired if the exact number of variances to prove is currently known.

The Applicant requested if the current meeting can be considered a preliminary hearing. Commissioner Marek noted that a decision could not be made tonight. The Commissioner asked if there was another application regarding Market Place and if the goal was to have the application under the same request currently being discussed. Mr. Bowen noted that Market Place will be considered as a separate application.

Mr. Grover noted that it may make sense to have an additional meeting. Commissioner Marek stated that from a planning perspective it makes more sense to view all the projects holistically together.

Commissioner McKissick noted that a traffic study will likely be required for the overall project. The Commissioner noted the issue of precedence regarding the same level of judiciousness needed for each project. He noted that the proposals are essentially a years' worth of projects. The Applicant noted that he is acceptable of the continuance but had concerns regarding the speed in which getting developments through the city. The Applicant is concerned that delays could be around six months. He noted that they had a completed written application since June but had been making revisions based on Planning Bureau recommendations.

Mr. Grover suggested that there should be a special meeting given that the proposal involves approximately a years' worth of planning in which there is insufficient time to address questions. Commissioner McKissick noted that sketch submission should be sufficient to discuss the project if city staff are unable to complete a full review. The Commissioner inquired who will be the Civil Engineer for the project. The Applicant stated that it will be K&W.

Mr. Bowen noted that a challenge of the review is that some sites have sufficient justification for variances while other sites do not. He stated that there is a risk of an all or nothing approval for the overall project as one application. The Applicant stated that there are some legal aspects to address if approvals could be broken out by the site and not for the entire project. The Applicant stated that they want to keep the project as one packet. Commissioner McKissick noted that approvals could possibly be broken out by building within the same application. Mr. Grover noted that he feels the Zoning Hearing Board will likely break up the Application to consider each individual variance. He stated a number of meetings is likely. The Applicant noted that there is a large number cost associated with each meeting.

Commissioner Marek asked for clarification regarding reason number three for the continuance. Mr. Bowen stated the project sites for building 4 thru 8 have been subdivided to develop town homes on site within conformance with of the zoning. Mr. Bowen stated that the Applicant should provided justification why the lots cannot be developed in conformance with the code before going before the Zoning Hearing Board. He stated there is likely some justification given the many years of vacancy at the properties, but the Applicant should provide further information such as a financial proforma.

Mr. Bowen noted the Applicant should bring justifications for the variances before the Zoning Hearing Board given the board will ask for justifications to receive project approval.

Commissioner McKissick moved, and Commissioner Reed seconded the motion, to Table the request to a special meeting. The motion was adopted by a unanimous vote (5-0).

Note: Commissioner Green left the meeting early.

ADJOURNMENT: 8:25 PM

Commissioner McKissick moved, and Commissioner Marek seconded the motion, to adjourn. The motion was adopted by a unanimous vote (5-0).