

CITY OF ALAMO HEIGHTS  
CITY COUNCIL  
January 13, 2014

A regular meeting of the City Council of the City of Alamo Heights, Texas was held in the Auditorium of Cambridge Elementary, located at 1001 Townsend, San Antonio, Texas, at 5:30 p.m. on Monday, January 13, 2014.

Present and composing a quorum were:

Mayor Louis Cooper  
Mayor Pro-Tempore John Savage  
Councilmember Bobby Hasslocher  
Councilmember Bobby Rosenthal  
Councilmember Fred Prassel  
Councilmember Elliot Weser

Also attending were:

City Manager J. Mark Browne  
City Attorney Mike Brenan  
Finance Director Cynthia Barr  
Human Resources Manager Lori Harris  
Information Services Manager Marian Vargas  
Building Official Nathan Lester  
Public Works Director Pat Sullivan  
City Secretary Jennifer Reyna  
Fire Chief Buddy Kuhn  
Police Chief Rick Pruitt

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Mayor Louis Cooper opened the meeting at 5:30 p.m.

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*Item # 1      Approval of Minutes*

Mayor Cooper asked City Council for any revisions to the minutes of the December 2, 2013, Planning & Zoning Commission Meeting, in which a quorum of Council were in attendance. A motion was made by Councilmember Bobby Hasslocher to approve the minutes of December 2, 2013. The motion was seconded by Councilmember Bobby Rosenthal and passed by unanimous vote.

Mayor Cooper asked City Council for any revisions to the minutes of the December 9, 2013, City Council Meeting. A motion was made by Councilmember Bobby Hasslocher to approve the minutes of December 9, 2013. The motion was seconded by Councilmember Bobby Rosenthal and passed by unanimous vote.

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Consent Item

Item # 2 Mayor Cooper read the following caption.

**Request for permission to refund overpayment of property taxes to Chris and Lelilani Waldo in the amount of \$1,903.50 for the property located at 409 Argo**

A motion for approval was made by Councilmember Bobby Hasslocher. The motion was seconded by Councilmember Bobby Rosenthal and passed by unanimous vote.

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Items for Individual Consideration

Mayor Cooper announced that Item # 4 would be considered next.

Item # 4 Mayor Cooper read the following caption.

**Architectural Review Board Case No. 506F for the request of Lyndsay Thorn, Architect, for the final review of the proposed four (4) unit multi-family development at 129 Marcia Place under Chapter 5 Building and Building Regulations for Architectural Review**

Building Official Nathan Lester made a PowerPoint presentation that included background information, elevations, proposed site plan, landscape plan, and photos.

Mr. Lester reviewed the existing and proposed design statistics. A proposed site and landscape plans were presented. An existing and proposed street façade photos were presented as well. He noted one 25-inch pecan tree is proposed for removal. He noted the project's third floor is considered a ½ story per zoning ordinance. No variances were requested.

This item was presented to the Architectural Review Board (ARB) and ARB recommended approval as submitted. This item was also reviewed by the Neighborhood Character and Commercial Revitalization (NCCCR) on January 9, 2014. Mr. Lester stated feedback had been received, two in support and one in opposition.

A motion for approval was made by Councilmember Bobby Hasslocher. The motion was seconded by Councilmember Elliot Weser and passed by unanimous vote.

Item # 3 was considered next.

Item # 3 Mayor Cooper read the following caption.

**ORDINANCE NO. 1982**

**Public hearing with City Council consideration following, regarding Planning and Zoning Commission Case No. 351: for a request by Alamo Manhattan Properties, LLC for the issuance of a specific use permit (SUP) for construction of a new multi-family apartment project, including ground level commercial area of approximately 6,000 square feet (hereinafter referred to as the "Project"). The requested SUP would authorize the following: (a) a density of not greater than one dwelling unit per 438 square feet of land which would allow a maximum of 165 dwelling units on a property of 1.66 acres rather than a maximum of 110 dwelling units authorized under the current code, (b) no front yard setback rather than the residential front yard setback requirement of 25 feet under the current code, (c) no side yard setback rather than the required side yard setback of 15 feet under the current code, (d) no rear yard setback rather than the required rear yard setback of 25 feet under the current code, (e) a maximum of 82% lot coverage rather than the residential lot coverage requirement of 35% under the current code, (f) a maximum height of five (5) stories and 58 feet rather than the current maximum of 35 feet for multi-family zoning under the current code, (g) an off-street parking ratio of 1.5 spaces per dwelling unit rather than the current requirement of 2 spaces per unit for multi-family zoning under the current code, (h) an off-street commercial parking ratio of 1 space per 200 square feet rather than 1 parking space for each 3 seats in a restaurant and/or 1 parking space for every 300 gross square feet of office, retail and business uses, (i) parking spaces measuring approximately nine (9) feet by eighteen (18) feet rather than the current requirement of nine (9) feet by twenty (20) feet, (j) no landscape areas along any property line rather than the landscape areas and impervious limitations required under the current code, and (k) ground level commercial area uses authorized in the B-1 Zoning District – Nathan Lester, Building Official**

**Please note: If the SUP is approved, there will be an amendment to the zoning code authorizing the SUP. If the SUP is approved, it will be subject to additional processes and approvals, including (1) the abandonment and sale by public entities of approximately 0.82 acres along the southern side of Ellwood Avenue, the Ausway Lane right-of-way, and the Old Kampmann Avenue right-of-way, (2) the acquisition of approximately 0.84 acres of privately owned property known as Lots 1-15, Block 67, County Block 4050, (3) the replatting of the property upon which the Project will be constructed, (4) approval of the architectural design of the Project, (5) issuance of a flood plain development permit, and (6) other governmental requirements. If approved, the SUP may include a sunset provision terminating the SUP if the Project is assigned to another entity before it is completed and substantially occupied or if it is not constructed precisely as authorized in the SUP**

Mayor Cooper announced the ground rules for the meeting.

Building Official Nathan Lester made a PowerPoint presentation that included background information that addressed project location, parking, analyses (traffic, utility, and floodway/floodplain), and specific use permit (SUP).

Mr. Lester provided dates when the item was respectively considered by the City's governing bodies: Architectural Review Board (ARB), Planning and Zoning (P&Z), and Council to include community meetings. He announced Alamo Manhattan Properties' request of a specific use permit (SUP) to allow for a 5-story multi-family project with a maximum of 165 units and a maximum of 5700 sq feet of commercial space including approximately 4000 sf retail/restaurant use, and 1700 sf of office use for the leasing office) with two levels of subgrade parking. Mr. Lester identified the project's location at approximately 1.66 acres bounded by Broadway Street on the west, Ellwood Avenue on the north, Austin Highway on the east and the southern edge of Ausway Lane on the south. He displayed the existing survey and provided a property description. He noted the proposal did not include the triangle parcel. He briefly presented the site plan and identified retail and parking areas. Mr. Lester stated the dash line within the side plan indicated the flood plain level. He stated the outside walls are not built to the curb line of Ellwood, Austin Highway or Broadway. He presented the parking plan at grade level for a total of 268 parking spaces. He shared information on neighboring apartments related to respective residential spaces/unit and parking.

Mr. Lester presented diagrams from various perspectives from Broadway, Fenimore, and Ellwood. He identified the cupola which is at maximum height and the two different sublevels of parking. He continued to display flood level elevation within the street section.

Mr. Lester briefly shared about the traffic, utility and floodway/floodplain analyses. He stated a traffic impact analysis was conducted by Pape-Dawson Engineers and based on current capacity there is no impact to key intersections. Mr. Lester stated the analysis is preliminary regarding the utility infrastructure on the relocation of a sewer line to accommodate the proposed project. He briefly reviewed the floodway/floodplan and proposed project encroachment. He reviewed local floodplain requirements.

Mr. Lester presented the specific use permit (SUP) application which included 11 zoning code waivers. The SUP request was: a) a density of not greater than one dwelling unit per 438 square feet of land which would allow a maximum of 165 dwelling units on a property of 1.66 acres rather than a maximum of 110 dwelling units authorized under the current code; b) no front yard setback rather than the residential front yard setback requirement of 25 feet under the current code; c) no side yard setback rather than the required side yard setback of 15 feet under the current code; d) no rear yard setback rather than the required rear yard setback of 25 feet under the current code; e) a maximum of 82% lot coverage rather than the residential lot coverage requirement of 35% under the current code; f) a maximum height of five (5) stories and 58 feet rather than the current maximum of 35 feet for multi-family zoning under the current code; g) an off-street parking ratio of 1.5 spaces per dwelling unit rather than the current requirement of two spaces per unit for multi-family zoning under the current code; h) an off-street commercial parking ratio of one space per 200 square feet rather than one parking space for each three seats in a restaurant and/or one parking space for every 300 gross square feet of office, retail and business uses; i) parking spaces measuring approximately nine (9) feet by

eighteen (18) feet rather than the current requirement of nine (9) feet by twenty (20) feet; j) no landscape areas along any property line rather than the landscape areas and impervious limitations required under the current code; and k) ground level commercial area uses authorized in the B-1 Zoning District. He briefly presented a summary of the SUP request versus the current code requirements. He stated this project is within the 2009 Comprehensive Plan. He reported staff findings related to the comprehensive plan. He reported feedback that had been received from the required 200-foot public notification area, 4 in support and 36 in opposition of the project.

Mr. Lester referenced different codes regarding protests (Local Government Code Sec. 211.006), and the SUP approval process (Code Section 3-87). He also referenced Local Government Code Chapter 211.007 and stated Council must consider P&Z's recommendation but is not obliged to follow the recommendation. He briefly explained the process for approvals and an amendment will be made to the zoning ordinance authorizing the specific use permit if it was approved.

Matt Segrest, President, Alamo Manhattan and Rick Archer, Architect, Overland Partners, were present. Mr. Segrest shared his work experience and commented that Alamo Manhattan Properties are passionate and willing to do the project. Mr. Segrest made a PowerPoint presentation that included additional project information. He shared a brief history in which the number of floors had been decreased by volume and density in response to the community. Mr. Segrest highlighted that the size of park increased and the architectural design was modified to fit the City's character. He stated the unit count had decreased from 244 to 210 to 155 apartments. He summarized that the retail space increased and 10 ground floor live/work units were added. Mr. Segrest briefly reviewed the proposed project for 194,000 ground square footage and noted 179,000 ground square footage is residential space with 155 residential units. He highlighted the SUP included the same use-type as B-01 District with a maximum of 165 units, no front, side or rear yard setbacks, maximum height of five (5) stories and 58 feet, lot coverage at a maximum of 82%, residential off-street parking at 1.5 spaces per unit, commercial off-street parking at 1,200 square footage and 9' by 18' parking spaces. He stated the project had been reduced in scale and noted this will be a great project for the community.

Mr. Archer reminded Council of the inception of the Comprehensive Plan and shared the process began in 2008, and another involvement in 2009 to produce the Comprehensive Plan for upper Broadway. He stated the project had been made related to the Comprehensive Plan. He referenced different pages within the Comprehensive Plan for Alamo Manhattan Gateway (project) to be a catalyst and commented that multi-family surrounds the project location. He briefly highlighted parking below grade. Mr. Archer noted the open space will be connected such as the "Optimist Lot" with respective crosswalks. He added that a right turning lane at Austin Highway going north onto Broadway is proposed. He identified retail parking, retail, live/work areas and identified the entire first floor as retail. He identified entrances and exists on Broadway and Ellwood. He stated a trash compactor will be accommodated to address units and noted the garage exhaust will be onto the streets and not onto the neighbors. He continued his presentation onto Level 2 of the proposed project to be residential area and noted a lively pedestrian walkway on Ellwood. He referenced p. 43 of Comprehensive plan related to some of the beautiful streets in the region. Mr. Archer identified Brighton Square Condos and compared

the height of the proposed project and noted the project is 6 feet higher than Brighton Square's chimney and 2 feet taller than the actual building. He shared the comments the community had made and noted Meridian Apartments, located at the Quarry, are 6 feet taller than Alamo Manhattan Gateway. He made a brief comparison by use within the residential and commercial districts and noted the project is within the guidelines of the Comprehensive Plan. He referenced different building structures that were in excess of 65 feet.

Mr. Archer addressed concerns related to community character, density, flooding, growth, parking, the sale of public land, school, and traffic, variances. He stated the City had adequate water supply to accommodate the development. Mr. Archer briefly addressed sunlight and noted the project will not interfere with Brighton Square Condo's sunlight. He commented that Urban Land Institute (ULI) is the expert on density and referenced the book, *Higher-density Development Myth and Fact*. He presented a few myths and facts regarding higher density developments.

Mr. Archer summarized the benefits for the community. He noted community space to serve as an iconic opportunity and the ability to reconnect neighborhoods to park. He noted \$8M dollars of tax benefits and \$30M over 10 years to serve as a catalyst for downtown. He briefly highlighted high development standards. He commented that time is critical and financing for this project is in the right capital market. Mr. Archer concluded with the following reasons to support Alamo Manhattan Gateway, because it is: 1) consistent with the spirit of the Comprehensive Plan, 2) serves as a catalyst for downtown revitalization, 3) the project meets a need for Alamo Heights, 4) provides significant tax benefits for the community, 5) sets high standard for future development, 5) provides additional park space, and 6) there is no negative impact on city services. He stated there was a rigorous, responsive public process and the timing is critical. Mr. Archer stated as a 26-year resident he had observed the city had dilapidated.

Mayor Cooper opened the public hearing at 7:00 p.m.

There were seventy-three (73) public speakers that came to speak on this matter. Thirty-two (32) citizens were in support of the project and forty-one (41) citizens were in opposition.

During the public hearing Councilmember Hassloch requested a break at 8:50 p.m. and Council resumed at 9:03 p.m. The public hearing concluded at 9:43 p.m.

Mayor Cooper then thanked the public for their comments, closed the public hearing and stated the Council would begin its consideration of the request.

Councilmember Rosenthal summarized comments from the sides that are supportive or in opposition to the project. He desired deliberation on this project. He stated if the SUP is approved it did not provide further precedent to the developer or to any other developer. He noted there are engineering, flood/drainage issues, and the purchase of city property that still needs to be vetted. Councilmember Rosenthal noted this is the biggest project to be considered ever since the University of Incarnate Word project. As a Councilmember with over 9 years of service of mediation experience for the City, he expressed the need of change and that the SUP should be revised. A motion was made by Councilmember Rosenthal to modify the application

of Alamo Manhattan Properties, LLC, and to approve a SUP for development of a multi-family project on approximately 1.66 acres of property bounded by Broadway Street on the west, Ellwood Avenue on the north, Austin Highway on the east and the southern edge of Ausway Lane on the south as follows: (a) a density of not greater than one dwelling unit per 496 square feet of land which would allow a maximum of 146 dwelling units on a property of 1.66 acres, (b) no front yard setback (with Ausway Park serving as a buffer), (c) a 4' side yard setback along Broadway, meaning any structure would be at least 25' from the existing Broadway curb cut, (d) no rear yard setback along Ellwood Avenue, meaning that any structure would be at least 26'6" from the Ellwood curb cut, (e) a maximum of 85% lot coverage, (f) a maximum height of 4 stories and 48 feet (g) an off-street parking ratio of 1.70 spaces per dwelling unit (which is based upon the two story parking garage in the applicant's plan), (h) an off-street commercial parking ratio of 1 space per 200 square feet, (i) parking spaces measuring approximately 9 feet by 18 feet, (j) no landscape areas along any property line; provided, however, a landscape plan acceptable to the City must be provided regarding the entire property, including without limitation, landscaping within the City's right-of-way along both Broadway Street and Ellwood Avenue, and (k) ground level uses for residential uses and uses as authorized by B-1 zoning. The SUP would be subject to additional processes and approvals, including (1) the abandonment and sale by public entities of approximately 0.82 acres along the southern side of Ellwood Avenue, the Ausway Lane right-of-way, and the Old Kampmann Avenue right-of-way, (2) the acquisition of approximately 0.84 acres of privately owned property known as Lots 1-15, Block 67, County Block 4050, (3) the replatting of the property upon which the Project will be constructed, (4) approval of the architectural design of the Project, (5) issuance of a flood plain development permit, and (6) satisfaction of other governmental requirements. The SUP may be terminated by the City if the project is assigned to another entity before it is completed and substantially occupied or if the project is not constructed precisely as authorized above. If all of the foregoing conditions are not fulfilled within twelve (12) months from the date of this SUP, the SUP shall automatically expire unless renewed by the City Council of the City of Alamo Heights. The conditions herein are developer performance conditions and not a contract between Alamo Manhattan Properties, LLC and the City of Alamo Heights in which the City has abrogated its legislative zoning authority. This SUP is declared to be unique for the location upon which it is granted and shall not be any sort of precedent for another SUP in the future. The motion was seconded by Mayor Pro Tem Savage for further discussion.

There was a discussion among Council regarding the project.

Councilmember Prassel asked further details regarding the height of the structure and inquired if the project is three stories high on Ellwood side and four stories high on Ausway side.

Councilmember Rosenthal responded it had not been thoroughly discussed but overall the project is four stories high and stated he understands the concern of the Ellwood neighbors and consideration of three stories high on Ellwood.

Councilmember Weser commented that Alamo Manhattan Properties had unorthodox mannerism of planning the project and highlighted the non-binding process. He shared that a few Councilmembers had met with the developers and was uncertain if there were modifications that had been made. He questioned the experience that Alamo Manhattan Properties had with a

population as the size of Alamo Heights. He stated the project is too large to fit on a small parcel of land. He expressed in his opinion, the analyses were not sufficient to address the flooding issues and traffic concerns. He noted that only one day of data collected on March 28, 2013 lacked additional information on traffic. Councilmember Weser stated there is a possibility for additional utility work warranted to accommodate the project. He stated the City has responsibility to be considerate of the residents at Brighton Square Condos.

Councilmember Rosenthal shared he met with the developer once with other individuals, Bryan Gray and Bill Kiel present. He hadn't specifically talked to the developers on the continuation of the project and recalled how the project could work for the community. He acknowledged there is concern on traffic; however, he shared there is an apartment complex on Austin Highway, another one at the south end of the City.

Councilmember Savage shared that he also had a meeting with the developer once with the architect and individuals, John Joseph and Bruce Siebert present. He recalled the meeting was a tennis match with ideas that included among the attendees that were present. He commented that there had been a process.

Councilmember Rosenthal summarized his motion is a modification of 146 dwelling units instead of 165 dwelling units, instead of 58 feet structure it is 48 feet structure, a 4 feet side yard setback along Broadway, an increased lot coverage from 82% to 85% and the requirement that the landscaping plan be agreed upon, by the City, in particular, the landscaping along the right of way between the project and Broadway.

Councilmember Hasslocher moved the *previous question* to close the debate. City Attorney Mike Brenan informed Council that a two-thirds vote was needed to pass Councilmember Hasslocher's motion. A vote was taken on consideration of Councilmember Hasslocher's motion. The vote was as follows: Ayes: Councilmembers Hasslocher and Weser; Nays: Mayor Pro Tem Savage, Councilmembers Rosenthal and Prassel. The motion failed and allowed for further discussion.

A motion was made by Councilmember Rosenthal to amend his motion to reduce the height on Ellwood to three stories, and to require at least 6 parking spaces of 9 feet x 20 feet. The motion was seconded by Mayor Pro Tem Savage for further discussion.

Councilmember Weser stated P&Z had a discussion on this item and reminded everyone that Alamo Manhattan stated that they would not consider decreasing the project size. He stated this action is a last minute request to make accommodations for this request and this is the first opportunity Council had to vote.

Councilmember Rosenthal stated he was not aware that further discussion occurred on the possibility to decrease the project size.

Councilmember Hasslocher expressed agreement with Councilmember Weser's comments and shared he too attended the boards/commission meetings. He stated the City is not in good position for water supply.

Mayor Pro Tem Savage stated this is a good effort to compromise and continue discussion.

Councilmember Prassel shared that a citizen had suggested to him a simple solution to assist with the traffic flow at the project's intersection which is to place a single lane on Ausway to keep the shortcut.

Councilmember Hasslocher moved the *previous question* to close the debate on Councilmember Rosenthal's amendment. A vote was taken on Councilmember Hasslocher's previous question motion. The vote was as follows: Ayes: Councilmembers Hasslocher, Rosenthal, Prassel and Weser; Nays: Mayor Pro Tem Savage. The motion passed.

City Attorney Brenan explained Robert's Rules of Order and stated the amendment motion is up for consideration and then the main motion would be considered next after the amendment motion.

The vote was as follows: Ayes: Mayor Pro Tem Savage, Councilmembers Rosenthal and Prassel; Nays: Councilmembers Hasslocher and Weser. The amendment motion passed.

Mayor Cooper asked Council to vote on the main motion, including the amendment which just passed: to modify the application of Alamo Manhattan Properties, LLC and to approve a SUP, for development of a multi-family project on approximately 1.66 acres of property bounded by Broadway Street on the west, Ellwood Avenue on the north, Austin Highway on the east and the southern edge of Ausway Lane on the south as follows: (a) a density of not greater than one dwelling unit per 496 square feet of land which would allow a maximum of 146 dwelling units on a property of 1.66 acres, (b) no front yard setback (with Ausway Park serving as a buffer), (c) a 4' side yard setback along Broadway, meaning any structure would be at least 25' from the existing Broadway curb cut, (d) no rear yard setback along Ellwood Avenue, meaning that any structure would be at least 26'6" from the Ellwood curb cut, (e) a maximum of 85% lot coverage, (f) a maximum height of 4 stories and 48 feet for the portion of the project not fronting on Ellwood Avenue and a maximum height of three stories and 38 feet for the portion of the project fronting on Ellwood Avenue, (g) an off-street parking ratio of 1.70 spaces per dwelling unit (which is based upon the two story parking garage in the applicant's plan), (h) an off-street commercial parking ratio of 1 space per 200 square feet, (i) parking spaces measuring approximately 9 feet by 18 feet (provided, however, at least six parking spaces shall measure 9 feet by 20 feet), (j) no landscape areas along any property line; provided, however, a landscape plan acceptable to the City must be provided regarding the entire property, including without limitation, landscaping within the City's right-of-way along both Broadway Street and Ellwood Avenue, and (k) ground level uses for residential uses and uses as authorized by B-1 zoning. This SUP is expressly subject to additional processes and approvals, including (1) the abandonment and sale by public entities of approximately 0.82 acres along the southern side of Ellwood Avenue, the Ausway Lane right-of-way, and the Old Kampmann Avenue right-of-way, (2) the acquisition of approximately 0.84 acres of privately owned property known as Lots 1-15, Block 67, County Block 4050, (3) the replatting of the property upon which the Project will be constructed, (4) approval of the architectural design of the Project, (5) issuance of a flood plain development permit, and (6) satisfaction of other governmental requirements. This SUP may be

terminated by the City if the project is assigned to another entity before it is completed and substantially occupied or if the project is not constructed precisely as authorized above. If all of the foregoing conditions are not fulfilled within twelve (12) months from the date of this SUP, the SUP shall automatically expire unless renewed by the City Council of the City of Alamo Heights. The conditions herein are developer performance conditions and not a contract between Alamo Manhattan Properties, LLC and the City of Alamo Heights in which the City has abrogated its legislative zoning authority. This SUP is declared to be unique for the location upon which it is granted and shall not be any sort of precedent for another SUP in the future. The vote was as follows, Ayes: Mayor Pro Tem Savage, Councilmembers Rosenthal and Prassel; Nays: Councilmembers Hasslocher and Weser. The motion passed.

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Citizens To Be Heard Concerning Non-Agenda Items

Item # 5 Citizens to be heard concerning items not on the agenda

There were no citizens that signed up for citizens to be heard.

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There being no further business, a motion was made by Councilmember Hasslocher to adjourn the meeting. The motion was seconded by Councilmember Rosenthal and passed by unanimous vote. Mayor Cooper adjourned the meeting at 10:25 p.m.

  
Jennifer Reyna  
City Secretary

  
Louis Cooper  
Mayor