



MINUTES
CITY COMMISSION MEETING
TUESDAY, OCTOBER 16, 2007
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Tom Phillips and Commissioners Mark Hatesohl, Bob Strawn, Bruce Snead, and James E. Sherow were present. Also present were the City Manager Ron R. Fehr, Deputy City Manager Diane Stoddard, Assistant City Manager Jason Hilgers, City Attorney Bill Frost, City Clerk Gary S. Fees, Youth in Government Representative Megan Allen, 8 staff, and approximately 20 interested citizens.

PLEDGE OF ALLEGIANCE

Mayor Phillips led the Commission in the Pledge of Allegiance.

RECOGNITION

Mayor Phillips and City Manager Ron Fehr recognized the Manhattan Fire Department for receiving the Life Safety Achievement Award. Accepting the award was Jerry Snyder, Fire Chief; Don Francis, Assistant Fire Chief; and Jim McDiffett, Fire Marshall.

COMMISSIONER COMMENTS

Commissioner Snead informed the community that tonight is Diane Stoddard's last City Commission meeting as Deputy City Manager and expressed appreciation for her work with the City of Manhattan.

Mayor Phillips thanked Diane Stoddard for her professionalism, responsiveness, and for her positive attitude.

CONSENT AGENDA

(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, October 2, 2007.

CLAIMS REGISTER NO. 2561

The Commission approved Claims Register No. 2561 authorizing and approving the payment of claims from September 26, 2007, to October 9, 2007, in the amount of \$1,524,355.69.

LICENSES

The Commission approved the applications for a 2007-08 Cereal Malt Beverage license for Hunam Chinese Restaurant, 1304 Westloop Place, and a Tree Maintenance license for Haslett Tree Service, 105 Tremont Street, Junction City, for calendar year 2008.

FINAL PLAT – LEE MILL HEIGHTS ADDITION, UNIT FOUR

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Lee Mill Heights Addition, Unit Four, generally located west of an extension of Miller Parkway, based on conformance with the Manhattan Urban Area Subdivision Regulations.

ORDINANCE NO. 6665 – REZONE – NORTHWEST CORNER OF FORT RILEY BOULEVARD AND SOUTH JULIETTE AVENUE, POWELL BROTHERS PLUMBING, EL PASO LANE, SOUTH 8TH STREET, AND FORT RILEY BOULEVARD RIGHTS-OF-WAY

The Commission approved Ordinance No. 6665 rezoning the northwest corner of Fort Riley Boulevard and South Juliette Avenue, Powell Brothers Plumbing, and portions of the El Paso Lane, South 8th Street, and Fort Riley Boulevard rights-of-way from PUD, Planned Unit Development District, and R-2/TNO, Two-Family Residential District with Traditional Neighborhood Overlay District, to LM-SC, Light Manufacturing-Service Commercial District, based on the findings in the Staff Report. (*Attachment No. 1*)

ORDINANCE NO. 6666 – REZONE – LOTS 2 AND 3, MAA AMBA ADDITION

The Commission approved Ordinance No. 6666 rezoning Lots 2 and 3, MAA AMBA Addition, located generally southwest of the intersection of Enoch Lane and US 24 Frontage Road, from C-5, Highway Service Commercial District, to I-2, Industrial Park District, based on the findings in the Staff Report. (*See Attachment No. 2*)

CONSENT AGENDA (CONTINUED)

* **FINAL PLAT – GTM SPORTSWEAR ADDITION, UNIT THREE**

Commissioner Strawn stated that he would not be participating on this item.

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of GTM Sportswear Addition, Unit Three, generally located north of US 24 Highway Frontage Road and south of McCall Road, based on conformance with the Manhattan Urban Area Subdivision Regulations.

ORDINANCE NO. 6667 – AMEND ZONING REGULATIONS – DEFINITION OF SCHOOL

The Commission approved Ordinance No. 6667 amending the Manhattan Zoning Regulations, Section 16-201, to modify the definition of the term School, by replacing “K” with “pre-K”, based on the findings in the Staff Memorandum. (*See Attachment No. 3*)

FIRST READING – ADOPT – 2007 STANDARD TRAFFIC ORDINANCE

The Commission approved first reading of the ordinance incorporating by reference the Standard Traffic Ordinance for Kansas Cities, Edition of 2007.

* **FIRST READING – AMEND – UNLAWFUL HOSTING OF MINORS**

Katie Jackson, Assistant City Attorney, provided clarification on the item and responded to questions from the Commission.

The Commission approved first reading of an ordinance amending Section 4-3 of the Code of Ordinances, relating to the unlawful hosting of minors.

CHANGE ORDER NO. 1 – FOURTH STREET PROJECT (ST0712)

The Commission approved Change Order No. 1 for the Fourth Street Project (ST0712) resulting in a net increase in the amount of \$124,120.00 (+5.6%) to the contract with Nowak Construction, Inc., of Goddard, Kansas.

RESOLUTION NO. 101607-A – KDOT AGREEMENT – RAILROAD CROSSING SIGNAL AND GATES – SOUTH 16TH STREET

The Commission approved Resolution No 101607-A authorizing the Mayor and City Clerk to execute an agreement with KDOT for a new crossing signal assembly and gates at 16th Street and Union Pacific Railroad tracks south of K-18.

CONSENT AGENDA (CONTINUED)

AWARD CONTRACT – HOUSING REHABILITATION PROJECT

The Commission accepted the bids for 317 South 5th Street; awarded the bid to the lowest responsible bidder; authorized the Mayor and City Clerk to enter into agreements with the contractor and property owner for expenditure of Housing Rehabilitation Funds; and authorized City Administration to approve any necessary change orders.

LEASE AGREEMENT – R. E. MCWHORTER

The Commission authorized the Mayor and City Clerk to execute an airport lease agreement with R. E. McWhorter.

OUTSIDE CITY WATER SERVICES AGREEMENT – 2750 MOEHLMAN ROAD

The Commission authorized the Mayor and City Clerk to execute an agreement permitting connection to the City of Manhattan's public water supply system by Marta's Janitorial Services, Inc., for the real estate located at 2750 Moehlman Road, Riley County, Kansas.

BOARD APPOINTMENT – DOWNTOWN BUSINESS IMPROVEMENT DISTRICT ADVISORY BOARD

The Commission approved appointment to the Downtown Business Improvement District Advisory Board by Mayor Phillips of John M. Struve, 825 Davis Drive, to fill an unexpired term for Colleen Van Nostran. Mr. Struve's term begins immediately and will expire on December 31, 2007.

* SET JUST COMPENSATION – 4TH STREET AND BLUEMONT AVENUE

Jason Hilgers, Assistant City Manager, responded to concerns about the timing and communication breakdown between the parties involved.

Diane Washington, 601 Bertrand Street, informed the Commission that her mother owns the property at 402 Bluemont Avenue and asked about the status of the negotiation process.

Ron Fehr, City Manager, provided a status update on the item being considered tonight and the process to begin the acquisition of property.

Kathy Dzewaltowski, 100 South Delaware, voiced concerns regarding the item and the three historic properties located in this area.

CONSENT AGENDA (*CONTINUED*)

* **SET JUST COMPENSATION – 4TH STREET AND BLUEMONT AVENUE**
(*CONTINUED*)

The Commission established the value of Just Compensation as outlined in the confidential documents for the acquisition of property for the 4th Street and Bluemont Avenue intersection improvements and authorized City Administration to make an offer based upon such Just Compensation.

After discussion, Commissioner Hatesohl moved to approve the consent agenda, as read. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0, with the exception of Item G, *Final Plat – GTM Sportswear Addition, Unit Three*, which carried 4-0, with Commissioner Strawn abstaining from the item.

GENERAL AGENDA

PRESENTATION - 2006 COMPREHENSIVE ANNUAL FINANCIAL REPORT **(CAFR)**

Bernie Hayen, Director of Finance, presented the item.

Karen Linn, Berberich, Trahan & Co., P.A., presented findings of the audit report and control deficiency. She then answered questions from the Commission.

Ron Fehr, City Manager, thanked the Finance Department for their work on the Comprehensive Annual Financial Report and awards received from the Government Finance Officers Association.

After discussion, Commissioner Hatesohl moved to accept the 2006 Comprehensive Annual Financial Report including the 2006 City audit. Commissioner Sherow seconded the motion. On a roll call vote, motion carried 5-0.

PUBLIC HEARING - DOWNTOWN BUSINESS IMPROVEMENT DISTRICT **ORDINANCE**

Karen Davis, Director of Community Development, presented the item. She then responded to questions from the Commission.

Mayor Phillips opened the public hearing.

GENERAL AGENDA (CONTINUED)

PUBLIC HEARING - DOWNTOWN BUSINESS IMPROVEMENT DISTRICT ORDINANCE (CONTINUED)

Spencer Lombardo, Dial Realty, read a letter from Dial to the Commission stating their company is pleased to be a valued member of the Downtown community and asked that the Third Street corridor be opened.

Ron Fehr, City Manager, provided additional information on opening Third Street near the Manhattan Town Center.

Allen Raynor, Manager, Manhattan Town Center, informed the Commission that the Mall management does not have an agreement in place but have agreed to discuss this in the future.

Ron Fehr, City Manager, stated that with the pending sale of Manhattan Town Center Mall would re-open the discussion about Third Street.

Hearing no other comments, Mayor Phillips closed the public hearing.

FIRST READING - AGGIEVILLE AND DOWNTOWN BUSINESS IMPROVEMENT DISTRICT ORDINANCES

After discussion, Commissioner Snead moved to approve first reading of an ordinance continuing the establishment of a Downtown Business Improvement District, amending the boundaries, and levying Business Improvement Service Fees, for the year 2008, on businesses located within the Downtown Business Improvement District, and approve first reading of an ordinance levying Business Improvement Service Fees, for the year 2008, on businesses located within the Aggieville Business Improvement District. Commissioner Sherow seconded the motion. On a roll call vote, motion carried 5-0.

FUNDING REQUEST - CORE DOWNTOWN REVITALIZATION COMMITTEE

Lyle Butler, President, Manhattan Area Chamber of Commerce, provided background information on the item and summarized the proposal with Stainback Public/Private Real Estate to finish the next phase of the project.

Gwyn Riffel, Chair, CORE Downtown Revitalization Committee, provided additional information on the funding request and the CORE Downtown revitalization area. He then responded to questions from the Commission regarding the project scope and timeframe for completion.

GENERAL AGENDA (CONTINUED)

FUNDING REQUEST - CORE DOWNTOWN REVITALIZATION COMMITTEE (CONTINUED)

Lyle Butler, President, Manhattan Area Chamber of Commerce, responded to questions from the Commission and provided clarification on the request. He then provided additional information on retail sales leakage and retail space for the downtown area.

Gwyn Riffel, Chair, CORE Downtown Revitalization Committee, responded to questions regarding the public/private participation and informed the Commission that he would ask Riley County to participate but, he didn't want it as a condition of the request.

Ron Fehr, City Manager, provided additional information on the Downtown Redevelopment Fund.

After discussion, Commissioner Sherow moved to approve a funding request from the Manhattan Area Chamber of Commerce Core Downtown Revitalization Committee to assist with the creation of a Downtown Core Area Master Plan along with specific development packages utilizing the services of Stainback Public/Private Real Estate (SPPRE), of Houston, Texas, and an architectural/design firm, to be selected by the Manhattan Area Chamber of Commerce, in the amount of \$74,800.00, to be paid from the City's Downtown Redevelopment Fund. Commissioner Strawn seconded the motion. On a roll call vote, motion carried 5-0.

KANSAS ENTREPRENEURIAL CENTER (KEC) BUILDING - LEASE AND MEMORANDUM OF AGREEMENT

Diane Stoddard, Deputy City Manager, presented the item and draft memorandum of agreement with the Manhattan Area Chamber of Commerce. She then answered questions from the Commission regarding the proposed agreement.

Lyle Butler, President, Manhattan Area Chamber of Commerce, responded to questions from the Commission regarding the North Central Kansas Community Network, staffing the facility, and goals of the KEC operation.

Diane Stoddard, Deputy City Manager, and Ron Fehr, City Manager, provided additional information on the ownership and investment of the City as the owner of the KEC facility and, discussed the improvements that have been made, including the wet lab space.

Lyle Butler, President, Manhattan Area Chamber of Commerce, responded to questions from the Commission and stated that there will not be a management fee charged to the City of Manhattan and that monthly financial reports would be provided to all partners.

GENERAL AGENDA (CONTINUED)

KANSAS ENTREPRENEURIAL CENTER (KEC) BUILDING - LEASE AND MEMORANDUM OF AGREEMENT (CONTINUED)

Ron Fehr, City Manager, responded to questions from the Commission regarding the past discussions to sell the KEC facility after the new NISTAC facility was constructed. He stated the decision was made to keep the KEC facility and, to capture the demand for laboratory space and optimize the investments made in the facility.

After discussion, Commissioner Hatesohl moved to authorize the Mayor and City Clerk to execute the lease with the Manhattan Area Chamber of Commerce for the KEC building and authorize the City Manager to finalize and execute the Memorandum of Agreement between the KEC partners. Commissioner Snead seconded the motion. On a roll call vote, motion carried 4-1, with Commissioner Strawn voting against the motion.

ADJOURNMENT

At 9:05 p.m. the Commission adjourned.



Gary S. Fees, CMC, City Clerk

STAFF REPORT

ON AN APPLICATION TO REZONE:

Three residential lots on the northwest corner of Ft. Riley Boulevard and S. Juliette Avenue and Powell Brothers Plumbing business at 515 S. 8th Street and 520 S. 8th Street, and portions of El Paso Lane, S. 8th Street and Ft. Riley Boulevard right-of-way.

More specifically Lots 41, 42, 43, 44, 45, 46, 47 and 48 in Ward 5 and the South 100 feet of Lots 193, 194 and 195 and the South Half of the alley adjacent to Lots 43, 44, 45, 46, 47 and 48 and the East Half of 8th Street adjacent to Lot 48 and the West Half of 8th Street adjacent to the South 100 feet of Lot 193 and all of Ft. Riley Boulevard adjacent to Lots 41, 44, 45, 46, 47, 48, 193, 194 and 195, all in Ward 5, City of Manhattan, Riley County, Kansas.

FROM: PUD, Planned Unit Development District, and R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District.

TO: LM-SC, Light Manufacturing-Service Commercial District.

APPLICANT: Dial Realty.

ADDRESS: 11506 Nicholas St., Ste 200, Omaha, NE 68154.

OWNERS: Premier Commercial Equity, LLC (Lot 43 Ward 5)
Powell Brothers, Inc. (Lots 41, 42, 44, 45, 46, 47 and 48 Ward 5; and South
100
feet of Lots 193, 194 and 195 Ward 5)

ADDRESSES: 512 S. Juliette Avenue, Manhattan, KS; and 515 S. 8th Street, Manhattan, KS.

LOCATION: generally located northwest of the intersection of Ft. Riley Boulevard and South Juliette Avenue. The rezoning site includes three vacant lots on the northwest corner of South Juliette Avenue and Ft. Riley Boulevard, and the Powell Brothers Plumbing business at 515 S. 8th Street and 520 S. 8th Street.

AREA: Total: approximately 2.93 acres, of which 1.72 acres is private property and 1.21 acres is public right-of-way.

Attachment No. 1

DATE OF PUBLIC NOTICE PUBLICATION: Monday, July 30, 2007 and Thursday, August 16, 2007.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, August 20, 2007 tabled to September 6, 2007 to re-advertise Public Hearing.

CITY COMMISSION: Tuesday, October 2, 2007

EXISTING USE: Two vacant residential lots, one residential lot with a single-family dwelling, a plumbing contracting business and storage yard, warehouse and storage yard.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: A flat site consisting of residential and service commercial/light industrial uses. There are two vacant residential lots and one residential lot with a house, all of which are on the northwest corner of Ft. Riley Boulevard and S. Juliette Avenue and south of El Paso Lane, a public alley. Powell Brothers, a plumbing contractor's business, is located to the east of the residential lots, and consists of two parts: (1.) An open and largely unscreened gravel, dirt and grass covered storage and parking/yard storage yard enclosed by a 6 to 8 foot chain link fence topped with barbed wire (partial screening along the alley), and a service commercial building on the southwest corner of the alley and S. 8th Street; and, (2.) A storage building and a partially screened gravel, dirt and grass covered storage yard, which is enclosed by a 6 to 8 foot chain link fence topped with barbed wire, both on the west side of S. 8th Street and adjacent to the north side of Ft. Riley Boulevard. There are scattered trees and grass lawns on the site. The site is in the 500 Year Flood Plain, an area that is not regulated by Flood Plain Regulations.

The rezoning site also consists of adjoining public right-of-way described above.

SURROUNDING LAND USE AND ZONING:

- (1) **NORTH:** 15 foot wide public alley (El Paso Lane), single-family and two family dwelling units, and Yuma Street; R-2/TNO Districts.
- (2) **SOUTH:** An approximate 70 foot wide arterial street (Ft. Riley Boulevard), auto sales, parts and service, and vacuum cleaner sales and service; LM-SC District.
- (3) **EAST:** A 100 foot wide arterial right-of-way (S. Juliette Avenue), public alley with single and two family uses north of the alley and highway service commercial uses south of the alley; R-M, Four-Family Residential District with TNO District and LM-SC District.
- (4) **WEST:** S. 8th Street, church, single and two-family dwelling units; R-2/TNO Districts.

Attachment No. 1

GENERAL NEIGHBORHOOD CHARACTER: The neighborhood is a mixture of residential and service commercial, light industrial and low density residential. Service commercial and light industrial dominate the Ft. Riley Boulevard corridor to the east of the rezoning site and south of El Paso Lane. Residential uses are located north of El Paso Lane and west and south of the rezoning site. The existing uses within the rezoning sites have existed for many years.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: Powell Brothers Plumbing at 515 S. 8th Street is a suitable and permitted use of the PUD. The PUD was established for the plumbing business only. The warehouse and storage yard at 520 S. 8th Street is a nonconforming use in the R-2/TNO District, subject to the requirements for Nonconforming Uses, Article VIII, of the Zoning Regulations. It was established as a warehouse and storage yard in an industrial district when the building and yard were constructed. The three residential lots are suitable for the uses of the R-2/TNO District. Two of the vacant lots could be built on, but are located at the intersection of two major arterial streets. The lots have remained vacant since 1975 and do not appear to be suitable as residential lots given the highway nature of the corridor.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The rezoning site has been dominated by a service commercial/light industrial use since 1976 when the Powell Brothers PUD was established. The storage building and storage yard were established in the 1950's when the site was an industrial district and have remained as such since then. The site could be operated at more intense level than its current operation and conform to its current zoning. The residential lots on the corner of Ft. Riley Boulevard are inconsistent with the use of the service commercial light industrial use of the neighborhood south of El Paso lane alley. A plumbing contracting and warehouse use has existed in the area since as early as 1952.

An increase in traffic, light and noise can be expected. Vehicular traffic will increase in the alley as well as that part of the site accessed off S. 8th Street. However, traffic volumes to S. 8th Street sites may not be significant because the sites cannot be accessed from Ft. Riley Boulevard and S. 8th Street intersection.

In the LM-SC District exterior lighting fixtures shall be shaded to avoid casting direct light on any property located in a residential district and so that no glare is visible to any traffic on any public street.

Attachment No. 1

Residential areas to the north and west of the site should be reasonably protected from LM-SC development. All outdoor storage and/or display areas, except automobile sales lots, shall be enclosed by site obscuring screening of not less than six (6) in height. All operations and activities shall be conducted within a building, or buildings, except that storage, display areas, and loading docks may be maintained outside the building and screened.

CONFORMANCE WITH COMPREHENSIVE PLAN: The proposed rezoning site is shown on the Future Land Use map on the Downtown Core Neighborhoods Planning Area as Community Commercial (CC). The CC category policies include:

COMMUNITY COMMERCIAL (CC)

CC 1: Characteristics

Community Commercial Centers provide a mix of retail and commercial services in a concentrated and unified setting that serves the local community and may also provide a limited draw for the surrounding region. These centers are typically anchored by a larger national chain, between 120,000 and 250,000 square feet, which may provide sales of a variety of general merchandise, grocery, apparel, appliances, hardware, lumber, and other household goods. Centers may also be anchored by smaller uses, such as a grocery store, and may include a variety of smaller, complementary uses, such as restaurants, specialty stores (such as books, furniture, computers, audio, office supplies, or clothing stores), professional offices and health services. The concentrated, unified design of a community commercial center allows it to meet a variety of community needs in a “one-stop shop” setting, minimizing the need for multiple vehicle trips to various commercial areas around the community. Although some single use highway-oriented commercial activities will continue to occur in some areas, this pattern of development is generally not encouraged.

CC 2: Location

Community Commercial Centers should be located at the intersection of one or more major arterial streets. They may be located adjacent to urban residential neighborhoods and may occur along major highway corridors as existing uses become obsolete and are phased out and redeveloped over time. Large footprint retail buildings (often known as “big-box” stores) shall only be permitted in areas of the City where adequate access and services can be provided.

CC 3: Size

Typically require a site of between 10 and 30 acres.

CC 4: Unified Site Design

A unified site layout and design character (buildings, landscaping, signage, pedestrian and vehicular circulation) shall be required and established for the center to guide current and future phases of development. Building and site design should be used to create visual interest and establish a more pedestrian-oriented scale for the center and between out lots.

CC 5: Architectural Character

Community Commercial Centers shall be required to meet a basic level of architectural detailing, compatibility of scale with surrounding areas, pedestrian and bicycle access, and mitigation of negative visual impacts such as large building walls, parking areas, and service and loading areas. While these requirements apply to all community commercial development, they are particularly important to consider for larger footprint retail buildings, or “big-box” stores. A basic level of architectural detailing shall include, but not be limited to, the following:

- Façade and exterior wall plane projections or recesses;*
- Arcades, display windows, entry areas, awnings, or other features along facades facing public streets;*
- Building facades with a variety of detail features (materials, colors, and patterns); and*
- High quality building materials.*

CC 6: Organization of Uses

Community commercial services should be concentrated and contained within planned activity centers, or nodes, throughout the community. Within each activity center or node, complementary uses should be clustered within walking distance of each other to facilitate efficient, “one-stop shopping”, and minimize the need to drive between multiple areas of the center. Large footprint retail buildings, or “big-box” stores should be incorporated as part of an activity center or node along with complementary uses. Isolated single store developments are strongly discouraged.

CC 7: Parking Design and Layout

Uninterrupted expanses of parking should be avoided. Parking areas should be broken into smaller blocks divided by landscaping and pedestrian walkways. Parking areas should be distributed between the front and sides of buildings, or front and rear, rather than solely in front of buildings to the extent possible.

CC 8: Circulation and Access

Clear, direct pedestrian connections should be provided through parking areas to building entrances and to surrounding neighborhoods or streets. Integrate main entrances or driveways with the surrounding street network to provide clear connections between uses for vehicles, pedestrians, and bicycles.

The proposed LM-SC District conforms to the Comprehensive Plan. While single-use highway service activities are generally discouraged to reduce multiple vehicle trips, the Plan recognizes single use activities may occur in the area.

As the applicant notes in the attached letter, the rezoning is to accommodate the relocation of O'Reilly's Auto Parts store from the Southern Redevelopment Area to the east end of the rezoning site. It is anticipated the remainder of the rezoning site may develop at some time in the future, however the City is not aware of specific plans for the area.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:

Entire site

1926-1965: F, Heavy Industrial District (entire site).

1965- 1969: B, Multiple-Family Dwelling District (entire site).

Residential lots, S. 8th St and El Paso Lane rights-of-way and Powell Brothers Plumbing storage/warehouse at 520 S. 8th Street

1969 – 2003: R-2, District (Residential lots and warehouse/storage yard

December 16 2003-Present R-2/TNO District

Powell Brothers Plumbing (515 S. 8th Street) and Ft. Riley Boulevard right-of-way

1969-1976: R-2 District.

1976-Present: Powell Brothers PUD.

In 1993, an application was submitted to rezone the Powell Brothers PUD and warehouse/storage building to C-5, Highway Service Commercial District. The application was denied by the City Commission on June 15, 1993 (3-2), which recommended the applicant submit a PUD application. An application was resubmitted in 1994 to rezone the Powell Brothers PUD and warehouse/ storage building as a PUD. The Planning Board tabled the item for the neighbors and applicant to reach a compromise, however the application was withdrawn by Powell Brothers.

Attachment No. 1

Houses on the two vacant residential lots were demolished in 1975 and have remained vacant to date. The existing house on the third residential lot was built at an unknown date. Powell Brothers building at 515 S. 8th Street was built in 1963 by Powell Brothers. The storage warehouse building at 520 S. 8th Street was built in 1952 by Powell and Sons.

CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE: The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values. The LM-SC District is designed to promote and encourage diverse economic growth through coordinated and efficient use of land and collocation of light industrial and highway service commercial activities. This district was designed to address the Goals and Objectives of the Industrial and Commercial Element of the Land Use Plan for Southeast Manhattan that was adopted October 17, 1988.

The LM-SC District requires additional landscaping and screening than the C-5 District. In addition, all operations and activities shall be conducted within a building, or buildings, except that storage, display areas, and loading docks may be maintained outside the building, except for automobile sales lots. These areas, except automobile sales lots, are required to be screened with 6 foot sight obscuring screening. Trash enclosures are also required to be screened by 6 foot sight obscuring screening.

Property to the north of the alley is R-2/TNO District. Minimum setback for buildings from an alley is 10 feet and for off-street parking is 5 feet. Front yard setbacks are 25 feet and side and rear yard setbacks where property lines abut a residential district are 10 feet.

Minimum lot area for development of a site that abuts a limited access arterial is 20,000 feet.

The total site between S. Juliette Avenue and S. 8th Street, south of El Paso alley and north of Ft. Riley Boulevard, a limited access arterial, is approximately 59,672 square feet, which exceeds the minimum lot size for development of a site that is along a limited access arterial.

Attachment No. 1

Powell Brothers Plumbing at 515 S. 8th Street and the warehouse/storage yard at 520 S. 8th Street would be Permitted Uses in the LM-SC District. The 515 S. 8th Street storage areas are largely unscreened except for a short section of fence along the alley. The warehouse and storage yard at 520 S. 8th Street will be nonconforming with respect to lot area and the western storage yard fence line, adjacent to a residential district, is unscreened. The northern storage yard fence is screened. Structures on both sites encroach into building setbacks. The improved lots may be utilized in their existing state, so long as it remains otherwise lawful, subject to the requirements of Article VIII, Nonconformities.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no adverse affect on the general public if the rezoning is approved. It may be a hardship to the applicant if the rezoning is denied.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Public facilities and services are adequate to serve the site. Sidewalks do not exist along Ft. Riley Boulevard on the north or south sides of the street on or adjacent to the site. There is no sidewalk along the side of the site in the S. Juliette Avenue frontage, however sidewalk may be buried under existing grass. Sidewalk exists on the east side of S. 8th Street in front of the Powell Brothers building and extends north of El Paso alley connecting to Yuma Street. There is no sidewalk on the west side of the street.

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS: City Administration recommends approval of the proposed rezoning of three residential lots on the northwest corner of Ft. Riley Boulevard and S. Juliette Avenue and Powell Brothers Plumbing business at 515 S. 8th Street and 520 S. 8th Street, and portions of El Paso Lane, S. 8th Street and Ft. Riley Boulevard right-of-way from PUD, Planned Unit Development District, and R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District, to LM-SC, Light Manufacturing-Service Commercial District.

ALTERNATIVES:

Recommend approval of the proposed rezoning of Lots 41, 42, 43, 44, 45, 46, 47 and 48 in Ward 5 and the South 100 feet of Lots 193, 194 and 195 and the South Half of the alley adjacent to Lots 43, 44, 45, 46, 47 and 48 and the East Half of 8th Street adjacent to Lot 48 and the West Half of 8th Street adjacent to the South 100 feet of Lot 193 and all of Ft. Riley Boulevard adjacent to Lots 41, 44, 45, 46, 47, 48, 193, 194 and 195, all in Ward 5 from PUD, Planned Unit Development District, and R-2, Two-Family Residential

Attachment No. 1

District with TNO, Traditional Neighborhood Overlay District, to LM-SC, Light Manufacturing-Service Commercial District, stating the basis for such recommendation.

1. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
2. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of three residential lots on the northwest corner of Ft. Riley Boulevard and S. Juliette Avenue and Powell Brothers Plumbing business at 515 S. 8th Street and 520 S. 8th Street, and portions of El Paso Lane, S. 8th Street and Ft. Riley Boulevard right-of-way from PUD, Planned Unit Development District, and R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District, to LM-SC, Light Manufacturing-Service Commercial District, based on the findings in the Staff Report .

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: August 30, 2007

STAFF REPORT

ON AN APPLICATION TO REZONE LOT 2 AND LOT 3, MAA AMBA ADDITION FOR A PROPOSED EXPANSION OF GTM SPORTSWEAR

FROM: C-5, Highway Service Commercial District.

TO: I-2, Industrial Park District.

OWNER/APPLICANT: Dave Dreiling.

OWNER ADDRESS: 520 McCall Road, Manhattan KS 66502.

LOCATION: Lot 2 and Lot 3, MAA AMBA Addition are located southwest of the intersection of Enoch Lane and US 24 Frontage Road, and east and southeast of the southern end of Carlson Street.

AREA: Lot 2: 1 acre (43,560 square feet); Lot 3: 1.177 acres (51,270 square feet); Total: 2.177.

DATE OF PUBLIC NOTICE PUBLICATION: Thursday, August 16, 2007.

DATE OF PUBLIC HEARING: PLANNING BOARD: Thursday, September 6, 2007.
CITY COMMISSION: Tuesday, October 2, 2007.

EXISTING USE: Two vacant and undeveloped C-5 District lots.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The site is flat. Field grasses are the predominate site coverage, with some scattered trees throughout. Lot 2 is accessed from Carlson Street cul-de-sac. Lot 3 is accessed from US 24 Highway Frontage Road. The site is in the 100 Year Flood Plain.

SURROUNDING LAND USE AND ZONING:

- (1) **NORTH:** GTM Sportswear industrial building, vacant C-5 District lot and nonconforming residential dwelling; I-2 District and C-5 District.
- (2) **SOUTH:** Motel, US 24 Highway Frontage Road, US Highway 24 (E. Poyntz Avenue); C-5 District, I-3, Light Industrial District, and I-4, Heavy Industrial District.

Attachment No. 2

(3) EAST: Auction business, Enoch Lane, car dealership; C-5 District.

(4) WEST: Carlson Street, motels, vacant industrial park building, industrial research; C-5 and I-2 District.

GENERAL NEIGHBORHOOD CHARACTER: A mix of industrial park uses to the north and northeast of the site and service commercial uses to the east and south/southwest.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is zoned C-5 District and is suitable for C-5 District uses.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The area to the north and west is zoned I-2 District. The proposed change is consistent with industrial park uses off Carlson Street. I-2 and C-5 District abut one another in the area of the proposed rezoning and have co-existed for some period of time. No negative impacts have been reported. An increase in traffic, light, and noise can be expected, but are not unlike those, which currently exist.

CONFORMANCE WITH COMPREHENSIVE PLAN: The Future Land Use Map for the Northeast Planning Area designates the site as Community Commercial (CC) with IND, Industrial to the north.

The Community Commercial (CC) category policies are:

CC 1: Characteristics

Community Commercial Centers provide a mix of retail and commercial services in a concentrated and unified setting that serves the local community and may also provide a limited draw for the surrounding region. These centers are typically anchored by a larger national chain, between 120,000 and 250,000 square feet, which may provide sales of a variety of general merchandise, grocery, apparel, appliances, hardware, lumber, and other household goods. Centers may also be anchored by smaller uses, such as a grocery store, and may include a variety of smaller, complementary uses, such as restaurants, specialty stores (such as books, furniture, computers, audio, office supplies, or clothing stores), professional offices and health services. The concentrated, unified design of a community commercial center allows it to meet a variety of community needs in a “one-stop shop” setting, minimizing the need for multiple vehicle trips to various commercial areas around the community. Although some single use highway-oriented commercial activities will continue to occur in some areas, this pattern of development is generally not encouraged. (Chapter 4: Land Use and Growth Management, page 4-11)

CC 2: Location

Community Commercial Centers should be located at the intersection of one or more major arterial streets. They may be located adjacent to urban residential neighborhoods and may occur along major highway corridors as existing uses become obsolete and are phased out and redeveloped over time. Large footprint retail buildings (often known as “big-box” stores) shall only be permitted in areas of the City where adequate access and services can be provided. (Chapter 4: Land Use and Growth Management, page 4-11)

Policies of the Industrial (IND) category include:

I 1: Characteristics. *The Industrial designation is intended to provide locations for light and heavy manufacturing, warehousing and distribution, indoor and screened outdoor storage, and a wide range of other industrial services and operations. Typically, heavy industrial uses involve more intensive work processes, and may involve manufacturing or basic resource handling and/or extraction. Design controls within an Industrial area are not as extensive as in the Office/Research Park category and a broader range of uses is permitted. (Chapter 4: Land Use and Growth Management, page 4-15)*

I 2: Location. *Because of their potential environmental impacts, Industrial uses should generally be located away from population centers or must be adequately buffered. Traffic generated by industrial uses should not pass through residential areas. Sites should have access to one or more major arterials or highways capable of handling heavy truck traffic. Railroad access is also beneficial to certain types of heavy industrial uses. Light industrial uses can typically be located in areas that also contain some highway-oriented commercial uses, and might benefit from close proximity and better access to their local customer base. (Chapter 4: Land Use and Growth Management, page 4-15)*

I 3: Screening. *Storage, loading and work operations should be screened from view along all industrial area boundaries (when adjacent to non-industrial uses) and along all public streets. (Chapter 4: Land Use and Growth Management, page 4-15)*

The I-2 District allows manufacturing, research and industrial services consistent with the Comprehensive Plan. Lot 2 and Lot 3, MAA AMBA Addition, have remained vacant since rezoning to C-5 District. Rezoning of land adjacent to GTM Sportswear has been rezoned from C-5 to I-2 District to accommodate growth of the industry. The proposed rezoning is in general conformance with the Comprehensive Plan

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: Lot 2 and Lot 3 have remained vacant to date.

1969	Annexation.
1969-Present	C-5, Highway Service Commercial District.
August 2, 2004	Manhattan Urban Area Planning Board approves the Concurrent Plat (Preliminary and Final Plats) of the MAA AMBA Addition.
August 17, 2004	City Commission accepts the easements and rights-of-way of the Final Plat of the MAA AMBA Addition.

Project chronology of GTM Sportswear:

April 2, 2001 Manhattan Urban Area Planning Board recommends approval of the rezoning of the south 70 feet of Lot 1, Enoch Addition, from C-5 District, to I-2, Industrial Park District.

April 16, 2001 Manhattan Urban Area Planning Board approves Final Plat of the GTM Sportswear Addition, a Replat of Lot 1, Manko Addition, and Lot 1, Enoch Addition.

April 17, 2001 City Commission approves first reading of an ordinance rezoning of the south 70 feet of Lot 1, Enoch Addition, from C-5 District, to I-2, Industrial Park District.

May 1, 2001 City Commission considers approval of Ordinance No. 6207 rezoning of the south 70 feet of Lot 1, Enoch Addition, from C-5 District, to I-2, Industrial Park District; and acceptance of easements and rights of way on the Final Plat of the GTM Sportswear Addition.

March 20, 2006 Manhattan Urban Area Planning Board approves the rezoning of a portion of proposed Lot 1, GTM Sportswear Addition, Unit Two, from C-5, Highway Service Commercial District, to I-2, Industrial Park district; and approves the Concurrent Plat of GTM Sportswear Addition, Unit Two.

April 4, 2006 City Commission approves first reading of an ordinance rezoning a portion of proposed Lot 1, of GTM Sportswear Addition, Unit Two, from C-5 District, to I-2, Industrial Park District.

Attachment No. 2

April 18, 2006

City Commission approves Ordinance No. 6535 rezoning a portion of proposed Lot 1, of GTM Sportswear Addition, Unit Two, from C-5 District, to I-2, Industrial Park District; and accepts easements and rights of way of the Final Plat of GTM Sportswear Addition, Unit Two.

CONSISTENCY WITH INTENT AND PURPOSE OF THE ZONING ORDINANCE: The intent and purpose of the Zoning Regulations is to protect the public health, safety, and general welfare; regulate the use of land and buildings within zoning districts to assure compatibility; and to protect property values.

The intent of the I-2 District is to allow a district designed for a broad range of manufacturing and research activities in a large lot industrial park setting. Minimum lot area in the I-2 District is one (1) acre. The 2.177 acre tract will be combined with existing Lot 1, GTM Sportswear Addition, Unit Two, for a proposed expansion of the existing GTM facility. Proposed Lot 1, GTM Sportswear Addition, Unit Three, is 6.266 acres. The proposed rezoning is consistent with the intent and purposes of the Zoning Regulations.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: There appears to be no gain to the public that denial would accomplish. The proposed expansion of GTM Sportswear warehouse requires approval of a reduction of the front yard setback along Carlson Street, which must be approved by the Board of Zoning Appeals, prior to construction. It may be a hardship on the applicant if the rezoning is denied.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate public facilities and services are available to serve the site.

OTHER APPLICABLE FACTORS: The applicant has submitted a proposed Final Plat of the GTM Sportswear Addition, Unit Three, which will consist of existing Lot 1, GTM Sportswear Addition, Unit Two, and the two rezoning lots. The Final Plat is subject to approval by the Planning Board, based on the requirements of the Manhattan Urban Area Subdivision Regulations and approval of the proposed rezoning.

The Board of Zoning Appeals must approve an Exception for the proposed reduction of the front yard setback along Carlson Street, prior to the expansion of the GTM warehouse. The public hearing will be scheduled for the October 10, 2007, Board of Zoning Appeals meeting.

STAFF COMMENTS:

City Administration recommends approval of the proposed rezoning of Lot 2 and Lot 3, MAA AMBA Addition from C-5, Highway Service Commercial District, to I-2, Industrial Park District.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of Lot 2 and Lot 3, MAA AMBA Addition from C-5, Highway Service Commercial District, to I-2, Industrial Park District, stating the basis for such recommendation.
2. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
3. Table the proposed rezoning to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed rezoning of Lot 2 and Lot 3, MAA AMBA Addition from C-5, Highway Service Commercial District, to I-2, Industrial Park District, based on the findings in the Staff Report .

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: August 30, 2007

07096



INTER-OFFICE MEMORANDUM

DATE: August 27, 2007

TO: Manhattan Urban Area Planning Board

FROM: Steve Zilkie, AICP, Senior Planner

RE: Amend Manhattan Zoning Regulations to Change the Definition of the Term School

BACKGROUND

Manhattan-Ogden USD 383 Board of Education (attachment) has requested an Amendment of the term School as defined in the Manhattan Zoning Regulations. The applicant indicates that, "There is a national and state movement to expand the public school definition from kindergarten through 12th grade to prekindergarten through twelfth grade." In keeping with the national movement, "Kansas has required public schools to provide prekindergarten service for children with disabilities. The district is also required to have "typical peers" for special education students, thus regular preschool students are also served at district facilities. Preschool programs are at Head Start (Eugene Field), College Hill, and Amanda Arnold Elementary School. The four-year-at-risk grant and the current pre-kindergarten pilot grant indicate State support for early intervention. Public schools are expanding their mission to include early childhood programs."

The current definition of School provides for classes kindergarten through 12th grade. The definition does not include prekindergarten, or preK as proposed. To ensure that the term School, includes the mandated services, which public schools must now provide, the applicant has proposed to remove "K" and replace it with "preK". The revised definition of School is proposed to read:

"Any public or private facility which conducts regular classes *preK* through 12, or any portion thereof, and which meets the minimum educational standards set forth by the State of Kansas. In addition, school shall also include any publicly owned or operated vocational-technical institution. The term "School" shall not include Group Day Care Centers."

AMENDMENTS TO THE TEXT OF THE ZONING REGULATIONS

When a proposed amendment results in a change to the text of the Zoning Regulations, the report from the Planning Staff shall contain a statement as to the nature and effect of the proposed amendment, and determinations as to the following:

WHETHER SUCH CHANGE IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE ZONING REGULATIONS

The intent of the Zoning Regulations is to protect the public health, safety and general welfare, and to protect property values, through the creation of zoning districts in which land uses are controlled in order to be compatible with other nearby uses. The term School is defined in the Zoning Regulations and School is a Permitted Use in residential zoning districts or Conditional Use in several commercial zoning districts. A Permitted Use is permitted by right and assumed to be compatible with other uses in the same zoning district. A Conditional Use is allowed in a zoning district, but prior to the Use being established its impact on adjacent properties and neighborhoods is considered by the Board of Zoning Appeals to ensure compatibility and address, or mitigate, impacts. The proposed amendment is consistent with the intent and purposes of the Zoning Regulations.

The proposed amendment is consistent with the Zoning Regulations and modifies the intent of the term School to reflect the changing mission of Schools.

AREAS WHICH ARE MOST LIKELY TO BE DIRECTLY AFFECTED BY SUCH CHANGE AND IN WHAT WAY THEY WILL BE AFFECTED

Any zoning district in which Schools are a Permitted Use or Conditional Use, will be equally affected. Schools are a Permitted Use in all residential zoning districts, overlay districts to include the UO, University Overlay District, TNO, Traditional neighborhood Overlay District and M-FRO, Multi-Family Redevelopment Overlay District. Schools are a Conditional Use in the C-1, Restricted Business District, C-2, Neighborhood Shopping District, C-5, Highway Service Commercial District, and C-6, Heavy Commercial District.

In the City of Manhattan, public schools are located in residential districts with the exception of the East High School Campus on Poyntz Avenue, which is partially in the C-1 District. Some increases in traffic may be expected as schools expand services to the public. Minimal impact on neighborhood streets and the public street system should occur as a result of the expanded service. Manhattan Catholic Schools are private schools and Seven Dolores Grade School and Lucky Jr. High School may also be affected. Both schools are in residential a residential district.

WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN THE AREAS AND ZONING DISTRICTS AFFECTED, OR IN THE CITY PLANNING AREA, GENERALLY, AND IF SO, THE NATURE OF SUCH CHANGED OR CHANGING CONDITIONS

The State of Kansas requires that public schools provide prekindergarten services, which is part of a national and state trend. As the applicant notes, “The change has come about due to the increasing responsibility and expectations of public schools to expand programs to preschool students.”

WHETHER SUCH CHANGE IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE POLICY AND GOALS AS OUTLINED IN THE ADOPTED COMPREHENSIVE PLAN OF THE CITY

The Manhattan Urban Area Comprehensive Plan indicates areas within the City, which are for residential growth, existing and future, and public facilities, such as existing schools, which are shown on the Future Land Use Maps as Public/Semi Public. Schools are primarily within residential districts, which coincide with residential areas described in the Comprehensive Plan.

Provision for schools is addressed in Chapter 4, Land Use and Growth Management and in Chapter 6, Public Facilities and Services. As a public facility, the need for schools as a quality of life factor in the community is noted in Chapter 6 in the Background and Intent “*The availability of water, wastewater, fire protection and emergency management services, police protection, schools, parks and other utilities and services affects the safety and quality of life for residents and the economic stability of the City and County.*” (Page 6-1)

Applicable provisions in the Comprehensive Plan in Chapter 4 include:

Goal#1

Promote land use and development practices that consider current and future economic, social, and environmental impacts, ensuring the ability of future generations to meet their own needs. (Chapter 4, Land Use and Growth Management, page 4-1)

Guiding Principle

Coordinate and plan growth that meets the diverse needs of the community while proceeding in an orderly and efficient manner. (Chapter 4, Land Use and Growth Management, page 4-1)

Applicable policy:

UR 2: Neighborhood Focal Point

Urban Residential neighborhoods should contain and be designed around a focal point that includes neighborhood scale retail and services, public and institutional uses, including but not limited to schools, daycare facilities, community centers, places of worship, parks and open space. Depending on the location, a single neighborhood center can serve several nearby neighborhoods. (Chapter 4, Land Use and Growth management, page 4-5)

Applicable policy in Chapter 6:

PFS 6: Coordinate with School Districts

The City and County shall work closely with Manhattan Urban Area school districts to ensure that locations for future school sites are considered, as more detailed neighborhood level planning occurs for the future growth areas identified in the Comprehensive Plan. (Chapter 6, Public Facilities and Services, page 6-2)

The proposed amendment to the re-define the term School coordinates the efforts of the school district to provide mandated services while meeting the needs of the community, current and future. The proposed amendment conforms to the Comprehensive Plan.

ALTERNATIVES

It appears the MUAPB has the following alternatives concerning the issue at hand. The Board may:

1. Recommend approval of the proposed amendment to the City Commission.
2. Recommend denial of the proposed amendment to the City Commission.
3. Modify the proposed amendment and forward the modifications, along with an explanation, to the City Commission.
4. Table the public hearing to a specific date, and provide further direction to City Administration.

RECOMMENDATION

City Administration recommends approval of the amendment to the Manhattan Zoning Regulations to Article XVI, Construction and Definitions, Part 2, Definitions, Section 16-201, to amend the definition of the term School to re-place K with preK.

POSSIBLE MOTION

The Manhattan Urban Area Planning Board recommends approval of the amendment to the Manhattan Zoning Regulations to Article XVI, Construction and Definitions, Part 2, Definitions, Section 16-201, to amend the definition of the term School, as proposed, based on the findings in the Staff Memorandum.

07120