



MINUTES
CITY COMMISSION MEETING
TUESDAY, AUGUST 19, 2008
7:00 P.M.

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Mark Hatesohl and Commissioners Bob Strawn, James E. Sherow, and Tom Phillips were present. Also present were the City Manager Ron R. Fehr, Assistant City Manager Jason Hilgers, Assistant City Manager Lauren Palmer, City Attorney Bill Frost, City Clerk Gary S. Fees, 10 staff, and approximately 25 interested citizens.

PLEDGE OF ALLEGIANCE

Boy Scout Pack #273 led the Commission in the Pledge of Allegiance.

RECOGNITION

Mayor Hatesohl and City Manager Ron Fehr recognized the Citizens' Academy Participants for 2007-2008. Bobbie Drew, Peggy Frazier, Steve Frazier, Jud Gladin, Victoria Martin, Lauren Ritterbush, Johnette Shepek, and Bill Stensfors were present to receive their Certificates of Achievement.

PROCLAMATIONS

Mayor Hatesohl proclaimed August 18-22, 2008, ***Big Brothers Big Sisters of Manhattan Week***. Allison Loyd and Linda King Lake, Big Brothers Big Sisters Executive Board Members, were present to receive the proclamation.

Mayor Hatesohl proclaimed August 25-30, 2008, ***National Bowling Week***. Dave and Patty Zuck, Zuckey Bowl, were present to receive the proclamation.

COMMISSIONER COMMENTS

There were no Commissioner comments.

CONSENT AGENDA
(* denotes those items discussed)

MINUTES

The Commission approved the minutes of the Regular City Commission Meeting held Tuesday, August 5, 2008, and the Special City Commission Meeting held Tuesday, August 12, 2008.

CLAIMS REGISTER NO. 2588

The Commission approved Claims Register No. 2588 authorizing and approving the payment of claims from July 30, 2008, to August 12, 2008, in the amount of \$1,729,751.56.

LICENSE – FIREWORKS DISPLAY

The Commission approved a Fireworks Display License on August 29, 2008, for Purple Power Play on Poyntz, 100 Manhattan Town Center, Manhattan, Kansas.

FINAL PLAT – GTM SPORTSWEAR ADDITION, UNIT FOUR

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of GTM Sportswear Addition, Unit Four, generally located 275 feet north of the intersection of Enoch Lane and U.S. Highway 24, based on conformance with the Manhattan Urban Area Subdivision Regulations.

FINAL PLAT – MCCALL CATS PUD ADDITION

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of McCall Cats PUD Addition, generally located west of Hayes Drive, north of McCall Road and east of Hostetler Drive, based on conformance with the Manhattan Urban Area Subdivision Regulations.

ORDINANCE NO. 6714 – REZONE – LOTS 30A and 30B, HIGHLAND MEADOWS ADDITION, UNIT ONE

The Commission approved Ordinance No. 6714 rezoning Lots 30A and 30B, Highland Meadows Addition, Unit One, generally located 600 feet west of the intersection of Harland Drive and Highland Ridge Drive, from R-2, Two-Family Residential District, to R-3, Multiple-Family Residential District, based on the findings in the Staff Report (*See Attachment No. 1*).

FINAL PLAT – HIGHLAND MEADOWS ADDITION, UNIT FIVE

The Commission accepted the easements and rights-of-way, as shown on the Final Plat of Highland Meadows Addition, Unit Five, generally located 600 feet west of the intersection of Harland Drive and Highland Ridge Drive along the west side of Highland Ridge Drive, based on conformance with the Manhattan Urban Area Subdivision Regulations.

CONSENT AGENDA (CONTINUED)

* **ORDINANCE NO. 6715 – ADOPT – 2009 BUDGET**

Ron Fehr, City Manager, responded to questions from the Commission.

The Commission approved Ordinance No. 6715 adopting the 2009 City Budget.

* **ORDINANCE NO. 6716 – AMEND – WATER RATE STRUCTURE**

Ron Fehr, City Manager, responded to questions from the Commission.

The Commission approved Ordinance No. 6716 adopting the increase in rate structure of the water utility.

* **ORDINANCE NO. 6717 – AMEND – WASTEWATER RATE STRUCTURE**

Ron Fehr, City Manager, responded to questions from the Commission.

The Commission approved Ordinance No. 6717 adopting the increase in rate structure of the wastewater utility.

* **RESOLUTION NO. 081908-A – ADOPT – 2009-2014 CAPITAL IMPROVEMENTS PROGRAM**

Ron Fehr, City Manager, responded to questions from the Commission.

The Commission approved Resolution No. 081908-A adopting the 2009-2014 Capital Improvements Program.

ORDINANCE NO. 6718 – VACATE RIGHT-OF-WAY – JARDINE DRIVE (ADJACENT TO 1532 UNIVERSITY DRIVE)

The Commission approved Ordinance No. 6718 vacating a portion of Jardine Drive right-of-way adjacent to 1532 University Drive.

ORDINANCE NO. 6719 – NO PARKING – PRAIRIE LAKES ADDITION

The Commission approved Ordinance No. 6719 prohibiting parking along one side of all streets in all current and future units of the Prairie Lakes Addition.

RESOLUTION NO. 081908-B – TEMPORARY NOTE SERIES NO. 2008-02

The Commission accepted the best bid for selling the notes and approved Resolution No. 081908-B issuing Temporary Note Series No. 2008-02 in the amount of \$3,010,000.00 to finance the following nine (9) special assessment and capital projects to be debt financed: *Lee Mill Heights Addition, Unit 4, Phase 1, Storm Water (SM0703), Sanitary Sewer (SS0705), Street (ST0710), and Water (WA0706) Improvements; Silo Townhomes, Storm Water Improvements (SM0805); City Park Playground Renovation (CP820P); Downtown Redevelopment (North End) – Moro Street Improvements (ST0805); Southwest Fire Station Design (FRX75P); and Northwest Fire Station Design (FR775P).*

CONSENT AGENDA (CONTINUED)

NEGOTIATE CONTRACT – STONE POINTE PEDESTRIAN BRIDGE (SP0701)

The Commission accepted the recommendation of the Selection Committee and authorized City Administration to negotiate a contract with Olsson Associates, of Manhattan, Kansas, for the design of Stone Pointe Pedestrian Bridge (SP0701).

REVISED AGREEMENT – LINEAR PARK TRAIL REPAIR (PECAN CIRCLE)

The Commission approved the revised agreement between the City of Manhattan and NRCS for repair of the Linear Park Trail, Pecan Circle area of Wildcat Creek, for damage caused by the 2007 floods, with the City's share not to exceed \$57,500.00.

CHANGE ORDER NO. 1 – LEE MILL VILLAGE ADDITION – SANITARY SEWER IMPROVEMENTS (SS0704)

The Commission approved Change Order No. 1 for Lee Mill Village Addition, Sanitary Sewer Improvements (SS0704), resulting in a net increase in the amount of \$45,304.40 (+8.3 %) to the contract with Lutrell Construction Company, Inc. of Olathe, Kansas.

CHANGE ORDER NO. 1 – LEE MILL VILLAGE ADDITION – STORM SEWER IMPROVEMENTS (SM0702)

The Commission approved Change Order No. 1 for Lee Mill Village Addition Storm Sewer Improvements (SM0702), resulting in a net increase in the amount of \$134,507.66 (+26.5%) to the contract with Lutrell Construction Company, Inc. of Olathe, Kansas.

WAIVE FEES – MANHATTAN AREA HOUSING PARTNERSHIP – BROOKFIELD ADDITION

The Commission approved the request from the Manhattan Area Housing Partnership to waive building permit fees and have the City of Manhattan finance the water and sewer hook-up fees and the sanitary sewer interceptor fee for eight (8) residential units in the Brookfield subdivision.

* WAIVE FEES – HOMECARE HOSPICE – GRAND MERE DEVELOPMENT

Lowell Kohlmeier, Vice Chair, Board of Trustees, Homecare and Hospice Foundation, provided additional information on the status of fundraising efforts.

The Commission approved the request from Homecare and Hospice to waive building permit fees and have the City of Manhattan finance the water and sewer hook-up fees for its development in Grand Mere.

CONSENT AGENDA (CONTINUED)

After discussion, Commissioner Sherow moved to approve the consent agenda, as read. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 4-0, with the exception of Item D, *Final Plat of GTM Sportswear Addition, Unit Four*, and Item E, *Final Plat of McCall Cats PUD Addition*, which carried 3-0, with Commissioner Strawn abstaining; and, with the exception of Item H (1), *2009 City Budget*, and Item H (4), *2009-2014 Capital Improvements Program*, which carried 3-1, with Commissioner Strawn voting against the items.

GENERAL AGENDA

FINAL CONSIDERATION - ECONOMIC DEVELOPMENT APPLICATION - GE AVIATION

Lauren Palmer, Assistant City Manager, presented the economic development funding criteria, proposed incentive package, job and wage requirements, annual accountability provisions, updated clawback provisions, performance grant, return on investment, average starting salaries, and significant aspects of the proposal. She then answered questions from the Commission regarding the rate of return and positions to be hired locally by GE Aviation.

Ron Fehr, City Manager, responded to questions from the Commission and clarified the return on investment to the City.

Maritza Murguita, representing GE Aviation, informed the Commission of her position with GE Aviation and stated that the investment in their company will be a really good investment for the City, Kansas State University, and the community.

After discussion, Commissioner Strawn moved to authorize the Mayor and City Clerk to execute an Economic Development Incentives Agreement with GE Aviation based upon the outline of incentives that includes a forgivable loan and a performance grant. Commissioner Phillips seconded the motion. On a roll call vote, motion carried 4-0.

FIRST READING – REZONE - 1017- 1019 HOSTETLER DRIVE

Eric Cattell, Assistant Director for Planning, presented the item.

Mark Bachamp, Schultz Development, provided additional background information on the rezoning request, presented an aerial sketch of the Kentucky Fried Chicken (KFC) restaurant and traffic flow, and provided photos of the exterior and interior of the facility. He informed the Commission that Dean Leonida, owner of KFC, was present to answer any questions.

GENERAL AGENDA (CONTINUED)

FIRST READING – REZONE - 1017- 1019 HOSTETLER DRIVE (CONTINUED)

Ron Fehr, City Manager, responded to questions from the Commission regarding the corridor study and anticipated improvements that will need to be made to accommodate future growth.

After discussion, Commissioner Sherow moved to approve first reading of an ordinance rezoning a 1.6 acre tract of land, generally located at 1017 and 1019 Hostetler Drive, from I-2 Industrial Park District, to C-5, Highway Service Commercial District, based on the findings in the Staff Report (*See Attachment No. 2*). Commissioner Strawn seconded the motion. On a roll call vote, motion carried 4-0.

FIRST READING – AMEND - THE FINAL DEVELOPMENT PLAN – and REZONE - K-MART, COMMERCIAL PLANNED UNIT DEVELOPMENT

Eric Cattell, Assistant Director for Planning, presented the item and answered questions from the Commission.

After discussion, Commissioner Sherow moved to approve first reading of an ordinance amending the Final Development Plan of the K-Mart Commercial Planned Unit Development and Ordinance No. 4635; as proposed, based on the findings in the Staff Report (*See Attachment No. 3*), with the one condition of approval, as recommended by the Manhattan Urban Area Planning Board; and, approve first reading of an ordinance rezoning a 1,302 square foot tract of land, generally located at 401 E. Poyntz Avenue, from PUD, Commercial Planned Unit Development District, to C-5, Highway Service Commercial District, based on the findings in the Staff Report (*See Attachment No. 4*). Commissioner Phillips seconded the motion. On a roll call vote, motion carried 4-0.

FIRST READING - PROCESS FOR PUBLIC IMPROVEMENT CONTRACTS

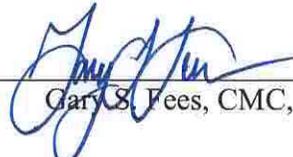
Bill Frost, City Attorney, presented the item and responded to questions regarding the proposed Charter Ordinance and process.

Ron Fehr, City Manager, provided additional information about the process for public improvement contracts and stated that certain projects will lend to an alternative process.

After additional discussion, Commissioner Phillips moved to approve first reading of a Charter Ordinance regarding the process for developing public improvement contracts. Commissioner Sherow seconded the motion. On a roll call vote, motion carried 4-0.

ADJOURNMENT

At 8:08 p.m. the Commission adjourned.



Gary S. Fees, CMC, City Clerk

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: R-2, Two-Family Residential District

TO: R-3, Multiple-Family Residential District

APPLICANT: Schultz Development, Inc.

ADDRESS: 1213 Hylton Heights Road, Suite 129, Manhattan, Kansas 66502

OWNERS: Highland Ridge Partners, III, LLC

ADDRESS: 2850 S.W. Mission Woods Drive, Topeka, Kansas 66641

LOCATION: generally located on two vacant tracts of land approximately 600 feet west of the intersection of Harland Drive and Highland Ridge Drive and along the west side of Highland Ridge Drive. The property is more particularly described as Lot 30A and Lot 30B, Highland Meadows, Unit One, an Addition to the City of Manhattan, Riley County, Kansas.

AREA: 18,943 square feet (.43 acres)

DATE OF PUBLIC NOTICE PUBLICATION: Monday, June 30, 2008

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, July 21, 2008

CITY COMMISSION: Tuesday, August 5, 2008

EXISTING USE: Vacant residential building sites

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The site is relatively flat and consists of two (2) platted residential lots designed for single-family attached structures. The site slopes gradually to the west to an existing drainage ditch, which drains to Wildcat Creek further north of the site.

SURROUNDING LAND USE AND ZONING:

Attachment No. 1

- (1) NORTH: multiple-family apartment complex under construction, Wildcat Creek, Wildcat Creek Road,; R-3, Multiple-Family Residential District and Riley County G-1, General Agriculture.
- (2) SOUTH: Single-family attached and single-family detached homes; R-2, Two-Family Residential District and R-1, Single-Family Residential District.
- (3) EAST: Highland Ridge Drive and single-family attached homes; R-2, Two-Family Residential District.
- (4) WEST: Agricultural grazing and range land, rural residential single-family homes on large tracts of land; Riley County G-1, General Agriculture District.

GENERAL NEIGHBORHOOD CHARACTER: The site is in a developing neighborhood with single-family detached, single-family attached homes to the east and south and a multiple-family apartment complex to the north. To the west of the site, the area is agricultural in nature with grazing and range land.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The R-2, Two-Family Residential District permits single-family detached, single-family attached and two-family residential dwellings as well as churches, chapels, temples and synagogues, group homes, parks and playgrounds and schools. The site is suitable for the single-family attached dwellings, as platted.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: In general, the R-3 District is compatible with the adjoining properties. The existing R-3 District was previously approved in 2005 and the rezoning reflects a minimal expansion to the existing R-3 District. No adverse impacts on adjoining property are expected.

The applicant's intent is to utilize the rezoning site so that an accessory use for a swimming pool and a small maintenance building with two bathrooms can be constructed to serve the multiple-family apartment complex under construction. The rezoning site is proposed to be replatted with Lot 31, zoned R-3 District, to the north so that the accessory use can be located on the same lot as the principal structure, the apartment building under construction. The accessory improvements will be an amenity to the apartment complex and in character with the Highland Meadow community. An increase in light and noise can be expected from the seasonal use, particularly during the summer months. During the cooler months and winter, the proposed use will be closed and not in use. No traffic impacts are expected, since the proposed swimming pool will only serve the apartment buildings to the north and northeast, which are within walking distance of the pool.

Attachment No. 1

While the accessory use is not required to be screened with a six foot screening fence, as some accessory uses such as off-street parking are required to be screened, the International Building Code requires a four foot fence with self-locking gate. In addition, the accessory use minimum front yard setback is 60 feet from the front lot line along Highland Ridge Drive. Minimum side yard setback is three feet, except a minimum ten foot setback will be required due to a proposed ten foot utility easement. Minimum rear yard setback from the west lot line is five feet, except the rear setback will be a minimum of 20 feet from the west rear lot line due to a proposed 20 foot utility easement. There is no adjoining lot line to the immediate north and the accessory use will be in proximity to the south side of the apartment building under construction.

CONFORMANCE WITH COMPREHENSIVE PLAN: The site **IS SHOWN ON THE FUTURE LAND USE MAP IN THE SOUTHWEST PLANNING AREA AS AGRICULTURE. HOWEVER, THE ENTIRE HIGHLAND MEADOWS ADDITION DEVELOPMENT WAS CONSIDERED TO BE IN A GROWTH CORRIDOR, REFLECTED BY THE PRESENCE OF RESIDENTIAL HIGH DENSITY (RHD) AREAS ON BOTH THE EAST AND WEST SIDE OF SCENIC DRIVE, AND BECAUSE OF THIS, THE SITE, AND SURROUNDING AREAS TO THE NORTH, EAST AND SOUTH WERE ANNEXED, REZONED AND PLATTED IN LATE 2004 AND EARLY 2005.**

The policies for the RHD Land Use category include:

RHD 1: Characteristics

The Residential High Density designation is designed to create opportunities for higher density neighborhoods in both an urban downtown setting and a suburban setting. Within an urban or downtown setting, the designation accommodates higher-intensity residential housing products, such as mid to high-rise apartments, townhomes and condominiums, combined with complementary non-residential land uses, such as retail, service commercial, and office uses, often within the same building. In other areas of the community, Residential High Density neighborhoods can be accommodated in a less vertical or urban fashion, such as in planned apartment communities with complimentary neighborhood service commercial, office and recreational facilities. These neighborhoods could be implemented through a Planned Unit Development or by following design and site plan standards (design review process).

RHD 2: Appropriate Density Range

Possible densities under this designation are 19 dwelling units per net acre and greater.

RHD 3: Location

Residential High Density uses are typically located near intersections of arterials and collector streets, sometimes providing a transition between commercial or employment centers and lower density neighborhoods. High-density neighborhoods should not be located in settings where the only access provided consists of local streets passing through lower density neighborhoods. In a more urban or downtown setting, residential high density may be combined with active non-residential uses in a vertically mixed-use building.

RHD 4: Building Massing and Form

Plain, monolithic structures shall be avoided. Infill projects should be compatible with the established mass and scale of other buildings along the block. In a planned apartment community context, large buildings shall be designed with a variety of wall planes and roof forms to create visual interest.

RHD 5: Mix of Uses

Non-residential uses should generally not exceed 25% of the total floor area in a mixed-use structure.

RHD 6: Parking Location and Design

Within an established urban neighborhood, such as the downtown core, adequate off-street parking should be located behind buildings or within mixed-use parking structures.

RHD 7: Structured Parking

Structured parking garages, often necessary for this type of development intensity, should be designed with a similar level of architectural detail as the main building. Incorporating active uses, such as retail spaces, into the ground floor is strongly encouraged, particularly in downtown settings.

The proposed rezoning to R-3 District conforms to the Comprehensive Plan as previously determined with the Highland Meadows subdivision in 2004. The area was annexed, zoned and platted in response to the market demand for a variety of residential uses.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:

December 6, 2004 – The Manhattan Urban Area Planning Board recommended approval of the request to annex Highland Meadows Addition and zone the site as R-2, Two-Family Residential District. The Manhattan Urban Area Planning Board approved the Preliminary Plat of Highland Meadows Addition, Unit One.

Attachment No. 1

January 27, 2005 –The Board of Riley County Commissioners signed the development agreement with the applicant and made its findings determining that the annexation will not hinder or prevent proper growth and development of the area or that of any other area incorporated cities within Riley County.

February 15, 2005 – City Commission approved first reading of the ordinance to annex Highland Meadows Addition and zone the site as R-2, Two-Family Residential District.

February 24, 2005 - Manhattan Urban Area Planning Board considered the approval of the Final Plat of the Highland Meadows Addition, Unit One.

March 1, 2005 - City Commission approved second reading of the ordinance to annex Highland Meadows Addition and zone the site as R-2, Two-Family Residential District and accept the easements and right-of-ways on the Final Plat of Highland Meadows Addition, Unit One.

The site has been graded for construction of residential buildings, but has remained vacant since the lots were rezoned and platted.

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 R-3 District (*R-3 District regulations attached*) is designed to provide a dwelling zone at a density no less than one (1) dwelling unit per 1,000 square feet. The site is proposed to be combined with Lot 31, Highland Meadows Addition, Unit One to create one lot in the Final Plat of Highland Meadows Addition, Unit Five, which will contain 3.16-acres. The proposed Lot 1, Highland Meadows Addition, Unit Five is sufficient in area for the proposed R-3 District.

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 relative gain to the public, which denial would accomplish. No adverse impacts to the public are expected. There may be a hardship to the applicant if the rezoning is denied.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES:

Adequate street, sanitary sewer and water services are available to serve the proposed rezoning site.

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS:

City Administration recommends approval of the proposed rezoning of Lots 30A and 30B, Highland Meadows Addition, Unit One from R-2, Two-Family Residential District to R-3, Multi-Family Residential District.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of Lots 30A and 30B, Highland Meadows Addition, Unit One from R-2, Two-Family Residential District, to R-3, Multi-Family Residential 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 Lots 30A and 30B, Highland Meadows Addition, Unit One from R-2, Two-Family Residential District, to R-3, Multi-Family Residential District, based on the findings in the Staff Report.

PREPARED BY: Chad Bunger, Planner

DATE: July 14, 2008

CB/vr
08045

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: I-2, Industrial Park District.

TO: C-5, Highway Service Commercial District.

APPLICANT: Schultz Development Inc. – Mark Bachamp as Agent for Owner.

ADDRESS: 1213 Hylton Heights Road, Ste. 129, Manhattan KS 66502.

OWNER: I. E. A. Dannatt.

ADDRESS: P.O. Box 2016, Manhattan KS 66505-2016.

LOCATION: 1017 and 1019 Hostetler Drive.

AREA: An unplatted tract of land, approximately 1.6 acres in area, located in Section 7, Township 10 South, Range 8 East.

DATE OF PUBLIC NOTICE PUBLICATION: Monday, July 14, 2008.

DATE OF PUBLIC HEARING: PLANNING BOARD: Monday, August 4, 2008.

CITY COMMISSION: Tuesday, August 19, 2008.

EXISTING USE: Building contracting business at 1017 Hostetler Drive and auto glass repair 1019 Hostetler Drive. The applicant has indicated that if the rezoning is approved the building at 1017 Hostetler Drive will be demolished with the intent to construct a drive-in restaurant on the south part of the site. The building at 1019 Hostetler Drive will remain.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: A relatively flat tract of land covered with field grass, lawn and scattered trees. The tract drains to the east to Hostetler Drive. The tract is located in the 100 Year Flood Plain. The 100 Year Flood Plain's Base Flood Elevation in the industrial park is 1008 feet above sea level. The lowest enclosed floor for new construction and substantial improvements must be one (1) foot above the Base Flood Elevation, or at 1009 feet above sea level.

Attachment No. 2

The building at 1017 Hostetler Drive was originally built in 1980. An addition to the building was built in 1984. The building's front is oriented to Hostetler Drive, which is served by two curb cuts off a circular driveway along the west side of Hostetler Drive. Outdoor storage is to the rear or the west side off the building and enclosed by chain link fencing and accessed from the southern curb cut. Off-street parking is associated with the use and located in front of the building and the north side of the building. Because the building was originally built in 1980, prior to adoption of Flood Plain regulations, it is likely nonconforming to the required minimum lowest enclosed floor elevation; however, the building is proposed to be demolished if the rezoning is approved.

The building at 1019 Hostetler Drive was constructed with nine separate suites accessed from a single curb cut off Hostetler Drive leading to the building's front, which is oriented towards the south. Off-street parking is on the south side of the building's front entrances. Two suites are occupied by an auto glass business and the remaining suites are vacant. The existing building is conforming to the minimum lowest enclosed floor requirement and constructed at 1009.40 feet.

SURROUNDING LAND USE AND ZONING:

- (1) **NORTH:** Plumbing contractor, vacant lots, and utility, contractors and warehouse buildings; I-2 District.
- (2) **SOUTH:** Drive-in and eat in restaurants (Pizza Hut, Taco Bell, Wendy's and IHOP restaurants), McCall Road, Super Wal-Mart; Super Wal-Mart Commercial Planned Unit Development District (PUD) and Limey Pointe Commercial PUD.
- (3) **EAST:** Contractors and future hotel, auto repair, and restaurant; I-2 District and McCall Cats Commercial PUD.
- (4) **WEST:** City storm water detention; I-2 District.

GENERAL NEIGHBORHOOD CHARACTER: The general character of the neighborhood is a mix of industrial park, light industrial and highway service commercial uses. The neighborhood to the south along Hostetler Drive, and along Hayes Drive and McCall Road is developing with retail and highway service commercial uses.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The I-2 District minimum lot size is one (1) acre. The proposed rezoning site exceeds the minimum lot size for permitted and conditional uses in the I-2 District and is suitable for industrial development. Multiple industrial buildings on the same tract of land are allowed in the I-2 District.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed C-5 District is compatible with highway service commercial oriented businesses in the surrounding area. The site is located north of a major street, McCall Road, and in close proximity to a second major street, Tuttle Creek Boulevard. Increases in traffic, light and noise will be consistent with existing and future conditions in the neighborhood.

6. CONFORMANCE WITH COMPREHENSIVE PLAN: The Future Land Use Map for the Northeast Planning Area designates the site as Community Commercial (CC). Applicable 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;
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- 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 C-5 District is in general conformance to the Comprehensive Plan. The single-use highway service activity is generally discouraged to reduce multiple vehicle trips. The proposed rezoning site is limited in area and is an example of a single-use site that the Plan also recognizes may occur in the area. It is similar to C-5 District rezonings, which were approved to the southeast of the intersection of Hayes Drive and McCall Road.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED: Annexation occurred on April 2, 1969 (Ordinance No. 2632).

1969-1970 I-3, Light Industrial District.

1970-2008 I-2 District.

Buildings were built on the site in 1980, 1984 and 2006-2007.

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 C-5 District is designed to provide for businesses offering accommodations, supplies, or services to motorists, and for certain specialized activities which require access to major streets and highways. The site is north and easily accessible to a major street, McCall Road, and in close proximity to Tuttle Creek Boulevard, a second major street.

The proposed rezoning is consistent with the intent of the C-5 District.

RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE APPLICANT: The proposed rezoning site is located in close proximity to the City's public water well fields. The C-5 District allows underground storage of liquid fuel, such as gasoline associated with an automobile service station or convenience store. On July 1, 2003, the City Commission modified the Code of Ordinances and established limits that prohibit new underground tanks a safe distance from water wells that supply the City of Manhattan with its drinking water. The proposed rezoning site will be within the limits and underground storage tanks are prohibited. No other adverse impacts to the public should be expected as a result of the rezoning. Denial of the request may be a hardship upon the applicant.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate streets, sanitary sewer, and water are available to serve the site. No sidewalks exist on the street frontage north of McCall Cats PUD and Limey Pointe PUD. Sidewalk is built on the west side of Hostetler Drive in the Limey Pointe PUD.

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS:

City Administration recommends approval of the proposed rezoning of 1017 Hostetler Drive and 1019 Hostetler Drive from I-2, Industrial Park District, to C-5, Highway Service Commercial District, based on the findings in the Staff Report.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of 1017 Hostetler Drive and 1019 Hostetler Drive from I-2, Industrial Park District, to C-5, Highway Service Commercial 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 1017 Hostetler Drive and 1019 Hostetler Drive from I-2, Industrial Park District, to C-5, Highway Service Commercial District, based on the findings in the Staff Report .

PREPARED BY: Steve Zilkie, AICP, Senior Planner

DATE: July 29, 2008

STAFF REPORT

ON AN APPLICATION TO AMEND THE APPROVED PLANNED UNIT DEVELOPMENT (PUD) OF K-MART COMMERCIAL PLANNED UNIT DEVELOPMENT AND ORDINANCE NO. 4635.

BACKGROUND

APPLICANT: Justin Zarger

ADDRESS: 11525 Luning Road, Saint George, KS 66502.

OWNER: MKKM, LLC.

ADDRESS: 4901 Warnall Road, Suite 10, Kansas City, MO 64112.

LOCATION: K-Mart Shopping Center at 401 E. Poyntz Avenue.

AREA: 9.37-acres; Lot 1, KMART Addition.

DATE OF PUBLIC NOTICE PUBLICATION: July 14, 2008

DATE OF PUBLIC HEARING: PLANNING BOARD: August 4, 2008

CITY COMMISSION: August 19, 2008

DESCRIPTION OF PROPOSED AMENDMENT: The proposed amendment to the
Final

Development Plan of the K-Mart Commercial Planned Unit Development (PUD) is the result of the need to subdivide an approximate 1,302 square foot tract from the PUD and rezone it to C-5, Highway Service Commercial District, so it can be added to proposed Lot 2, KMART Addition, Unit 2. The applicant wants to purchase proposed Lot 2, where his existing machine shop business is located. Because of the reduction of lot area for the existing Lot 1, KMART Addition and the alteration of the landscaping plan for the PUD, the Final Development Plan needs to be Amended. No other amendments, additions or expansion is proposed for the K-Mart Commercial PUD.

MATTERS TO BE CONSIDERED WHEN AMENDING A PLANNED UNIT DEVELOPMENT

WHETHER THE PROPOSED AMENDMENT IS CONSISTENT WITH THE INTENT AND PURPOSE OF THE APPROVED PUD, AND WILL PROMOTE THE EFFICIENT DEVELOPMENT AND PRESERVATION OF THE ENTIRE PUD: The proposed amendment is consistent with the intent of the approved PUD, a major retail shopping district, which includes a department store, garden center, hardware store and vacant auto service center. The amendment reduces the existing lot area by 1,302 square feet so the tract of land can be added to the proposed Lot 2 of the KMART Addition, Unit 2, to meet the required width of thirty (30) feet for access in the pole portion of the flag lot associated with proposed Lot 2, KMART Addition, Unit 2. The proposed amendment is a minimal reduction of the amount of existing landscape in the PUD. No other changers to the PUD are proposed.

WHETHER THE PROPOSED AMENDMENT IS MADE NECESSARY BECAUSE OF CHANGED OR CHANGING CONDITIONS IN OR AROUND THE PUD, AND THE NATURE OF SUCH CONDITIONS: The proposed amendment is necessary to allow the applicant to purchase the property where his existing machine shop is located. In order for the proposed flag lot of Lot 2, KMART Addition, Unit 2, to conform to the Subdivision Regulations, the pole portion must have a minimum width of thirty (30) feet. To meet this requirement, approximately 1,302 square feet of Lot 1 of the Planned Unit Development must be purchased and combined with the proposed flag lot.

WHETHER THE PROPOSED AMENDMENT WILL RESULT IN A RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE, AND IS NOT GRANTED SOLELY TO CONFER A SPECIAL BENEFIT UPON ANY PERSON: No specific gain to the public is found; however, no public improvements or easements are adversely affected. The proposed amendment will not be granted as a special benefit to any one person. The amendment will provide proposed Lot 2, KMART Addition, Unit 2, with the required minimum width for the pole portion of the proposed flag lot. This will provide the needed access to the existing business for customers and emergency response.

**ADDITIONAL MATTERS TO BE CONSIDERED WHEN
AMENDING A PLANNED UNIT DEVELOPMENT**

1. LANDSCAPING: The proposed landscaping plan reflects the reduction in lot area and open landscaped space at the northwest corner of the lot. The proposed landscaping plan has a total area of landscape open space of approximately 27,258 square feet, or 6.7%, a reduction of 0.3%. The most recent landscape plan for the K-Mart Commercial PUD shows open lawn areas around the permitted of the lot along Sarber Lane, Frontage Road at the rear of the lot to the north. Within these lawn areas are a mix of deciduous trees. Within the parking lot areas, landscape islands are present that have deciduous trees and juniper evergreen groundcover. All landscape areas are currently has underground irrigation. Other than the proposed reduction in area, the landscape plan remains unchanged.

2. SCREENING: The proposed Amendment does not alter the existing screening plan for the commercial shopping center.

3. DRAINAGE: The proposed Amendment does not alter drainage. The site drains to storm sewer inlets in the parking lot, which connect to off-site underground storm sewer pipes

4. CIRCULATION:

Access

The site is accessed from two curb cuts off Sarber Lane and a main entrance and secondary entrance off East Poyntz Avenue (US 24 Highway) Frontage Road. Sidewalks do not exist along street frontages. No changes to circulation are proposed.

Access to the PUD is also from Town East shopping center to the east of the K-Mart Commercial PUD, since the parking lots adjoin one another.

Off-Street Parking

The proposed Amendment does not alter the existing number of off-street parking spaces associated with the commercial shopping center. The existing number of off-street parking spaces is 538 and 482 spaces during March 1 and October 1, when the outdoor seasonal display area is in operation.

5. OPEN SPACE AND COMMON AREA: There is no common area/open space in the K-Mart Commercial PUD.

6. CHARACTER OF THE NEIGHBORHOOD: The area is characterized by a mix of retail and service commercial uses along East Poyntz Avenue and Sarber Lane. Some commercial areas are characterized as shopping centers and some are individual sites. Industrial manufacturing uses are in the neighborhood, but not along the same access routes as the retail and service commercial uses.

EXISTING USE: K-Mart Commercial PUD: discount department store with garden center, hardware store and vacant auto service center.

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The PUD is a developed retail shopping area with off-street parking lots, access drives and parking lot landscape islands and perimeter landscaping. Existing building pads are in the 100 Year Flood Plain. The Base Flood Elevation is 1008 feet. The approved Final Development Plan indicates that lowest enclosed floor elevations are between 1008 feet and 1009 feet. Existing buildings are legally nonconforming to the current elevation requirement, which requires one foot of elevation above 1008 feet. Substantial improvements to existing buildings require the lowest enclosed floor to be at least one foot above 1008 feet, or a minimum elevation of 1009 feet.

SURROUNDING LAND USE AND ZONING:

- (1) **NORTH:** Highway service commercial uses, including automotive service businesses, C-5, Highway Service Commercial District.
- (2) **SOUTH:** Sarber Lane, Sarber Lane, restaurant, grocery and furniture stores, auto repair; PUD and C-5 District.
- (3) **EAST:** K-Mart Shopping Center, Town East retail shopping center, undeveloped highway service commercial lot: PUD, C-2, Neighborhood Shopping District and C-5 District.
- (4) **WEST:** Machine shop, automotive repair businesses and retail shopping center; C-5 District and PUD.

GENERAL NEIGHBORHOOD CHARACTER: The neighborhood is a mix of service commercial and retail uses. The service commercial uses include automotive repair businesses, and a machine shop. The retail uses in the general area include the K-Mart Shopping Center, Town East Shopping Center, the shopping center where Hobby Lobby, and Hastings Book and Video store is located, a grocery store and a Furniture Store. Also in the area is a family restaurant.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The site is suitable for the permitted uses.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed Amendment should not adversely impact surrounding properties. The adjoining property to the east is Town East shopping center, which is zoned C-2, Neighborhood Shopping District, and undeveloped C-5, Highway Service Commercial District. The shopping center consists of an "L" shaped building abutting the eastern wall of the hardware store building and a vacant C-5 lot, in the southwestern corner of the Town East shopping center. To the south are East Poyntz Avenue right-of-way and railroad tracks. To the north is an industrial park. To the west is Sarber Lane right-of-way, a restaurant, existing furniture stores, grocery store and auto service related services. The proposed Amendment reduces the existing lot size by 1,302 square feet in area. The area of the Landscape Plan that is affected by the amendment is an open, manicured lawn area and should not cause a detrimental effect on adjacent properties if the lawn was removed. No changes to the Permitted Uses, site design, access or parking is proposed with this Amendment.

CONFORMANCE WITH COMPREHENSIVE PLAN: The Manhattan Urban Area Comprehensive Plan identifies the K-Mart Shopping Center as Community Commercial (CC), which is a mix of retail and commercial services in a unified setting that serves the entire community. The proposed Amendment to the PUD will continue these types of activities and conforms to the Comprehensive Plan.

The proposed Amendment is generally in conformance with the Comprehensive Plan.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:

- 1969: Annexed and zoned C-5, Service Commercial District, and I-2, Industrial Park District.
- 1973: Rezoned to Planned Unit Development for K-Mart, auto service and outdoor garden and food store.
- 1985: Amendment to add floor space to Food-4-Less building.
- 1987: Amendment to expand outdoor K-Mart garden center.
- 1990: Rezoned to a new Commercial Planned Unit Development in order to expand the existing K-Mart, alter landscaping, and to allow an automobile service center.
- 1997: Amend signage for auto service center.
- 2003: Amend signage and landscaping plans.
- 2006: MUAPB conducts public hearing on October 16, 2006, and recommends denial of an Amendment to the K-Mart Commercial PUD. Applicant withdraws application.
- November 2, 2006: New revised amendment application submitted.
- December 18, 2006: MUAPB conducts public hearing on revised amendment proposal to add C-2 District uses and define seasonal display areas, modify the façade and wall signage, reduce parking and modify the landscape plan. MUAPB recommends approval with 12 conditions.
- December 26, 2006: City Clerk's Office receives protest petition from Chris Curtin, which is determined to be valid.
- January 9, 2007: City Commission considers first reading of an ordinance amending the K-Mart Commercial PUD as proposed. Protest petition withdrawn by Chris Curtin. City Commission, on a vote of 5-0, overrides the Planning Board's recommendation and approves first reading of an ordinance amending the K-Mart Commercial PUD as proposed, with 11 conditions in Staff Report and with the revised 12th condition recommended by City Administration.

January 23, 2007: City Commission approves Ordinance No. 6603 amending the K-Mart Commercial PUD as proposed, with 11 conditions in Staff Report and revised 12th condition recommended by City Administration.

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 PUD Regulations are intended to provide a maximum choice of living environments by allowing a variety of housing and building types; a more efficient land use than is generally achieved through conventional development; a development pattern that is in harmony with land use density, transportation facilities and community facilities; and a development plan which addresses specific needs and unique conditions of the site which may require changes in bulk regulations or layout.

The proposed Amendment is consistent with the intent and purposes of the Zoning Regulations, and the intent of the PUD 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 relative gain to the public, which denial would accomplish. No adverse impacts to the public are expected. There may be a hardship to the applicant if the amendment is denied.

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

OTHER APPLICABLE FACTORS: None.

STAFF COMMENTS:

City Administration recommends approval of the proposed Amendment(s) of the K-Mart Commercial Planned Unit Development and Ordinance No. 4635, with one (1) condition of approval.

1. The 1,302 square foot tract of land located at the northwest corner of Lot 1, KMART Addition shall be rezoned from PUD, Commercial Planned Unit Development to C-5, Highway Service Commercial District.

ALTERNATIVES:

1. Recommend approval of the proposed Amendment(s) of the K-Mart Commercial Planned Unit Development and Ordinance No. 4635, stating the basis for such recommendation.
2. Recommend denial of the proposed Amendment of the K-Mart Commercial Planned Unit Development and Ordinance No. 4635 stating the specific reasons for denial.
3. Table the proposed Amendment to a specific date, for specifically stated reasons.

POSSIBLE MOTION:

The Manhattan Urban Area Planning Board recommends approval of the proposed Amendment of the K-Mart Commercial Planned Unit Development and Ordinance No. 4635, based on the findings in the Staff Report, with the one (1) condition of approval as recommended by City Administration.

PREPARED BY: Chad Bunger, Planner

DATE: July 25, 2008

CB/vr
08057

STAFF REPORT

ON AN APPLICATION TO REZONE PROPERTY

FROM: Commercial PUD, Planned Unit Development

TO: C-5, Highway Service Commercial District

APPLICANT: Justin Zarger

ADDRESS: 11525 Luning Road, Saint George, KS 66502.

OWNER: MKKM, LLC.

ADDRESS: 4901 Warnall Road, Suite 10, Kansas City, MO 64112.

LOCATION: K-Mart Shopping Center at 401 E. Poyntz Avenue.

AREA: 1,302 square feet of Lot 1, KMART Addition

DATE OF PUBLIC NOTICE PUBLICATION: July 14, 2008

DATE OF PUBLIC HEARING: PLANNING BOARD: August 4, 2008

CITY COMMISSION: August 19, 2008

EXISTING USE: Open, landscape area associated with the driveway and parking spaces of the K-Mart Shopping Center

PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS: The area to be rezoned is a relatively flat, manicured lawn area associated with the driveway and parking spaces on the northwest corner of the K-Mart Shopping Center.

SURROUNDING LAND USE AND ZONING:

- (1) **NORTH:** Highway service commercial uses, including automotive service businesses, C-5, Highway Service Commercial District.
- (2) **SOUTH:** Sarber Lane, restaurant, grocery and furniture stores, auto repair; PUD and C-5 District.

- (3) **EAST:** K-Mart Shopping Center, Town East retail shopping center, undeveloped highway service commercial lot: PUD, C-2, Neighborhood Shopping District and C-5 District.
- (4) **WEST:** Machine shop, automotive repair businesses and retail shopping center; C-5 District and PUD.

GENERAL NEIGHBORHOOD CHARACTER: The neighborhood is a mix of service commercial and retail uses. The service commercial uses include automotive repair businesses, and a machine shop. The retail uses in the general area include the K-Mart shopping center, Town East shopping center, the shopping center where Hobby Lobby, and Hastings Book and Video store is located, a grocery store and a furniture store. Also in the area is a restaurant.

SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING: The 1,302 square foot tract of land proposed to be rezoned is a manicured lawn area as part of the landscaping plan for the K-Mart Commercial PUD.

COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS: The proposed rezoning should not adversely impact surrounding properties. The purpose of the rezoning is to allow the applicant to purchase the tract to combine it with the proposed Lot 2, KMART Addition Unit Two, to have adequate access width for the pole portion of the flag lot associated with Bonzwitz Machine Shop. The adjoining property to the east is the K-Mart shopping center, zoned PUD, which is the parent tract of the tract to be rezoned. Rezoning the tract from PUD to C-5 should not adversely affect the shopping center, or its existing uses. A request to amend the approved Final Plan of the K-Mart Commercial PUD accompanies this rezoning to address the changes in the Landscape Plan. To the immediate north is the proposed lot that will be joined with the subject site, to create proposed Lot 2. To the south are the Sarber Lane right-of-way, a restaurant, furniture stores, and a grocery store. To the west are auto service related businesses.

The site is within a well-head protection area that prohibits underground storage of liquid fuel. Although the site is to be part of proposed Lot 2, which has an established business located on it, future developments will be prohibited from installing underground storage tanks for liquid fuel.

7. CONFORMANCE WITH COMPREHENSIVE PLAN: The site is shown on the Future Land Use Map for the Northeast Planning Area as Community Commercial (CC). The applicable 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 C-5 District is generally in conformance to the Comprehensive Plan. The single-use highway service activity is generally discouraged to reduce multiple vehicle trips to the location. The proposed rezoning site is to be combined with an adjoining tract to the north for proposed Lot 2, KMART Addition, Unit 2. The proposed Lot 2 of the subdivision is a single-use, service commercial site that the Plan recognizes may occur in the area.

ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:

- | | |
|-------|--|
| 1969: | Annexed and zoned C-5, Service Commercial District, and I-2, Industrial Park District. |
| 1973: | Rezoned to Planned Unit Development for K-Mart, auto service and outdoor garden and food store. |
| 1985: | Amendment to add floor space to Food-4-Less building. |
| 1987: | Amendment to expand outdoor K-Mart garden center. |
| 1990: | Rezoned to a new Commercial Planned Unit Development in order to expand the existing K-Mart, alter landscaping, and to allow an automobile service center. |

Attachment No. 4

- 1997: Amend signage for auto service center.
- 2003: Amend signage and landscaping plans.
- 2006: MUAPB conducts public hearing on October 16, 2006, and recommends denial of an Amendment to the K-Mart Commercial PUD. Applicant withdraws application.
- November 2, 2006: New revised amendment application submitted.
- December 18, 2006: MUAPB conducts public hearing on revised amendment proposal to add C-2 District uses and define seasonal display areas, modify the façade and wall signage, reduce parking and modify the landscape plan. MUAPB recommends approval with 12 conditions.
- December 26, 2006: City Clerk's Office receives protest petition from Chris Curtin, which is determined to be valid.
- January 9, 2007: City Commission considers first reading of an ordinance amending the K-Mart Commercial PUD as proposed. Protest petition withdrawn by Chris Curtin. City Commission, on a vote of 5-0, overrides the Planning Board's recommendation and approves first reading of an ordinance amending the K-Mart Commercial PUD as proposed, with 11 conditions in Staff Report and with the revised 12th condition recommended by City Administration.
- January 23, 2007: City Commission approves Ordinance No. 6603 amending the K-Mart Commercial PUD as proposed, with 11 conditions in Staff Report and revised 12th condition recommended by City Administration.

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 C-5 District is designed to provide for businesses offering accommodations, supplies, or services to motorists, and for certain specialized activities which require access to major streets and highways. The tract to be rezoned will be combined with an abutting tract to the north to form Lot 2 of the proposed KMART Addition, Unit Two. The proposed lot has an existing automotive machine shop located on it, which is consistent with the intent of the C-5 District.

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 relative gain to the public, which denial would accomplish. No adverse impacts to the public are expected. There may be a hardship to the applicant if the rezoning is denied, which would prevent the applicant from subdividing the properties proposed with Lots 1 – 3, KMART Addition, Unit Two.

ADEQUACY OF PUBLIC FACILITIES AND SERVICES: Adequate street, sanitary sewer and water services are available to serve the proposed rezoning site.

OTHER APPLICABLE FACTORS: None

STAFF COMMENTS:

City Administration recommends approval of the proposed rezoning of an approximate 1,302 square foot tract of land at the northwest corner of Lot 1, KMART Addition, along Sarber Lane from PUD, Commercial Planned Unit Development, to C-5, Highway Service Commercial District.

ALTERNATIVES:

1. Recommend approval of the proposed rezoning of an approximate 1,302 square foot tract of land at the northwest corner of Lot 1, KMART Addition, along Sarber Lane from PUD, Commercial Planned Unit Development, to C-5, Highway Service Commercial 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 an approximate 1,302 square foot tract of land at the northwest corner of Lot 1, KMART Addition, along Sarber Lane from PUD, Commercial Planned Unit Development, to C-5, Highway Service Commercial District, based on the findings in the Staff Report.

PREPARED BY: Chad Bunger, Planner

DATE: July 24, 2007

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08048