



**MINUTES**  
**CITY COMMISSION MEETING**  
**TUESDAY, JULY 7, 2009**  
**7:00 P.M.**

The Regular Meeting of the City Commission was held at 7:00 p.m. in the City Commission Room. Mayor Bob Strawn and Commissioners Bruce Snead, James E. Sherow, Loren J. Pepperd, and Jayme Morris-Hardeman were present. Also present were the City Manager Ron R. Fehr, Assistant City Manager Jason Hilgers, Assistant City Manager Lauren Palmer, Assistant City Attorney Katharine Jackson, City Clerk Gary S. Fees, 9 staff, and approximately 30 interested citizens.

**PLEDGE OF ALLEGIANCE**

Mayor Strawn led the Commission in the Pledge of Allegiance.

**PROCLAMATION**

Mayor Strawn proclaimed July 25, 2009, *Kansas All-Star Football Shrine Bowl Day*. John Spangler, President, Manhattan Shrine Club, and other representatives of the Manhattan Shrine Club were present to receive the proclamation.

**PUBLIC COMMENTS**

Mayor Strawn opened the public comments.

Noah Reagan, 312 Poyntz Avenue, voiced concern for the current overnight parking restrictions along Poyntz Avenue. He understood the need to maintain the two hour parking limit during the day but wanted the Commissioners to consider looking at the parking restrictions during the evening hours. He stated that the current restriction does not promote residency downtown in the second floor lofts.

Ron Fehr, City Manager, and Mayor Bob Strawn provided reasons for overnight parking restrictions and informed Mr. Reagan that it would be reasonable for him to discuss this request first with the Downtown Manhattan Inc. Board and others.

## PUBLIC COMMENTS (CONTINUED)

Hearing no other comments, Mayor Strawn closed the public comments.

## COMMISSIONER COMMENTS

Commissioner Sherow thanked Mr. Reagan for coming forward and asked that this item be addressed. He stated that it is great to see so many children using the spray park in City Park and encouraged parents to monitor their children so that they are not running at the spray park. He encouraged everyone to have fun and to be safe.

Curt Loupe, Director of Parks and Recreation, informed the Commission that a medium grade concrete surface was used to help prevent slipping and said that he has yet to see a person slip that wasn't running. He stated that signage would be posted at the spray park and that they were planning to lengthen the time between programs to allow for additional drainage.

Mayor Strawn stated that he would be stepping down from future discussions regarding a landlord ordinance and rental inspection program because his spouse has a new client that is a large landlord in Manhattan.

## CONSENT AGENDA

(\* denotes those items discussed)

### MINUTES

The Commission approved the minutes of the Special City Commission Meeting held Tuesday, June 9, 2009, and the Regular City Commission Meeting held Tuesday, June 16, 2009.

### CLAIMS REGISTER NO. 2615

The Commission approved Claims Register No. 2615 authorizing and approving the payment of claims from June 10, 2009, to June 30, 2009, in the amount of \$5,152,311.69.

### LICENSES – CEREAL MALT BEVERAGE

The Commission approved an annual Cereal Malt Beverage License for Tubby's L.C., 1127 Moro Street; O'Malley's Inc. d/b/a Aggie Lounge, 712 North 12<sup>th</sup> Street; and Leo's Hillside Café, 2307 Stagg Hill Road.

## CONSENT AGENDA (CONTINUED)

### ORDINANCE NO. 6767 – REZONE – EAST PORTION OF PRAIRIE LAKES ADDITION, UNIT 3

The Commission approved Ordinance No. 6767 rezoning the eastern portion of Prairie Lakes Addition, Unit 3, from R-3, Multiple-Family Residential District, to R-2, Two-Family Residential District, generally located in the vicinity of Maise Circle and Donnas Way Circle, and the intersection of Donnas Way with Grainfield Street and Northfield Road, based on the findings in the Staff Report. (*See Attachment No. 1*)

### PUBLIC HEARING – LEVY - SPECIAL ASSESSMENTS (GOB 2009-C)

Mayor Strawn opened the public hearing.

Hearing no comments, Mayor Strawn closed the public hearing.

### FIRST READING – LEVY – SPECIAL ASSESSMENTS (GOB 2009-C)

The Commission approved first reading of an ordinance levying special assessments against the benefiting properties in the following nine (9) projects, which have been completed: *Lee Mill Village – Storm Drainage (SM0702); Gravity Sanitary Sewer (SS0704); Lift Station (SS0709); Street (ST0709); and Water (WA0705); Stone Pointe Addition, Unit Two – Storm Drainage (SM0606) and Street (ST0630); Carlson Street – Storm Drainage (SM0802); and Prairie Lakes Addition, Unit Three – Street (ST0619).*

### FIRST READING – AMEND FINAL DEVELOPMENT PLAN – HOME CENTER MALL PUD

The Commission approved first reading of an ordinance amending the Final Development Plan of the Home Center Mall PUD, generally located at 627 Pecan Circle, and Ordinance No. 4586, to modify the approved ground entrance sign as proposed, based on the findings in the Staff Report (*See Attachment No. 2*) with the two conditions of approval, as recommended by the Manhattan Urban Area Planning Board.

### RESOLUTION NO. 070709-A – REVISED PETITION – GARY AVENUE AND TREESMILL CIRCLE (EFFINGHAM DITCH, PH 2) – STORM SEWER IMPROVEMENTS (SM0807)

The Commission found the revised petition sufficient and approved Resolution No. 070709-A finding the project advisable, authorizing construction, and rescinding Resolution No. 071508-E for Gary Avenue and Treemill Circle Storm Sewer Improvements (SM0807).

## CONSENT AGENDA (CONTINUED)

### AWARD CONTRACT - GARY AVENUE AND TREESMILL CIRCLE (EFFINGHAM DITCH, PH 2) – STORM SEWER IMPROVEMENTS (SM0807)

The Commission accepted the Engineer's Estimate in the amount of \$45,000.00 and awarded a construction contract in the amount of \$44,958.00 to Dickie Construction Co., of Manhattan, Kansas, for Gary Avenue and Treesmill Circle Storm Sewer Improvements (SM0807).

### RESOLUTION NO. 070709-B – EXPIRATION OF TERMS AND BYLAWS – SPECIAL ALCOHOL FUND ADVISORY COMMITTEE

The Commission approved Resolution No. 070709-B changing the expiration of terms and the bylaws of the Special Alcohol Fund Advisory Committee as recommended by the Special Alcohol Fund Advisory Committee.

### RESOLUTION NO. 070709-C – KDOT AGREEMENT – US-24 AND MCCALL ROAD INTERSECTION IMPROVEMENT PROJECT (ST0907)

The Commission approved Resolution No. 070709-C authorizing the Mayor and City Clerk to execute an agreement with the Kansas Department of Transportation for an Intersection Improvement Project (ST0907) on US-24 (East Poyntz) at McCall Road utilizing ARRA Funds.

### AWARD CONTRACT – RUNWAY 13/31 RECONSTRUCTION/EXTENSION (AIP 3-20-0052-39)

The Commission accepted the Engineer's Estimate in the amount of \$5,431,904.90 and authorized City Administration to finalize and the Mayor and City Clerk to execute a construction contract in the approximate amount of \$3,298,685.43 to Pavers, Inc., of Salina, Kansas, contingent on receipt of a Federal American Recovery and Reinvestment Act Grant from FAA.

### CONTRACT – UTILITY RELOCATION - RUNWAY 13/31 RECONSTRUCTION/EXTENSION (AIP 3-20-0052-39)

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute a utility relocation contract with Westar Energy in the approximate amount of \$171,865.79, contingent on receipt of a Federal American Recovery and Reinvestment Act Grant from FAA.

## CONSENT AGENDA (CONTINUED)

### WORK AUTHORIZATION NO. 4 – RUNWAY 13/31 RECONSTRUCTION/EXTENSION (AIP 3-20-0052-39)

The Commission authorized City Administration to finalize and Mayor and City Clerk to execute Work Authorization No. 4 for construction observation services in an amount not to exceed \$430,220.00 with HWS Consulting Group, Inc., of Manhattan, Kansas, contingent on receipt of a Federal American Recovery and Reinvestment Act Grant from FAA.

### WORK AUTHORIZATION NO. 5 – ENGINEERING AND DESIGN SERVICES RUNWAY 13 VISUAL APPROACH SLOPE INDICATOR (AIP 3-20-0052-39)

The Commission authorized City Administration to finalize and the Mayor and City Clerk to execute Work Authorization No. 5 for engineering and design services for the relocation of the Runway 13 Visual Approach Slope Indicator (VASI), in an amount not to exceed \$31,320.00 with HWS Consulting Group, Inc., of Manhattan, Kansas, contingent on receipt of a Federal American Recovery and Reinvestment Act Grant from FAA.

### FAA GRANT – RUNWAY 13/31 RECONSTRUCTION/EXTENSION (3-20-0052-39)

The Commission accepted the Federal ARRA Grant Offer from FAA in the approximate amount of \$3,906,000.00 for Runway 13/31 Reconstruction/Extension.

### CHANGE ORDER NO. 1-FINAL – SUNSET CEMETERY TANK PAINTING (SP0903)

The Commission approved As-Built Change Order No. 1 for miscellaneous repairs to the Sunset Cemetery Tank as part of the Sunset Cemetery Tank Painting project (SP0903), resulting in a net increase in the amount of \$14,950.00 (+8.4%) to the contract with Central Tank Coatings, Inc., of Elgin, Iowa.

### CHANGE ORDER NO. 1-FINAL – SILO TOWNHOMES ADDITION – STREET IMPROVEMENTS (ST0808)

The Commission approved As-Built Change Order No. 1 for Silo Townhomes Addition Street Improvements (ST0808), resulting in a net increase in the amount of \$17,302.50 (+17.94%) to the contract with Larson Construction, of Manhattan, Kansas.

## CONSENT AGENDA (CONTINUED)

### CHANGE ORDER NO. 1-FINAL – LEE MILL VILLAGE ADDITION – SANITARY SEWER LIFT STATION (SS0709)

The Commission approved As-Built Change Order No. 1 for Lee Mill Village Addition Sanitary Sewer Lift Station (SS0709), resulting in a net increase in the amount of \$21,376.00 (+14.12%) to the contract with Luttrell Construction Co., Inc., of Olathe, Kansas.

### \* AIRLINE MARKETING AGREEMENT – CHAMBER OF COMMERCE

Ron Fehr, City Manager, provided an overview on the Airline Marketing Agreement with the Manhattan Area Chamber of Commerce.

The Commission authorized the Mayor and City Clerk to execute the Airline Marketing Agreement with the Manhattan Chamber of Commerce in the amount of \$75,000.00.

### CONTRACT – DESIGN SERVICES –ZOO EDUCATION CENTER

The Commission approved and authorized the Mayor and City Clerk to execute a contract with WDM Design, of Wichita, Kansas, in the amount of \$307,195.00 plus incidentals for the final design, bid document preparation, and construction supervision of the Zoo Education Center.

### ARRA FIRE STATION CONSTRUCTION GRANT APPLICATION – FIRE STATION NOS. 3 AND 5

The Commission authorized City Administration to proceed with the American Recovery and Reinvestment Act Fire Station Construction Grant application process with 20% matching funding.

### \* NEIGHBORHOOD GRANT REVIEW COMMITTEE RECOMMENDATIONS

Commissioner Morris-Hardeman stated that she was involved with the Neighborhood Grant Program application for Eugene Field, Humboldt West, and Landmark Water Tower playground equipment and would be recusing herself from voting on this item.

Commissioner Sherow voiced concern that the playground equipment at Head Start is not currently accessible to neighborhood children. He asked that this be examined and stated that a public square should be used in a public way.

Commissioner Snead stated that it is important to know why and that there may be factors and restrictions associated with Head Start's operating guidelines.

Ron Fehr, City Manager, informed the Commission that staff would look into this.

## CONSENT AGENDA (CONTINUED)

\* **NEIGHBORHOOD GRANT REVIEW COMMITTEE  
RECOMMENDATIONS (CONTINUED)**

The Commission approved the Neighborhood Grant Review Committee's funding recommendations for 2009 as follows:

- Eugene Field, Humboldt West, and Landmark Water Tower Neighborhood Associations funding request approved in the amount of \$5,926.00 for a new swing set, slide, and approved ground covering to School District's lot adjacent to the former Eugene Field Elementary (now Head Start), pending City Administration's confirmation of the school district's approval and participation in any necessary maintenance agreements, to the school district's satisfaction;
- North Pointe Homeowners' Association funding request approved in the amount of \$2,000.00 for concrete lining for an open drainage ditch along Browning Avenue, north of Kimball Avenue, with City staff developing and overseeing the project; and
- Townhomes at Miller Ranch Homeowners' Association funding request denied in the amount of \$2,360.00 for improving drainage into the neighborhood pond to control sediment runoff and erosion.

\* **AGREEMENT FOR SALE OF REAL ESTATE – 330 BLUEMONT AVENUE – 4<sup>TH</sup> STREET AND BLUEMONT AVENUE INTERSECTION IMPROVEMENT (ST0703)**

Ron Fehr, City Manager, responded to questions from the Commission and provided an overview on the Agreements for sale of real estate for the purchase of property.

The Commission authorized City Administration to finalize, and the Mayor and City Clerk to execute the Agreement for Sale of Real Estate for the purchase of real property located at 330 Bluemont Avenue.

\* **AGREEMENT FOR SALE OF REAL ESTATE – 401 BLUEMONT AVENUE – 4<sup>TH</sup> STREET AND BLUEMONT AVENUE INTERSECTION IMPROVEMENT (ST0703)**

Ron Fehr, City Manager, responded to questions from the Commission and provided an overview on the Agreements for sale of real estate for the purchase of property.

The Commission authorized City Administration to finalize, and the Mayor and City Clerk to execute the Agreement for Sale of Real Estate for the purchase of real property located at 401 Bluemont Avenue.

## CONSENT AGENDA (CONTINUED)

After discussion, Commissioner Sherow 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 Q: Neighborhood Grant Review Committee's recommendation and application for Eugene Field, Humboldt West, and Landmark Water Tower Neighborhood Association funding request for playground equipment, with Commissioner Morris-Hardeman recusing herself from this item.

## GENERAL AGENDA

### FIRST READING – REZONE - 17<sup>TH</sup> STREET PROPERTIES

Eric Cattell, Assistant Director for Planning, presented the item. He then responded to questions from the Commission regarding the notification process for rezoning and informed the Commission that the notice and advertising requirements were followed correctly.

Leon Osborn, Kaw Valley Engineering, informed the Commission that property owners within 200 feet were notified, but did not notify the South Manhattan Neighborhood. He stated that they have done what was required and that he understood the six conditions of approval as recommended by the Manhattan Urban Area Planning Board. He then responded to additional questions from the Commission.

Eric Banner, 1719 Colorado Street, informed the Commission that he can see this area from his yard and stated that the outreach for notification should extend beyond the statutory requirement of 200 feet to the neighborhoods. He asked the Commission to consider switching the placement of the proposed hotel and retail center for better neighborhood access and visual impacts.

Leon Osborn, Kaw Valley Engineering, informed the Commission that an analysis on locations of the buildings had been done and that the retail needs to be visible on Fort Riley Boulevard to be economically feasible.

Doug Maryott, Managing Member, 17<sup>th</sup> Street Properties, LLC, informed the Commission that a number of reiterations of the site have been done and where the best locations would be for the hotel and retail center. He stated that the retail center needs to have the highest visibility and traffic flow and, that the hotel location would also support the adjacent park area with family reunions and events. He then responded to questions from the Commission regarding access to the site, pedestrian and vehicle safety, and stated that the limestone element is a real key in the design plans and informed the Commission that he would consider increasing the height of the limestone in the design and construction.

## GENERAL AGENDA (CONTINUED)

### FIRST READING – REZONE - 17<sup>TH</sup> STREET PROPERTIES (CONTINUED)

Leon Osborn, Kaw Valley Engineering, provided additional information on sidewalks and vehicular traffic plans and studies.

Anne Marie Olson, 1426 Yuma Street, Southside Neighborhood Association member, informed the Commission that she commented during the Manhattan Urban Area Planning Board meeting that the neighborhood shopping building should face Yuma Street and asked to consider the potential loss of four mature trees in the location planned.

Eric Cattell, Assistant Director of Planning, responded to questions from the Commission and stated that public hearing signage was posted.

Commissioner Snead moved to approve first reading of an ordinance rezoning the proposed 17<sup>th</sup> Street Properties development, generally located southeast of the intersection of South 17<sup>th</sup> Street and Yuma Street, from C-2, Neighborhood Shopping District, and C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District, based on the findings in the Staff Report (*See Attachment No. 3*) with the six conditions recommended by the Planning Board. Commissioner Pepper seconded the motion.

Commissioner Morris-Hardeman voiced concern with the 200 foot notification provision and said that consideration should be given to expand the notification area, especially when an active neighborhood association is in the area. She stated that her preference would be that the neighborhood shopping area be positioned closer to the neighborhood and to consider pedestrian access.

Commissioner Sherow voiced concern with the current notification requirements and asked that developers needs to work closer with neighborhoods to avoid reactive situations. He wanted to ensure that pedestrian and bicyclists had adequate accessibility and safety in the development. He requested that the Manhattan Urban Area Planning Board and planning staff look at Smart Codes and Form-Based Zoning and consider revising the way we currently do zoning in the City of Manhattan.

Doug Maryott, Managing Member, responded to questions from the Commission and stated that the initial plan is to have weekly rates on one floor.

Commissioner Snead stated that incremental notification increases would never satisfy everyone and that appropriate notification signage was used. He encouraged staff to have applicants contact the neighborhood associations. He stated that pedestrians and bikes are reasonably accommodated in this plan and understood the applicant's rationale for the placement and location for the proposed development.

## GENERAL AGENDA (CONTINUED)

### FIRST READING – REZONE - 17<sup>TH</sup> STREET PROPERTIES (CONTINUED)

Mayor Strawn said that the City's Code of Ethics speaks to these kinds of issues and that the code is above what the law says. He stated that it is up to the Commission to decide if we want to do more than what the law requires.

After additional discussion, on a roll call vote, motion carried 5-0.

### PRESENTATION - 2008 CITY AUDIT

Bernie Hayen, Director of Finance, introduced the item.

Michelle Crow, CPA, Varney & Associates CPAs, LLC, presented an overview of the audit performed for the City of Manhattan and the goals of the independent audit.

April Selfridge, Varney & Associates CPAs, LLC, presented findings on internal controls, governing body actions and review of minutes, review of financial data, review of financial records, auditing procedures, single audit, audit reports to be issued, comparative data with other Kansas cities, and report for the year ending December 31, 2008. She stated the audit recommended that the City annually review the number of sewers in operation and to create an audit committee. She then responded to questions from the Commission regarding the recommendation for an audit committee.

Michelle Crow, CPA, Varney & Associates CPAs, LLC, responded to questions from the Commission and stated that the City's audit would rank very high compared to other cities they audit.

Bernie Hayen, Director of Finance, provided the Commission with additional information on how an audit committee could be structured and responded to questions.

Libby Peterson, City Controller, answered questions from the Commission.

After discussion, Commissioner Snead moved to review and accept the preliminary 2008 Independent Auditor's Report. Commissioner Sherow seconded the motion. On a roll call vote, motion carried 5-0.

### FIRST READING - CONDEMNATION OF PROPERTY - 4<sup>TH</sup> STREET AND BLUEMONT AVENUE INTERSECTION IMPROVEMENT PROJECT (ST0703)

Brian Williams, Assistant to the City Manager, presented the item and responded to questions from the Commission regarding rights-of-way, easements, status of securing 105 square feet of the Walgreens property, and the project timeline.

## GENERAL AGENDA (CONTINUED)

### FIRST READING - CONDEMNATION OF PROPERTY - 4<sup>TH</sup> STREET AND BLUEMONT AVENUE INTERSECTION IMPROVEMENT PROJECT (ST0703) (CONTINUED)

After discussion, Commissioner Sherow moved to approve first reading of an ordinance authorizing the acquisition of 325, 330, and 401 Bluemont Avenue by condemnation. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

## EXECUTIVE SESSION

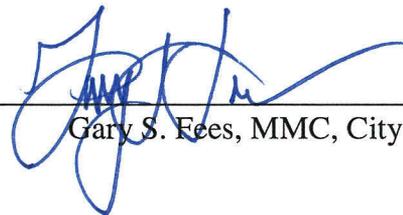
At 8:47 p.m., Commissioner Sherow moved to recess into Executive Session until 9:15 p.m. for the purpose of discussing matters related to employer-employee negotiations with Local 2275, International Association of Fire Fighters, the union representing certain members of the Manhattan Fire Department, and for the purpose of preliminary discussions related to the acquisition of real estate. Commissioner Snead seconded the motion. On a roll call vote, motion carried 5-0.

At 9:15 p.m., the Commission reconvened with Mayor Strawn and Commissioners Snead, Sherow, Peppers, and Morris-Hardeman in attendance.

## ADJOURNMENT

Commissioner Snead moved to adjourn the meeting. Commissioner Sherow seconded the motion. On vote, motion carried 5-0 to adjourn.

At 9:15 p.m. the Commission adjourned.



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Gary S. Fees, MMC, City Clerk

**STAFF REPORT**

**ON AN APPLICATION TO REZONE PROPERTY**

**FROM:** R-3, Multiple-Family Residential District.

**TO:** R-2, Two-Family Residential District.

**APPLICANT:** Russel Weisbender, President - Overlay Properties Inc.

**ADDRESS:** 1812 Fair Lane, Manhattan, KS 66502.

**OWNER:** Overlay Properties Inc.

**ADDRESS:** 1812 Fair Lane, Manhattan, KS 66502.

**LOCATION:** Generally located in the eastern portion of Prairie Lakes Addition, Unit 3, which is in the vicinity of Maise Circle, the intersection of Grainfield Street and Donnas Way, and the intersection of Donnas Way Circle and Northfield Road.

**AREA:** Total acreage is approximately 8.6-acres consisting of Lots 96 to 114A-114B, Part 133 B, Part 134A, Part 134B, 135A-135B to 145, Part Lots 146-148, Lot 149, Lot 150, and Part Lot 151, Prairie Lakes Addition, Unit 3.

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, May 11, 2009.

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, June 1, 2009.

**CITY COMMISSION:** Tuesday, June 16, 2009.

**EXISTING USE:** Developing residential neighborhood.

**PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** Generally flat subdivided area with public streets, and utilities for new residential construction. The site drains to the south to Prairie Lakes.

**SURROUNDING LAND USE AND ZONING:**

(1) **NORTH:** Two-family residential dwellings, Brookfield Residences' apartments, Walters Drive, Eisenhower Middle School and City of Manhattan playing fields; R-2 and R-1, Single-Family Residential Districts, Residential PUD.

*Attachment No. 1*

- (2) **SOUTH:** Prairie Lakes and developing residential neighborhood of two family dwellings; R-2 District.
- (3) **EAST:** Undeveloped multiple-family neighborhood in Prairie Lakes (Preliminary Plat approved, but no Final Plat approved), and Brookfield single-family subdivisions; R-3 and R-1 Districts.
- (4) **WEST:** Developing Two-family portion of Prairie Lakes, Unit 3, single-family and two family homes in the Northfield Additions, and Butterfield Road; R-2 District.

**GENERAL NEIGHBORHOOD CHARACTER:** Generally characterized as a developing low-density residential neighborhood to the north, south and west, and multiple-Family to the immediate east. An existing multiple-family apartment complex is to the northeast. Eisenhower Middle School is a part of the established single-family and two-family neighborhood to the northwest. Portions of the Prairie Lakes area to the south are under development. The area to the east of the rezoning site is R-3 District and has not been final platted.

**SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site is suitable for the existing use. The applicant indicates the minimum eight-foot side yard setback for residential buildings in the R-3 District does not allow house designs consistent with those that can be built in the R-2 District, which has a minimum six-foot side yard setback. The rezoning would allow consistency of side yard setbacks and zoning within all of Unit 3. Because the rezoning occurred prior to platting and the R-3 District boundary crosses parts of lots in some locations. The proposed rezoning would correct any future concerns an owner or other member of the public may have about the R-3 District boundary within Unit 3.

**COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The proposed R-2 District is the same zoning district as the established Northfield and Butterfield neighborhoods to the south and west that adjoin the R-2 District portion of Prairie Lakes, Unit 3. The Brookfield subdivisions to the east of Unit 3 and those part of Prairie Lakes that are no final platted, are low density single-family residential areas. The rezoning may reduce the impacts of traffic, light and noise that may be expected with high density R-3 uses. The proposed rezoning will be compatible with existing R-2 District in nearby low-density residential neighborhoods.

**CONFORMANCE WITH COMPREHENSIVE PLAN:** The Northeast Planning Area Future Land Use Map of the Manhattan Urban Area Comprehensive Plan shows the rezoning site as Residential Low/Medium density (RLM). The density range for the RLM

*Attachment No. 1*

designation is one-dwelling unit up to eleven dwelling units per net acre. The existing R-3 District allows more than 19 dwelling units per net acre. *(Note: As a part of the annexation, rezoning to R-3 District and platting, the owner filed a restrictive covenant, which limits density to no more than 18 dwelling units per net acre. The site is in the general vicinity of the RMH category, which recommends a density range of eleven to 19 units per acre. Restricting density by covenant was also applied with a previous development off Browning Avenue in 2002, and Lot 162, Brookfield Addition, Unit Five. Density on Lot 162, which adjoins Prairie Lakes, is 18-dwelling units per acre. This approach has been used in limited cases to allow a broader range of housing opportunities. The proposed R-2 District is more restrictive than the covenant.)*

The RLM category suggests a range of housing types, from single-family and two-family to townhomes. Planned unit developments in the RLM category are suggested to be small-scale apartment buildings, with sufficient open space to meet the RLM density.

The R-2 District density range allows up to eleven dwelling units net acre.

The proposed rezoning conforms to the Comprehensive Plan.

**ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:**

- |                |  |
|----------------|--|
| April 4, 2005  | Manhattan Urban Area Planning Board recommends approval 5-0 of annexation and rezoning of Prairie Lakes from G-1, General Agricultural District, and PDD, Planned Development District, to R-2, Two-Family Residential District, and from G-1, General Agricultural District, to R-3, Two-Family Residential District. |
| April 18, 2005 | Manhattan Urban Area Planning Board considers the Preliminary Plat of Prairie Lakes  |
| April 19, 2005 | City Commission approves first reading of annexation and rezoning of Prairie Lakes on a vote of 5-0.   |
| May 3, 2005    | City Commission approves Ordinance No. 6471 annexing and Ordinance Nos. 6472 & 6473 rezoning Prairie Lakes.  |
| June 6, 2005   | Manhattan Urban Area Planning Board approves the Final Plats of Prairie Lakes Addition, Units 1 and Unit 2.  |
| June 21, 2005  | City Commission accepts the easements and rights-of-ways as shown on the Final Plats of Prairie Lakes Addition, Units 1 and Unit 2.  |

*Attachment No. 1*

- August 7, 2006      Manhattan Urban Area Planning Board approves the Final Plat of Prairie Lakes Addition, Unit 3.
- October 3, 2006      City Commission accepts the easements and rights-of-way as shown on the Final Plat of Prairie Lakes Addition, Unit 3.
- January 18, 2007      Manhattan Urban Area Planning Board approves Final Plat of Prairie Lakes Addition, Unit 4.
- February 6, 2007      City Commission considers consent to replat, accepts revised Restrictive Covenant and accepts easements and rights-of-way on Final Plat of Prairie Lakes Addition, Unit 4.

New homes have been constructed beginning in and around 2006-2007 in the Prairie Lakes subdivisions.

**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-2, Two-Family Residential District, is designed to provide a dwelling zone at a density no greater than two (2) attached dwelling units per 7,500 square feet. Minimum lot area for single-family attached lots is 3,750 square feet per lot. The rezoning site is sufficient in area to conform to the R-2 District requirements. Lot sizes will allow single-family dwelling and two-family dwellings.

**RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE INDIVIDUAL OWNER:** There appears to be no gain to the public that denial would accomplish. No adverse affects on the public health, safety and welfare are known. It may be a hardship upon the owner if the rezoning is denied.

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

**OTHER APPLICABLE FACTORS:** None.

**STAFF COMMENTS:** City Administration recommends approval of the proposed rezoning of a portion of Prairie Lakes Addition, Unit 3, from R-3, Multiple-Family Residential District, to R-2, Two-Family Residential District.

**ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of a portion of Prairie Lakes Addition, Unit 3, from R-3, Multiple-Family Residential District, to R-2, Two-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 a portion of Prairie Lakes Addition, Unit 3, from R-3, Multiple-Family Residential District, to R-2, Two-Family Residential District, based on the findings in the Staff Report.

**PREPARED BY:** Steve Zilkie, AICP, Senior Planner

**DATE:** May 26, 2009

09017

## **STAFF REPORT**

### **ON AN APPLICATION TO AMEND THE APPROVED PLANNED UNIT DEVELOPMENT (PUD)**

## **BACKGROUND**

**APPLICANT:** Home Center Mall, LLC. – Patrick Lee, Member.  
**ADDRESS:** 627 Pecan Circle, Manhattan, KS, 66502.

**OWNER:** Home Center Mall, LLC.  
**ADDRESS:** 627 Pecan Circle, Manhattan, KS, 66502.

**LOCATION:** Generally at 627 Pecan Circle; Lot 6, Home Center Mall, Unit 3. Lot 6 is a travel easement. The sign is proposed in a landscape island at the entrance to the PUD. The proposed location is the same as the location approved in 1989.

**AREA:** 55,874 square feet (1.283 acres); Lot 6, Home Center Mall, Unit 3, Planned Unit Development, City of Manhattan, Riley County, Kansas.

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, May 25, 2009.

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, June 15, 2009.  
**CITY COMMISSION:** Tuesday, July 7, 2009.

### **DESCRIPTION OF PROPOSED AMENDMENT:**

Approved Sign and Ordinance

Amend Ordinance No. 4568 (attached), approved July 18, 1989, regarding the approved Ground Sign and its limitations [**limitations to be amended are underlined and in bold**]:

Ground Sign: One ground sign may be located as shown on the Amended Final Development Plan documents that are dated June, 1989, and are on file in the Zoning Administrator's Office. This sign shall maintain a ten (10) foot setback from the Pecan Circle property line and **shall be constructed as shown on the Amended Final**

*Attachment No. 2*

**Development Plan drawings with regard to materials** and shall not exceed the size shown on the plan. In addition, **this sign shall not be used for advertising individual tenants and shall only bear the name of the center.** This sign may also be internally lit, but shall not flash.

The approved ground sign (attached) identifies the name of the center “Home Center Mall” and measures seven feet in width by two feet five inches, or 16.94 square feet in area, and proposed on a concrete block with stone veneer support. The sign is nine inches in depth. Sign face materials are not described in the original sign application documents but are probably plastic, as the sign could be internally lit.

Ordinance No. 4568 sets out specific limitations regarding the ground sign. The Zoning Regulations indicate that a deletion or change to a restriction, condition or limitation is a substantial modification, which requires the amendment.

#### Proposed Sign

The proposed unlit sign (attachment) will be at the same setback as previously approved. The sign will be oriented towards the entrance to identify the tenants of the PUD. The aluminum sign is single sided, eight feet in height, on a two foot by six foot, with individual tenant names on a six foot by eight foot space. Sign depth is eight inches.

### **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 original PUD was intended to develop as a “mall” with retail and services directed towards home owners and contractors. Over time, manufacturing and assembly, mobile home storage and repairs, and youth centers were added as permitted uses. Today, the PUD is oriented more towards contractors than a home improvement center mall orientation as originally envisioned.

The proposed changes maintain the general ground sign character of the previously approved sign with respect to location in an entrance island. The approved sign was limited to the name of the center and no tenant names. Signage identifying businesses in the PUD at the entrance off Pecan Circle will provide directional information to the motoring public and identify the businesses of the PUD and distinguish them from surrounding businesses on separate tracts.

**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 approved sign was never constructed. Because additional development has occurred in the neighborhood since 1989, and with more driveways off Pecan Circle, it's somewhat unclear where individual business entrances are located. The proposed sign changes will identify tenants in the Home Center Mall and should eliminate confusion about the entrance to the PUD.

**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:** The proposed sign will identify the entrance to the PUD and businesses within the PUD. The proposed sign will eliminate any confusion about the location of businesses within the PUD and businesses in the surrounding neighborhood that are also served by Pecan Circle. The sign benefits the tenants of the PUD as well as the motoring public.

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

1. **LANDSCAPING:** No changes are proposed.
2. **SCREENING:** No changes are proposed.
3. **DRAINAGE:** No changes are proposed.
4. **CIRCULATION:** The proposed sign will identify the entrance to the PUD so that vehicular traffic on Pecan Circle is efficiently and safely directed to appropriate business locations, both within the PUD as well as nearby businesses.
5. **OPEN SPACE AND COMMON AREA:** No changes are proposed.
6. **CHARACTER OF THE NEIGHBORHOOD:** The neighborhood is characterized by industrial services and highway service commercial uses. The more specific neighborhood off Pecan Circle is an industrial service neighborhood.

## **MATTERS TO BE CONSIDERED WHEN PLANNED UNIT DEVELOPMENT**

**1. EXISTING USE:** Home Center Mall PUD, which allows a combination of commercial retail, service retail, storage, repairs, manufacturing and assembly, and youth centers. The proposed sign will be on common area parking lot island.

**2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** A developed and flat site, with off-street parking, buildings and landscaped space.

**3. SURROUNDING LAND USE AND ZONING:**

**(a) NORTH:** Wildcat Creek and light industrial uses; County G-1, General Agricultural District and I-3, Light Industrial District.

**(b) SOUTH:** Light industrial uses; I-3 District.

**(c) EAST:** Light industrial and agricultural uses; I-3 and G-1 Districts.

**(d) WEST:** Rosencutter Road, highway service commercial uses; C-5, Highway Service Commercial District.

**4. CHARACTER OF THE NEIGHBORHOOD:** The neighborhood is characterized as an industrial services and highway service commercial uses. The more specific neighborhood off Pecan Circle is an industrial service neighborhood.

**5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site is suitable as zoned. The sign will identify the tenants of the various businesses in the PUD.

**6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND**

**EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** No changes to the permitted uses of the district are proposed. No adverse impacts on the neighborhood are expected with the change of signage. The proposed sign changes will identify tenants of the Home Center Mall PUD and direct traffic to the site.

**7. CONFORMANCE WITH COMPREHENSIVE PLAN:** The site is shown as Community Commercial (CC) and located in the Southwest Planning Area of the Future Land Use map of the Comprehensive Plan. The proposed amendment is consistent with the approved PUD, which conforms to the Comprehensive Plan.

**8. ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:**

- |              |  |
|--------------|--|
| 1983         | Annexation and Zoning to I-3, Light Industrial District.   |
| 1985         | Rezoning from I-3 to PUD   |
| 1985         | Home Center Mall Final Development Plan and Final Plat approved.                                   |
| 1989         | PUD amended concerning permitted signs.  |
| 1992         | PUD amended to allow light manufacturing assembly as a permitted use.                              |
| 1994         | Final Plat of Unit 2 approved and PUD amended concerning outdoor storage.                          |
| May 3, 1999  | Planning Board approves Final Plat of Unit 3.  |
| May 18, 1999 | City Commission accepts Easements and R-O-W  |
| May 1, 2000  | Planning Board recommends approval to add Youth Centers and Related Activities as a Permitted Use. |
| May 16, 2000 | City Commission approved first reading of amendment.   |
| June 6, 2000 | City Commission approved Ordinance No. 6140 to add Youth Centers as a permitted use.               |

The buildings throughout the site have been in place since around 1985. The approved ground sign was never constructed after approval in 1989.

**9. 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 proposed PUD is a commercial/industrial PUD. Signs requirements for commercial PUD's are, as a general

rule, considered subject to the C-2, Neighborhood Shopping District. Signs requirements for industrial PUD's are, as a general rule, considered subject to the I-2, Industrial Park District. The proposed ground sign is generally consistent with either zoning district's sign requirements.

**10. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE INDIVIDUAL OWNER:** No adverse impacts on the public are expected. It would be a hardship on the applicant if the ground sign amendment is denied as the sign is intended to direct traffic from the public street, Pecan Circle, into the site and eliminate confusion about the entrance as distinct from other business entrances in the neighborhood.

**11. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Public facilities and services are adequate to serve the site. The proposed amendment generates no need for public facilities and services.

**12. OTHER APPLICABLE FACTORS:** None

**13. STAFF COMMENTS AND RECOMMENDATION:** City Administration recommends approval of the proposed Amendment of the Home Center Mall PUD and Ordinance No. Ordinance No. 4568, with the following conditions of approval:

1. The sign shall be constructed as proposed and as shown on the application documents.
2. A sign permit shall be obtained prior to placement of the sign on the property.

### **ALTERNATIVES:**

1. Recommend approval of the proposed Amendment of the Home Center Mall PUD and Ordinance No. Ordinance No. 4568, stating the basis for such recommendation.
2. Recommend denial of the proposed Amendment of the Home Center Mall PUD and Ordinance No. Ordinance No. 4568, 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 Home Center Mall PUD and Ordinance No. Ordinance No. 4568, based on the findings in the Staff Report, with the two conditions recommended by City Administration.

**PREPARED BY:** Steve Zilkie, AICP, Senior Planner

**DATE:** June 8, 2009

**STAFF REPORT**

**APPLICATION TO REZONE PROPERTY TO PLANNED UNIT  
DEVELOPMENT DISTRICT**

**BACKGROUND**

**FROM:** C-2, Neighborhood Shopping District and C-5, Highway Service Commercial District.

**TO:** PUD, Commercial Planned Unit Development District.

**OWNER/APPLICANT:** 17<sup>th</sup> Street Properties, LLC. - Doug Maryott, Managing Member.

**ADDRESS:** 4011 N. Tara Circle, Wichita, KS, 67226.

**DATE OF PUBLIC NOTICE PUBLICATION:** Monday, May 11, 2009.

**DATE OF PUBLIC HEARING: PLANNING BOARD:** Monday, June 1, 2009;  
Tabled to

June 15, 2009.

**CITY COMMISSION:** Tuesday, July 7, 2009.

**LOCATION:** Southeast corner of S. 17<sup>th</sup> Street and Yuma Street; (Lots 364-368, 372-376, and vacated right-of-way, Ward 6, City of Manhattan, Riley County, Kansas).

**AREA:** 90,103.45 square feet (2.07 acres).

**PROPOSED USES:** Reflect a combination of use allowed in the C-2 District and C-5 District.

1. Antique shops.
2. Apparel stores.
3. Appliance sales.
4. Automobile accessory stores.
5. Barber shops.
6. Beauty shops.
7. Book stores.
8. Brew pubs.
9. Business and professional offices.

10. Camera and photographic supply stores.
11. Churches, chapels, temples and synagogues.
12. Department stores
13. Drug stores.
14. Electronic stores.
15. Food stores.
16. Fraternal and service clubs.
17. Furniture stores.
18. Furniture upholstering.
19. Garden stores.
20. Gift shops.
21. Hardware stores.
22. Health and fitness clubs.
23. Hobby shops.
24. Hotels and motels.
25. Jewelry stores.
26. Laundry establishments.
27. Leather goods and luggage stores.
28. Music stores.
29. Package liquor stores.
30. Pet grooming shops.
31. Pet stores.
32. Private vocational-technical institutions.
33. Restaurants, no drive-in type.
34. Sporting goods stores.
35. Taverns.
36. Variety stores.
37. Veterinary Out-Patient Clinic.

## **PROPOSED BUILDINGS AND STRUCTURES:**

### Hotel

The proposed hotel is an 80 room four story building, generally 46 feet in height to the flat roof and an additional six feet, or 52 feet in total height, to architectural roof features. See Sheet A2.1 for more details. The building exterior is stucco and stone and is 164 feet in length by 62 feet in width. Its length is oriented along Yuma Street. There is a covered front entrance off S. 17<sup>th</sup> Street. A small patio area off the first floor reception area is proposed along the Yuma Street frontage and will be enclosed by an approximate five foot metal fence. There are entry and exits off the east, west and south sides of the hotel, with access to the hotel off Yuma Street limited to the patio area.

### Retail Building

The proposed retail building is a one story, 24 feet in height, and 12,280 square feet in floor area. It will be constructed with stucco and stone exterior materials. See Sheet A2.3 for more details. The proposed floor plan shows up to seven separate floor spaces. Peoples Grocery, currently occupying a portion of the existing retail building, is expected to relocate to space in the proposed retail building. A service area with overhead door is located on the east side of the building, which is intended to serve the grocery store. An outdoor patio is also proposed on the east side of the building.

### Phasing

The application documents state that the, "Project will be completed in one phase, with demolition and new construction being completed as follows:

Demolition of North end of existing multi-use building and maintaining the grocery store.  
Demolition of the remainder of the project site.

Construction of the new strip center and motel to start at approximately the same time.  
Strip center to be completed with grocery store to move into East End.

Demolition of existing grocery store and completion of west end of motel drive and main entrance."

### **PROPOSED LOT COVERAGE**

<u>Use</u>	<u>Square Feet</u>	<u>Percentage</u>
Buildings	21,922	24.33%
Pavement	54,554	60.55%
Landscaping	13,627	15.12%

### **PROPOSED SIGNS**

Proposed signs will consist of wall signs, which will be internally lit individual wall mounted letters, except for logos, and ground signs. Locations for wall signs are shown on building elevations. See Sheet A2.1 for the hotel and Sheet A2.3 for the retail building wall signs.

*Attachment No. 3*

A 30 foot tall pylon sign, 204 square feet in area, with enclosed pole on a stone base, is proposed along Ft. Riley Boulevard. The sign will identify tenants of the retail center and the hotel. An approximate twelve foot tall ground sign, 60 square feet in area, is proposed off S. 17<sup>th</sup> Street near the hotel entrance and will identify the hotel and retail center. Proposed ground signs are on Sheet SS1.1.

A temporary construction sign is proposed in the southwestern corner of the PUD.

Sign areas, setbacks, and heights, in general, are consistent with the size limitations of the C-2 District, which is the guidance recommended in the Zoning Regulations for commercial PUDs. The height of the hotel wall signs on the south and west sides of the building are greater than 30 feet in height, approximately 40 feet in height. The number of signs for the hotel is consistent with the C-2 District. The number of wall signs on the retail building exceeds the number allowed in the C-2 District. Eleven are proposed on the south elevation of the retail building and the C-2 District would allow one per business. The proposed retail building's floor plan identifies seven retail floor spaces. Businesses should be limited to one sign per façade of the business to be consistent with the Zoning Regulations for C-2 Districts.

**PROPOSED LIGHTING:** Full cutoff downcast 25 foot and 20 foot light poles are distributed around the site primarily on the parking lot perimeter. Building lights are full cutoff and downcast, except for decorative building lights. See attached cut sheets for examples of light fixtures and Sheet SS1.1. for locations of light poles around the site.

### **REVIEW CRITERIA FOR PLANNED UNIT DEVELOPMENTS**

**1. LANDSCAPING:** The proposed landscaping is functional and exceeds the minimum required for typical commercial development with respect to the proposed generally highway business nature of the development. Standard commercial development would have to provide a minimum landscaped area of five percent and eleven trees based on the site's characteristics. The proposed PUD has 15% landscaped space and 39 trees.

Landscaping is primarily perimeter, or streetscape oriented with combinations of grass cover, 32 ornamental and seven shade trees, and foundation plantings around the hotel and sidewalk plantings on the north, service side, of the retail building. Landscaping along Ft. Riley Boulevard should be planted at a minimum 30 inches in height to provide an immediate buffer of headlights from traffic along Ft. Riley Boulevard rather than planted with a maturity height of three feet, as proposed. Long term maintenance of landscaping, which will be watered with an underground/sprinkler system is the responsibility of the property owner.

*Attachment No. 3*

**2. SCREENING:** An eight foot concrete block with stucco finish trash enclosure screening area is proposed at the northeast corner of the retail building to serve both buildings. A service area for deliveries is proposed on the east side of the retail building, possibly for the grocery store. The service area will be screened with an eight foot wall similar to the trash enclosure.

**3. DRAINAGE:** The applicant's proposal is to direct storm water to the existing storm water system on Ft. Riley Boulevard. Three new storm inlets will replace existing inlets and drain to the same Ft. Riley Boulevard system. Additional inlets may be added around the hotel's porte cochere. A Storm Drainage Report was prepared by Kaw Valley Engineering, Inc., dated April 17, 2009 (attached). The City Engineer has reviewed the Report (memo attached), and accepts the proposal.

**4. CIRCULATION:** The internal circulation plan provides for safe, convenient and efficient movement of goods, motorists and pedestrians. Conflicts between motorists and pedestrians are minimized. The access to the site allows all forms of traffic to enter and exit in generally the same manner as traffic does now. A more defined entrance/exit is proposed off Ft. Riley Boulevard and S. 17<sup>th</sup> Street. Access to Yuma will be from a 25 foot unnamed alley/street right-of-way.

Pedestrians are accommodated within the development with sidewalks proposed on Yuma Street and S. 17<sup>th</sup> Street, which connect to sidewalks within the PUD. A marked pedestrian crossing from the hotel entrance to the retail building provides an internal connection between the uses.

Bike racks are provided with the retail building along its south frontage.

The hotel is required to provide 82 off-street parking spaces (two plus one per hotel room), and the retail building should provide one per 250 square feet of net floor space, gross floor area less storage, mechanical rooms and other non-traffic generating space. The applicant's calculation is based on gross floor space, or  $12,280/250 = 50$  parking spaces. One hundred and thirty two are required and 139 are proposed. Off-street parking should be adequate.

A Traffic Impact Study was prepared by Kaw Valley Engineering, dated April 21, 2009 (attached). The Study concludes that the street intersections serving the proposed PUD will operate safely within acceptable Levels of Service.

The City Engineer has reviewed the Study (memo attached, which notes that parking lot issues were addressed), and accepts the Study.

**5. OPEN SPACE AND COMMON AREA:** Maintenance of landscaped areas and common parking and other common areas are the responsibility of the owner.

**6. CHARACTER OF THE NEIGHBORHOOD:** The neighborhood character is a combination of commercial and industrial uses, which are generally south of Yuma Street and Ft. Riley Boulevard and low density residential north of Yuma Street and west of S. 17<sup>th</sup> Street. Yuma Street and S. 17<sup>th</sup> Street have defined the separation of the commercial/industrial uses and residential for at least 45 years. Longs Park, a public city park, is immediately north of the site with low density residential neighborhoods further to the north and east of Longs Park. The commercial character of the site with respect to the residential neighborhood was established as early as 1965. Prior to 1965 the site was an industrial zone.

S. 17<sup>th</sup> Street is a major north to south collector street leading extending from Ft. Riley Boulevard to Poyntz Avenue, Anderson Avenue, and the KSU campus. Prior to construction of Ft. Riley Boulevard, Yuma Street was a major east to west traffic route. Yuma Street is currently classified as a local street.

### **MATTERS TO BE CONSIDERED WHEN CHANGING ZONING DISTRICTS**

**1. EXISTING USE:** A grocery store, church, storage units, and dog grooming business. Approximately 23,000 square feet of the site is zoned C-2 District, which includes the large brick building and part of the off-street parking. The remaining approximate 67,000 square feet of the site is zoned C-5 District. The storage units and a dog grooming business are in the C-5 District as well as parking and driveways.

**2. PHYSICAL AND ENVIRONMENTAL CHARACTERISTICS:** The site is a flat improved property consisting of concrete parking and driving aisles that are in poor condition, storage units along its south and east sides, a small out-building also on the east side, and a larger two-story brick commercial building in the northwest corner of the property. Off-street parking is on the south, east and west sides of the brick building and off a 25 foot unnamed public right-of-way is along the east side of the site. The unnamed right-of-way provides access to the site and the Ag-Press off-street parking lot and service area at the rear of the building. There is a building pad in the northeast corner of the site, which was the former location of Kreem Kup. Limited green space is along S. 17<sup>th</sup> Street and Ft. Riley Boulevard frontages. Drainage is to the south. An east west alley was vacated in the past and an existing sanitary sewer line extends east to west. Part of the existing retail buildings canopy is over the sewer line. A portion of S. 17<sup>th</sup> Street right-of-way was vacated in 2007 to accommodate existing off-street parking on the east side of the retail building that had been in place for many years.

**3. SURROUNDING LAND USE AND ZONING:**

**(a.) NORTH:** Yuma Street, Longs Park, a City Park, single-family and two-family dwelling units; R-2, Two-Family Residential District with TNO, Traditional Neighborhood Overlay District.

**(b.) SOUTH:** Ft. Riley Boulevard, auto related uses and landscaping business/contractor; I-3, Light Industrial District.

**(c.) EAST:** Unnamed public right-of-way (25-feet in width), industrial printing and publishing, locksmith; I-3 District, and C-5 District.

**(d.) WEST:** S. 17<sup>th</sup> Street, single-family and two-family dwelling units: R-2/TNO Districts.

**4. CHARACTER OF THE NEIGHBORHOOD:** See above under Review Criteria for Planned Unit Development, number 6.

**5. SUITABILITY OF SITE FOR USES UNDER CURRENT ZONING:** The site consists of C-2 District, which covers the brick building and some off-street parking areas, and C-5 District, which includes the majority of the site and its parking/driving aisles, self-storage units, and a dog grooming business in an out building on the eastern side of the site. The two zoning districts complicate new construction and adversely impact development of the site, largely in terms of off-street parking. Off-street parking is required in the same zoning district as the use served. New construction under C-2 or C-5 may require a Variance of location for proposed off-street parking if parking could not be provided in the applicable district. Overall, the two different zoning districts do not compliment redevelopment of the site and hinder its modernization. One zoning district is a retail commercial district and the other is oriented towards highway services that accommodate the motoring public. The conflict between two zoning districts and off-street parking requirements do not make the site suitable for the uses under current zoning districts.

**6. COMPATIBILITY OF PROPOSED DISTRICT WITH NEARBY PROPERTIES AND EXTENT TO WHICH IT MAY HAVE DETRIMENTAL AFFECTS:** The site currently allows a broad range of neighborhood commercial and highway business district uses, permitted as well as conditional, including drive-in type businesses. The site has been zoned for both uses since 1977, when the C-2 District was established. The commercial character of the site has been part of the area since 1965. The proposed PUD has a more restrictive list of permitted uses generally oriented towards neighborhood retail uses and services, as well as no proposed drive-in facilities.

*Attachment No. 3*

The existing off-street parking and existing building do not conform to the minimum 25 foot front yard setback requirements. The existing building is at zero feet along Yuma Street and varies in front setback from approximately eleven feet to greater than 25 feet along S. 17<sup>th</sup> Street. Existing off-street parking is within the front yard setback along both streets. The proposed hotel building's setbacks are approximately 19 feet off Yuma Street and no less than 57 feet off S. 17<sup>th</sup> Street. The porte cochere is greater than 25 feet along both frontages. The fenced patio area along Yuma Street is approximately four feet from the front property line. Proposed off-street parking is approximately twelve feet off Yuma Street, on the east side of the site, and four feet in the vicinity of the Yuma Street and S. 17<sup>th</sup> Street intersection. Along S. 17<sup>th</sup> Street, proposed off-street parking ranges from three feet to 30 feet. The proposed conditions are generally reflective of existing conditions, which do not appear to have created adverse conditions in the neighborhood. There are no complaints on record regarding the existing conditions.

Based on the definition of a corner lot, the lot line along Ft. Riley Boulevard is a rear lot line, and building and parking setbacks could be as close as zero feet. Parking and building setbacks for off-street parking and the retail building are approximately seven feet and 75 feet, respectively.

Improvements off the unnamed public right-of-way along the eastern lot line of the PUD would generally be zero feet, assuming the right-of-way is considered an alley. Off-street parking is as close as zero feet. Buildings are greater than 25 feet with some improvements, such as the service area and patio for the retail building set back approximately four and one-half feet.

The proposed hotel's height is generally 46 feet with a maximum height of 52 feet. The C-2 and C-5 Districts both allow buildings at a maximum height of 40 feet. The proposed 46 foot height is slightly greater than the underlying districts and would generally be compatible with the underlying districts. Setting the hotel back from the front lot lines mitigates the increased height. Additionally, the proposed hotel is screened from the majority of the single-family and two-family dwellings to the northwest, north and northeast by large mature trees in Longs Park. When trees are fully leafed out, the building will be well screened by the dense vegetation. In the winter, the building will be more visible, and somewhat visually obscured by the tree branches.

Single-family and two-family dwellings to the west are separated from the PUD by S. 17<sup>th</sup> Street, a collector street. The proposed improvements, including the height of the hotel, are not inconsistent with the general character of the busy street intersection. Residential properties to the west should not be adversely affected by the proposed PUD.

The convenience store to the immediate south of the site and surrounding industrial uses should not be adversely impacted. The proposed changes are generally consistent with the existing commercial and industrial character of the neighborhood, in both its current and historic form.

The unnamed public right-of-way to the east will not be altered as a result of the proposed PUD. Access to the Ag Pres off-street parking and service area will remain as is.

**7. CONFORMANCE WITH COMPREHENSIVE PLAN:** The site is shown on the Downtown Core Neighborhoods Future Land Use Map as Community Commercial (CC), which reflects the existing C-2 District and C-5 District. The proposed PUD is Redevelopment envisioned in the Growth Management policy GM 9 set out below. Additionally, the proposed rezoning would implement a development plan generally consistent with the policies applicable to all commercial development, as well as policies applicable to Community Commercial, set out below.

***GM 9: Infill and Redevelopment***

*Infill and redevelopment within established areas of the City is generally encouraged where deteriorated or obsolete structures have become detrimental to an area, where new uses can be accommodated on vacant properties, and in areas that have been specifically identified for redevelopment. Projects may range in size from a single residential lot to the redevelopment of multiple contiguous blocks within a neighborhood or commercial area. Regardless of its scale, infill and redevelopment shall be designed in a manner that is sensitive to and reflects the character of the surrounding area. Important design considerations include building scale, mass, roof form, height, and orientation, parking location, lot coverage, architectural character, and landscape elements. These design considerations are particularly important when infill or redevelopment occurs within or adjacent to an established residential neighborhood, or when a change in use or intensity would otherwise negatively impact the established character of the surrounding area.*

***COMMERCIAL - Background and Intent***

*The City contains numerous commercial areas that provide the necessary goods and services for residents of the community and region as well as visitors. Commercial developments must be located and designed to balance market opportunities with access and location. In addition, the location and design of commercial areas must be incorporated into surrounding areas, rather than altering the character of surrounding neighborhoods. While the Downtown, or Central Core District, will remain the primary focus of regional commercial activity for the community and region, a variety of other community and neighborhood scale commercial centers will be distributed throughout the community to provide for the day-to-day needs of residents.*

## **COMMERCIAL- ALL CATEGORIES**

### ***C 1: Designate Commercial Areas According to Their Role and Function in the Region***

*To provide a variety of commercial services to the community, three commercial designations are provided, depending on the center's scale, purpose, location, and intensity of use. These include the Central Core District, Community Commercial, and Neighborhood Commercial.*

### ***C 2: Distribution of Commercial Services***

*Commercial centers should be distributed throughout the community to provide ease of access for all residents and minimize the need for cross-town vehicle trips.*

### ***C 3: Locate All Commercial Uses in Activity Centers***

*Commercial services should be concentrated and contained within planned activity centers, or nodes, throughout the community. Development of distinct commercial nodes will help preserve the residential character of many of the major street corridors throughout the community and help prevent the negative impacts caused by multiple access points along a corridor. Commercial activities, when grouped in cohesive centers or nodes, result in more viable areas compared to scattered or isolated single use commercial sites. Activity centers, or nodes, provide a variety of services in a concentrated location to promote "one-stop shopping" and minimize the need for multiple vehicle trips. Each center has a limited number of vehicle access points to minimize impacts on surrounding uses and maintain an efficient traffic flow to and from the site. Uses are typically clustered on larger sites near the intersection of two major streets rather than being developed in linear, "strip" configurations along major street corridors. Linear development patterns, particularly when parcels provide a single use and are developed independently, can require multiple access points and lead to disruption of traffic flow on adjacent streets. Although lot sizes and/or configurations in some areas may warrant the use of a more linear development pattern, it is generally discouraged.*

### ***C4: Include a Mix of Uses in New and Redeveloped Commercial Areas***

*New development and redevelopment should include a mix of uses of different types and sizes, creating a diversity of activity and avoiding large, single-use buildings and dominating parking areas.*

**C5: Promote a High Quality Urban Environment**

*The physical design of commercial development areas shall promote a high quality urban environment, as expressed by site layout, building materials and design, landscaping, parking area design, and pedestrian-oriented facilities, such as through use of design guidelines.*

**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.*

The proposed PUD is in general conformance with the Comprehensive Plan.

**ZONING HISTORY AND LENGTH OF TIME VACANT AS ZONED:**

- 1926-1940 -- E, Light Industrial.
- 1940-1965 -- F, Heavy Industrial.
- 1965-1969 -- C, Local Business.
- 1969-1977 -- C-5 for existing grocery store and church building.
- 1977-2009 -- C-2 for existing grocery store and church building (Ord. No.3496.)
- 1969-2009 -- C-5 for balance of the site.

The existing brick was remodeled around 1954. The original date of construction was not determined. Construction dates for the self-storage units and the out-building could not be determined.

**8. 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 proposed PUD is located in the C-2 and C-5 Zoning Districts.

Land use and structures within a Planned Unit Development District which, when approved by the Planning Board and Governing Body, may differ in one or more respects from the regulations that are applicable in any other zoning district. The objectives of a Planned Unit Development District shall be to promote progressive development of land and construction by encouraging Planned Unit Developments (PUD's) to achieve: a maximum choice of living environments by allowing a variety of housing and building types; a more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of commercial uses and services; a development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural drainage patterns; a more efficient use of land than is generally achieved through conventional development; a development pattern in harmony with land use density, transportation facilities, and community facilities; an environment which provides safe, clean, convenient and necessary residential, commercial, and industrial facilities which will afford greater opportunities for better housing, recreation, shops and industrial plants for all citizens of the community; a development plan which suits the specific needs of the site and takes into account the unique conditions of the property which may require changes of conventional bulk regulations, lot layout, or density; or results in a project that provides greater public benefit than would be provided under conventional zoning; and, a mixture of compatible uses which might not otherwise be permitted in a single district, or which may restrict the range of land uses more than in a single district.

## Underlying Zoning Districts

The C-2, Neighborhood Shopping District is designed to provide a broad range of retail shopping facilities and services located to serve one or more residential areas. The C-5, Highway Service Commercial 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.

## Overall Intent

The overall intent of the proposed PUD is consistent with the Comprehensive Plan, the underlying zoning districts, and intent of the PUD requirements. The proposed PUD redevelops a site at a boundary between industrial/commercial and residential. Overall, the proposed PUD attempts to be sensitive to the residential neighborhood. The retail center and hotel are oriented towards the motoring public consistent with the highway service location of the site.

**9. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE THAT DENIAL OF THE REQUEST WOULD ACCOMPLISH, COMPARED WITH THE HARDSHIP IMPOSED UPON THE INDIVIDUAL OWNER:** Denial of the request would not be a gain to the public because minimal impact on the public is expected as a result of traffic or storm water. It appears there may be a hardship on the owner if the rezoning is denied due to no relative gain to the public that denial would accomplish

**10. ADEQUACY OF PUBLIC FACILITIES AND SERVICES:** Public utilities and services are adequate.

**11. OTHER APPLICABLE FACTORS:** None.

**12. STAFF COMMENTS AND RECOMMENDATION:** City Administration recommends approval of the proposed rezoning of the 17<sup>th</sup> Street Properties Commercial Planned Unit Development, Unit Two, from C-2, Neighborhood Shopping District and C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District, with the following conditions:

*Attachment No. 3*

1. The Permitted Uses shall include: Antique shops; Apparel stores; Appliance sales; Automobile accessory stores; Barber shops; Beauty shops; Book stores; Brew pubs; Business and professional offices; Camera and photographic supply stores; Churches, chapels, temples and synagogues; Department stores; Drug stores; Electronic stores; Food stores; Fraternal and service clubs; Furniture stores; Furniture upholstery; Garden stores; Gift shops; Hardware stores; Health and fitness clubs; Hobby shops; Hotels and motels; Jewelry stores; Laundry establishments; Leather goods and luggage stores; Music stores; Package liquor stores; Pet grooming shops; Pet stores; Private vocational-technical institutions; Restaurants, no drive-in type; Sporting goods stores; Taverns; Variety stores; and, Veterinary Out-Patient Clinic.
2. Landscaping and irrigation shall be provided pursuant to a Landscaping Performance Agreement between the City and the owner, which shall be entered into prior to issuance of a building permit.
3. Landscaping along the Ft. Riley Boulevard frontage shall be planted at a minimum of thirty (30) inches in height at the time of planting in order to provide immediate screening.
4. All landscaping and irrigation shall be maintained in good condition.
5. Signage shall be limited to signs proposed in the application, except wall signs on the retail building's Ft. Riley Boulevard frontage shall be limited to one per business.
6. Exempt signage described in Article VI, Section 6-104 (A)(1),(2),(4),(5),(7) and (8); and Section 6-104 (B)(1) and (2), of the Manhattan Zoning Regulations shall be permitted.

**ALTERNATIVES:**

1. Recommend approval of the proposed rezoning of 17<sup>th</sup> Street Properties PUD from C-2, Neighborhood Shopping District and C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District, stating the basis for such recommendation, with the conditions listed in the Staff Report.
2. Recommend approval of the proposed rezoning of 17<sup>th</sup> Street Properties PUD from C-2, Neighborhood Shopping District and C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District,, and modify the conditions, and any other portions of the proposed PUD, to meet the needs of the community as perceived by the Manhattan Urban Area Planning Board, stating the basis for such recommendation, and indicating the conditions of approval.

3. Recommend denial of the proposed rezoning, stating the specific reasons for denial.
4. 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 17<sup>th</sup> Street Properties PUD from C-2, Neighborhood Shopping District and C-5, Highway Service Commercial District, to PUD, Commercial Planned Unit Development District, based on the findings in the staff report, with the six conditions recommended by City Administration.

**PREPARED BY:** Steve Zilkie, AICP, Senior Planner

**DATE:** June 10, 2009

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